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OUTER CONTINENTAL SHELF OIL AND GAS STRATEGY AND IMPLICATIONS OF THE DEEPWATER HORIZON RIG EXPLOSION: PARTS 1 AND 2

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

Wednesday and Thursday, May 26 and 27, 2010

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OVERSIGHT HEARING ON THE "OUTER CONTINENTAL SHELF OIL AND GAS STRATEGY AND IMPLICATIONS OF THE DEEPWATER HORIZON RIG EXPLOSION"

Wednesday and Thursday, May 26 and 27, 2010
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:05 a.m. in Room 1324, Longworth House Office Building, Hon. Nick J. Rahall, II [Chairman of the Committee] presiding.

Present: Representatives Rahall, Kildee, Pallone, Napolitano, Holt, Grijalva, Bordallo, Costa, Boren, Heinrich, Luján, Miller, Markey, DeFazio, Hinchey, Christensen, DeGette, Kind, Capps, Inslee, Baca, Herseth Sandlin, Sarbanes, Shea-Porter, Tsongas, Kratovil, Hastings, Young, Gallegly, Flake, Gohmert, Bishop, Shuster, Lamborn, Smith, Wittman, Broun, Fleming, Coffman, Chaffetz, Lummis, McClintock, and Cassidy.

Also present: Representative Castor.

STATEMENT OF HON. NICK J. RAHALL, II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

The CHAIRMAN. The Committee on Natural Resources will come to order, please. I am going to begin with a few housekeeping chores. Pursuant to Committee Rule 4(g), opening remarks will be limited to the Chairman and the Ranking Member during today's hearing. At this time, I ask unanimous consent that the gentlelady from Florida, Kathy Castor, be allowed to sit with the Committee today, whenever she arrives. Without objection, so ordered.

I would also like to take this opportunity to welcome the newest member of our Committee, Mr. Ben Ray Luján of New Mexico. Is he here? Well, whenever he gets here, he will be our newest member of the Committee. Ben Ray fills the vacancy created by the departure of our colleague, Neil Abercrombie. His seniority on the Committee, as determined by the House Democratic Caucus, places him directly after his New Mexico colleague, Martin Heinrich. For better or worse, we now have a New Mexico corner on the Committee.

All right. This morning we begin a series of hearings on the Deepwater Horizon incident and its implications for future offshore oil and gas activity in the United States. We are all extremely

frustrated by the fact that the well, which continues to hemorrhage possibly tens of thousands of barrels of oil into the Gulf of Mexico each day, has not yet been shut down. The blame game is in full force right now. But I do think it is important to determine whether Deepwater Horizon is the Wall Street of the ocean, privatizing profit while the public bears the risk.

In the coming weeks, Administration witnesses and outside experts from across the political spectrum will testify before this Committee or its subcommittees about this catastrophic event, the Federal Government's role, if any, in its causes, and remedial steps that will be necessary to reduce the chance of such a horrific event occurring again.

This morning, we will hear from my dear friend, the Secretary of the Interior, Ken Salazar, who has dispatched tens of thousands of Federal employees into the region. He has met personally with the involved and responsible parties. He has been on the scene on numerous occasions himself. As a matter of fact, he just came back to Washington to be before us today. And it would seem he is doing all in his power to address this catastrophe.

We will also hear today from the Acting Inspector General Mary Kendall on the findings of a just-released investigation, which found once again misconduct at the Minerals Management Service, this time among the ranks of the inspectors who were supposed to be keeping an eye on, not playing around with, industry operators in the Gulf.

To now learn that certain agency personnel allowed industry to fill out their inspection reports in pencil with MMS inspectors then writing on top of the pencil in ink prior to turning in their reports is truly reprehensible. As the Committee of jurisdiction over oil and gas leasing in the Outer Continental Shelf, it falls to us to review the Deepwater Horizon disaster, the new IG report, and the Administration's five-year OCS plan and provide the appropriate context in which to consider the future of offshore leasing in this country.

I believe that just as the disaster at the Upper Big Branch Mine on April 5th in my district does not signal the end of all coal mining in the United States, so too, in my opinion, the Deepwater Horizon incident does not signal the end of all offshore oil and gas leasing and production in this country. However, it does raise questions that must be addressed before we can move forward.

For example, does the OCS Lands Act provide an adequate structure for regulating energy development? Do MMS regulations provide for adequate protection of the environment and the resources that are held in the public trust? Was the MMS derelict in its implementation of its legal and regulatory responsibilities? How should the MMS be restructured to ensure that we effectively address the flaws in the current system that have led us to this point?

These and other equally important questions will be examined and answered over the coming weeks and months. If remedial action is required in law, this Committee will draft the necessary legislation to ensure that risks inherent in deepwater drilling and production are minimized.

I now yield to the Ranking Member, Mr. Doc Hastings, from Washington.

[The prepared statement of Chairman Rahall follows:]

Statement of The Honorable Nick J. Rahall, II, Chairman, Committee on Natural Resources

This morning we begin a series of hearings on the Deepwater Horizon incident and its implications for future offshore oil and gas activity in the United States.

We are all extremely frustrated by the fact that the well—which continues to hemorrhage possibly tens of thousands of barrels of oil into the Gulf of Mexico each day—has not yet been shut down. The blame game is in full force right now. But I do think it is important to determine whether the Deepwater Horizon is the Wall Street of the ocean. Privatizing profit while the public bears the risk.

In the coming weeks, Administration witnesses and outside experts from across the political spectrum will testify before this Committee or its Subcommittees about this catastrophic event, the federal government's role, if any, in its causes, and remedial steps that will be necessary to reduce the chance of such a horrific event occurring again.

This morning we will hear from Secretary of the Interior, Ken Salazar, who, has dispatched tens of thousands of federal employees to the region, has met with all the involved and responsible parties, and it would seem is doing all in his power to address this catastrophe.

We will also hear from Acting Inspector General Mary Kendall on the findings of a just-released investigation which found, once again, misconduct at the Minerals Management Service—this time among the ranks of the inspectors who were supposed to be keeping an eye on, not playing around with, industry operators in the Gulf. To now learn that certain agency personnel allowed industry to fill out their inspection reports in pencil, with MMS inspectors then writing on top of the pencil in ink prior to turning in their reports is reprehensible.

As the Committee of jurisdiction over oil and gas leasing in the Outer Continental Shelf, it falls to us to review the Deepwater Horizon disaster, the new IG report, and the Administration's 5-year OCS plan and provide the appropriate context in which to consider the future of offshore leasing in this country.

I believe that just as the disaster at Upper Big Branch Mine on April 5th does not signal the end of all coal mining in the United States, so, too, in my opinion, the Deepwater Horizon incident does not signal the end of all offshore oil and gas leasing and production in this country. However, it does raise serious questions that must be answered before we can move forward.

For example:

- Does the OCS Lands Act provide an adequate structure for regulating energy development?
- Do MMS regulations provide for adequate protection of the environment and the resources that are held in the public trust?
- Was the MMS derelict in its implementation of its legal and regulatory responsibilities?
- How should the MMS be restructured to ensure that we effectively address the flaws in the current system that have lead us to this point?

These and other equally important questions will be examined and answered over the coming weeks and months. If remedial action is required in law, this Committee will draft the legislation necessary to ensure that the risks inherent in deepwater drilling and production are minimized.

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Mr. Chairman, and thank you for scheduling this hearing. I want to welcome all of the witnesses that will be appearing before us today.

I think it is clear that stopping the leaking well, cleaning up the oil, and responding to the needs of the affected Gulf Coast communities should be the top priority for everybody, and that includes BP, the Department of the Interior, the White House, and certainly Members of Congress.

It has been over a month since oil started leaking into the Gulf of Mexico. Each day that the oil continues to leak is a day where frustration increases. Both BP and the Obama Administration have a joint and shared duty to do everything within their power to stop this flow of oil. While the main focus must be on addressing the immediate crisis, again stop the leaking well, tough questions must be asked, and those responsible held accountable. The time for full disclosure and honest answers cannot be avoided.

This is the first of at least seven hearings by this Committee. Hearings are an important part of conducting thorough oversight and investigation. But as important as the hearings are, it is critical that the Obama Administration discloses reports and documents to the public and to Congress for their review and scrutiny. A true investigation requires examination of both the causes and responses to the bill. Questions include: What was done improperly in the drilling operation? What was the immediate emergency response of the drilling operators and the government? Was everything that could be done, done immediately and without delay? Were there failures in government oversight and inspections before the explosion? What are the economic impacts on the communities, businesses, and the fishermen? And what are the impacts on wildlife and the environment?

We must get to the bottom of all of these questions. We must know what happened so that informed, educated decisions can be made and actions taken. We have an important job to do. We need to get answers and then fix the failures to prevent another spill, to ensure that American-made energy continues to operate in a safe manner—in fact, the safest in the world. I want to note that credit is due to Secretary Salazar for his statements and the need to understand the economic impacts before lifting the liability caps.

The bipartisan demand that BP fully pay for the spill is very, very clear, just as there is bipartisan support for increasing the cap. Care must be taken, though, to do it right so that American energy production is not shut down, which would result in the loss of tens of thousands of jobs. As tough questions are asked, the action of both the Obama and Bush Administrations must be put squarely under the spotlight. Regardless of which party occupied the White House or controlled the Department of the Interior, it is vital that we know where failures occurred so that the necessary reforms can be instituted.

This is not time for finger-pointing. It is time to get all the facts out in the open so changes can be made to prevent similar events in the future.

On the matter of MMS, the agency's fundamental failures are well known, and have been known for several years. For example, Republicans on the House Committee on Oversight and Government Reform, led by our colleague from California, Mr. Issa, have conducted multiple investigations into MMS. Key questions that need to be answered are: What did the Department do with this information? What was done to correct these failings? And when was that action taken?

The Inspector General issued a report yesterday that raised even more questions about the lack of adequate response to known problems. I do want to note that back in the summer of 2008, gas prices

climbed past $4 a gallon. The response from the public was clear: produce more energy in America. A majority of Americans understand the importance of continuing offshore drilling to our economy and to the jobs that they create, and to our national security.

The unprecedented spill must be met with real reform and stronger safety measures, but also to ensure that we continue to produce oil here in the United States. Turning our back on offshore energy production would be too costly in lost jobs, higher gas prices, and increased dependence on foreign sources from nations that are hostile to our way of life. America needs an all-of-the-above energy plan that obviously includes solar, nuclear, hydro, but does not ignore oil and gas.

So, Mr. Chairman, thank you again for scheduling this meeting. I look forward to today's testimony and opportunity of our members to ask questions. I yield back.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Ranking Member, Committee on Natural Resources

Stopping the leaking well, cleaning up the oil, and responding to the needs of affected Gulf Coast communities should be the top priorities for everyone—whether it's BP, the Department of Interior, the White House, or Members of Congress.

It's been over a month since oil started leaking into the Gulf of Mexico. Each day that oil continues to spill is a day that frustration swells higher. Both B.P. and the Obama Administration have a joint and shared duty to do everything within their power to stop the flow of oil.

While the main focus must be on addressing the immediate crisis, tough questions must be asked and those responsible held accountable. The time for full disclosure and honest answers cannot be avoided.

This is the first of at least seven hearings by this Committee. Hearings are an important part of conducting thorough oversight and investigation. Just as critical is the Obama Administration disclosing reports and documents to the public and to Congress for review and scrutiny. A true investigation requires examination of both the causes and responses to the spill.

Were there failures in government oversight and inspections before the explosion?

What was done improperly in the drilling operation?

What was the immediate emergency response of the drilling operators and the government?

Was everything that could be done, done immediately and without delay?

What are the economic impacts on communities, businesses and fishermen?

What are the impacts on wildlife and the environment?

We must get to the bottom of all of these questions. We must know what happened so that informed, educated decisions can be made and actions taken.

Those in Washington, D.C. must resist the rush to judgments and the stampede to get in front of the television cameras.

We've got an important job to do: get answers, and then fix the failures to prevent another spill and ensure American-made energy continues to operate and is the safest in the world.

For example, credit is due to Secretary Salazar for his statements on the need to understand the economic impacts before acting to lift the liability caps. The bipartisan demand that BP fully pay for the spill is clear, just as there is bipartisan support for reviewing an increase in the cap. Care must be taken, though, to do it right so that American energy production isn't shutdown and tens of thousands of American jobs aren't lost.

As tough questions are asked, the actions of both the Obama and Bush Administrations must be squarely under the spotlight. Regardless of which party occupied the White House or controlled the Department of Interior, it's vital that we know where failures occurred so that the necessary reforms can be instituted.

This isn't the time for anyone to cover their backsides. It's the time to get all the facts out in the open so changes can be made to prevent such a terrible event from ever happening again.

On the matter of MMS, the agency's fundamental failures are well known and have been for several years.

Republicans on the House Committee on Oversight and Government Reform, led by Darrell Issa, have conducted multiple investigations into MMS.

Key questions that need to be answered are: what did the Department do with this information, what was done to correct these failings, and when was that action taken?

The Inspector General reports issued yesterday raise even more questions about the lack of adequate response to known problems.

Back in the summer of 2008, gas prices climbed past four dollars per gallon. The response from the public was clear: produce more energy in America. A majority of Americans understand the importance of continued offshore drilling to our economy, to American jobs, and to our national security.

This unprecedented spill must be met with real reform and stronger safety measures to better protect our environment and coastal communities, but also to ensure we continue to produce oil here in the U.S.

Turning back on offshore energy production would be too costly in lost jobs, higher gas prices, and increased dependence on foreign sources from hostile, unstable nations. America needs an all-of-the-above energy plan that includes renewables such as wind and solar, new nuclear power, clean hydropower, and a continued commitment to drilling oil and natural gas.

I look forward to today's testimony and the opportunity to ask questions of the witnesses.

The CHAIRMAN. Thank you, Doc. We will now proceed with our first witness, as I mentioned in my opening comments, a dear friend of mine and many of us on this Committee. As we were talking beforehand, the Secretary reminded me that his first appearance before this Committee on Natural Resources as Secretary was to testify on legislation reforming MMS, including elimination of the royalty-in-kind program.

He has been back before us a couple of times. As I said, he has poured everything he has at his disposal into trying to not only cap this oil, but to help all of the affected parties in Louisiana, and along our coastlines. We are very happy to welcome you today, Mr. Salazar, the Secretary of the U.S. Department of the Interior. And he is accompanied by Assistant Secretary David Hayes, another individual very familiar to us.

Mr. Secretary, you may proceed.

STATEMENT OF THE HONORABLE KEN SALAZAR, SECRETARY, U.S. DEPARTMENT OF THE INTERIOR

Secretary SALAZAR. Thank you very much, Chairman Rahall, and thank you, Ranking Member Young [sic.] and to all the distinguished members of the Committee on both——

The CHAIRMAN. Hastings.

Secretary SALAZAR.—sides. Hastings, sorry. Got it right, Hastings. Let me just make a couple of quick points, and then I would be happy to take your questions. First, let me say that from day one, what we have been doing in the United States of America is moving forward with what has been a relentless effort to deal with this problem. The effort has been directed by the President to each member of the Cabinet, that we do not rest, we do not stop, we do everything within our power to try to deal with the problem, both with respect to the oil spill as well as with respect to any of the impacts that will flow from the oil spill.

That relentless effort today includes over 20,000 people who are deployed along our coastlines to protect the coastlines. That relentless effort includes over 1,000 ships and vessels that are out there in the oceans trying to clean up the spill. That relentless effort in-

cludes the body of scientists that we have in Houston at the command center as we try to bring this oil spill under control.

So the President's direction, which we have carried out from April 20th forward, has been that we will spare no effort to make sure that the people of this country, that the residents of the Gulf Coast, are protected, and in addition that we get to the bottom of the story here, which is to understand exactly what happened so that the facts are known to the American people, and the appropriate policy decisions can be made going forward with respect to development of energy in the Outer Continental Shelf.

The response that is underway today in the Gulf of Mexico is the single largest response in the history of the United States of America regarding any oil spill. Now it is true that there have been many oil spills which have been much larger than what we are seeing today in the Gulf of Mexico in the history of this country with respect to OCS development. But this effort, in terms of the response we have underway in the Gulf, is the single largest effort in responding to an oil spill in the history of this country.

The CHAIRMAN. Mr. Secretary, would you yield just a moment, please? If I might—I have been patient here for a few minutes—ask those that are standing behind the Secretary to please sit because you are impeding the view of other people, and I would just ask that you respect the rights of everybody that is here. Would you please sit down? Would you please sit down? Thank you. Thank you. You may proceed, Mr. Secretary.

Secretary SALAZAR. Thank you, Mr. Chairman. So my first point to you and Congressman Hastings and the members of the Committee is that this effort is relentless. It is unprecedented, and it will continue forward until we deal with this problem effectively, and we have the oil stopped, and everything has been done to clean up the damage that may occur from it.

The second point I wanted to make to this Committee is just a quick update. Today is a very important day in terms of what is happening in the Gulf. You, I know, have been watching the newspapers and the television sets with respect to the so-called top kill action, which should take place sometime today. I have been in Houston four times since April 20th to oversee and to understand what it is that BP is doing to make sure that they are killing this well and stopping the pollution that is now flowing into the ocean.

We have assembled a group of scientists who have been deployed into Houston. Today, Secretary of Energy Steven Chu, along with the other experts from the Department of Energy labs at Sandia, at Livermore, and at Los Alamos, along with Dr. Marcia McNutt, who is the Director of the United States Geological Survey, are there monitoring what is happening as key decision points are made.

Now, the fervent hope of everyone is that the top kill effort, which should be executed in the coming hours, that that will work. But there is a possibility that it will not work. And if it does not work, then there is a Plan B to move forward with a cap on the well that hopefully will result in the controlling of the pollution that currently continues to spew out into the Gulf Coast.

The bottom line, Mr. Chairman, is that I want to assure you that no effort is being spared on the part of the United States of America to try to bring this problem under control.

Third, I want to just make a statement about responsibility here because it is an issue which I know every member of this Committee has probably spoken out since this event began on April 20th. The fact is that we should all know that the national laws which you, many of you, have been a part of creating over the last 40 years have created a system of responsibility here, where BP is the responsible party. It also is a law that sets forth some limitations relative to liability.

Secretary Napolitano, who has been leading this effort and doing a herculean job in making sure that the Coast Guard and the efforts that she has under her control—and I have had several meetings with BP, and we have confirmation from them that they are not going to hide behind the $75 million liability cap. What they have stated formally to us, and we will hold them accountable—we believe we have the legal right to do this in any event—that they will be responsible for all costs. That means all response costs to this oil spill, which is their spill. It means all damages will be paid with respect to any impacts on natural resources. It means all costs related to the clean-up. And it means that those who will be affected in the Gulf Coast from an economic point of view will also receive compensation.

So, they are not hiding behind the liability cap. So that I think is something which should provide at least a comfort that the resources are there. When you think about a company that in the last year made over $16 billion, I think that they will be good for paying the compensation that is required here.

Now, as I say, BP is the responsible party. BP must take the action that is required by law. And it is our job then as the U.S. Government, to make sure that BP does the job that it is required to do by law. That has been a role which I and Secretary Napolitano and others have been playing over the last 36 or 37 days, making sure that BP lives up to the requirements that it has under the law.

Now, as I look ahead, it is also important not only that this problem is fixed, but that this problem never happens again. I would recognize and believe that every member of this Committee would not ever want this kind of problem to happen again in the Gulf of Mexico, or in fact for anywhere else in the world.

So I want to just, in concluding my remarks here, give you what I think are maybe two keystone lessons that we all ought to be thinking about. The first is that reform in terms of how we deal with the development of our natural resources is essential. It is a reform agenda which I have been on since the day I came into the Department of the Interior. It is a reform which led us to establish new ethics provisions for MMS within 10 days after I became Secretary of the Interior. It is the result of the investigations that we have undertaken, where people who are doing bad things with MMS are no longer employed at MMS. And it also results in what the Inspector General of the Department will be testifying here later on today about what had been happening with respect to MMS in the days before we took over in this Administration.

You will find as you read the report that the issues that are raised in that report are issues that go back to 2005, 2006, 2007, the kinds of improprieties which I think are reprehensible, such as going off to the Peach Bowl in 2005 and having the oil companies essentially pay the way for MMS employees. Those are absolutely inappropriate behaviors. I will remind this Committee, and I will remind the United States, that when you read that report, they all refer to a time period that predated this Administration. And it was focused in on a time where there was a relationship with the oil and gas world, where essentially whatever they wanted is what they got.

That day ended when I came in as Secretary of the Interior, and we have turned the ship, and we have been making progress, progress which has come frankly at the criticism of some members who are on this Committee and others. But it is progress on reform that has to be made.

Having said that, it is not enough to say that we have solved the problems. There are still other things we have to do, including, Mr. Chairman, as I suggested in this Committee, in this chair, I think in September of last year, moving forward to have organic legislation for the agency that has such an important responsibility, an agency that has these two very important missions. First, collecting on average $13 billion a year, over $200 billion since it was first formed by Secretary Hodel in the 1980s, should in my mind have a robust, organic legislative enactment that spells out what the responsibilities of this agency are. And number two, an agency that has the responsibility for developing the oil and gas resources in our oceans, which are the places where we have the most oil and gas energy resources left to discover and to produce, has got to have the kind of robustness that comes with organic legislation.

We have it in other agencies in the United States Department of the Interior, including our National Park Service, United States Geological Survey, and other agencies. It is time that MMS be given that same kind of platform to be able to do the job that has been assigned to it by the United States of America.

The second point that I would make is a lesson which is important for all of us to recognize. I think this incident in the Gulf Coast underscores the importance of what this Committee has worked on now for a long time, and that is that we do need to move to a new energy frontier. Yes, oil and gas will be a part of our energy portfolio. We know that that is going to have to be the case for decades to come. But the work of this Committee, the work of President Obama and the Department of the Interior in his Administration, to harness the power of the wind off the Atlantic or the High Plains, the sun off of the deserts of California and the Southwest, the geothermal efforts throughout the Rocky Mountain region, all of those efforts are incredibly important as we move forward to grasping the reality of a new energy frontier.

With that, Mr. Chairman, I would be happy to take questions. I have the Deputy Secretary of the Department of the Interior here with me today, David Hayes. David has been working on this with the same kind of relentless effort since day one. The day after the explosion on the Deepwater Horizon occurred—it was in the evening at approximately 10 o'clock—the following day, I

dispatched David Hayes without a change of clothes and not even a change of underwear to the Gulf of Mexico because I knew that this was an issue which required the kind of urgency and focus that we have been giving it since April 20th. Because of his efforts and the efforts of literally thousands of people within the Department of the Interior, as well as the President, members of the White House, my colleagues on the Cabinet, Secretary Napolitano, the Commandant Thad Allen, and so many others, I feel confident and resolute that we are doing everything that can be done, and that in the days ahead we will be able to forge the kinds of policies and the kinds of changes that adjust to the realities that we find today.

So thank you, Mr. Chairman, and thank you, Congressman Hastings.

[The prepared statement of Secretary Salazar follows:]

Statement of The Honorable Ken Salazar, Secretary, U.S. Department of the Interior

Thank you, Chairman Rahall, Ranking Member Hastings, and Members of the Committee, for the opportunity to discuss current activities at the Department of the Interior related to oil and gas exploration on the Outer Continental Shelf, particularly about the ongoing response to the explosion of the Deepwater Horizon drilling rig.

This massive and potentially unprecedented environmental disaster, which has resulted in the tragic loss of life and many injuries, is commanding our time and resources as we work to ensure that the spill is stopped; that our great natural resources along the Gulf Coast are protected and restored; and that we get to the bottom of what happened and hold those responsible accountable. Understanding the root causes of this tragedy will help prevent similar events in the future.

We are fighting the battle on many fronts. At the President's direction, his entire team will not rest until the oil spill is stopped, the cleanup is completed, and the people, the communities, and the affected environment are made whole.

Let me be very clear: BP is responsible, along with others, for ensuring that –

- the flow of oil from the source is stopped;
- the spread of oil in the Gulf is contained;
- the ecological values and near shore areas of the Gulf are protected;
- any oil coming onshore is cleaned up;
- all damages to the environment are assessed and remedied; and
- people, businesses, and governments are compensated for losses.

From day one my job has been to make BP and other responsible parties fully accountable. That is why I have been to Houston three times to see firsthand that BP – and all of industry – is doing everything within its power to effectively and expeditiously address the spill. I have also met with BP executives many times here in Washington to deliver this same message and have required them to provide daily updates on all fronts related to this disaster.

I have made absolutely clear in those meetings that BP, as a responsible party, will be held accountable for paying costs associated with this spill. BP will be held accountable for costs of the government in responding to the spill and compensation for loss or damages that arise from the spill. In addition, we will take all other appropriate actions to the fullest extent of the law.

In a letter to Homeland Security Secretary Janet Napolitano and me that we received over a week ago, BP has confirmed that it will pay for all of these costs and damages regardless of whether the statutory liability cap contained in the Oil Pollution Act applies. The bottom line is that we will do everything in our power to ensure the United States and the affected Gulf Coast communities are made whole. There should be no doubt about that. And while the investigations as to the root causes are still underway, we will ensure that those found responsible will be held accountable for their actions.

To see that BP carries through on its responsibilities, I have made sure that the best science and engineering minds in the United States place fresh eyes on the BP response and various efforts underway to stop the flow. In that regard, I asked Secretary Chu to go to Houston with me to meet with BP executives, their scientists,

and engineers to make sure they were considering every conceivable option to address this problem.

I also deployed to Houston Dr. Marcia McNutt, Director of the U.S. Geological Survey, who is one of the nation's most preeminent marine geophysicists, to provide oversight and to monitor the effectiveness of the BP command center's activities. Dr. McNutt and the personnel assigned to the Houston Command Center by Secretary Chu, along with the Commanders of the U.S. Coast Guard, are there to ensure that no stone is left unturned as we search for solutions to the problem. In addition, the White House Office of Science and Technology Policy, together with Dr. McNutt, convened a meeting on May 19 for the purpose of hearing from the academic science community concerning the primary science questions and important research approaches for addressing the effects of oil in the ocean.

The President has been clear: we will not rest until this leak is contained and we will aggressively pursue compensation for all costs and damages from BP and other responsible parties.

Action From Day One

The Department has been actively and aggressively engaged in this spill from the first events. The morning after the explosion, I sent Deputy Secretary David J. Hayes to the Gulf to assist with coordination and response and to provide hourly reports to me and other administration officials of the ongoing events. I have personally made seven trips to the Gulf over the last 37 days to keep the pressure on the containment efforts and lead the Administration's response activities.

In addition, I have dispatched the top leadership from my natural resources and science team to the Gulf incident command centers, including the Assistant Secretary for Fish and Wildlife and Parks, Tom Strickland; the Director of the National Park Service, Jon Jarvis; the Acting Director of the U.S. Fish and Wildlife Service, Rowan Gould; and the Director of the Bureau of Land Management, Bob Abbey. They are helping to lead the efforts to protect the ecologically complex and fragile Gulf Coast, including a number of National Wildlife Refuges, National Parks, and National Seashores under the Department's jurisdiction.

These leaders, along with public servants from the Department's various bureaus and offices, are putting in long hours as they work alongside other federal, state, and local partners to monitor and respond to immediate threats to fragile habitat; assess and address long-term damage to impacted resources; and develop and provide data and information for use by the Unified Command.

I also ordered immediate inspections of all deepwater oil and gas drilling operations in the Gulf of Mexico. We issued a safety notice to all rig operators reminding them of their responsibilities to follow our regulations and to conduct full and thorough tests of their equipment.

I established a new Outer Continental Shelf Safety Oversight Board within the Department. Composed of top Departmental officials, it will strengthen safety and improve overall management, regulation, and oversight of operations on the Outer Continental Shelf (OCS). It will also help us evaluate the broader questions that this spill raises about those activities.

And I have announced that no applications for drilling permits will go forward for any new offshore drilling activity until we complete the safety review process ordered by the President.

Reform During the Obama Administration

I came to the Department of the Interior to change the direction of the Department and to restore the confidence of the American people in the ability of their government to carry out the functions under my charge. That confidence had been seriously eroded by well-publicized examples of misconduct and ethical lapses. This kind of fundamental change does not come easily, and many of the changes we have made have raised the ire of industry. In the past 16 months our efforts at reform have been characterized as impediments and roadblocks to the development of our domestic oil and gas resources.

But we have not, and we will not, back down on our reform agenda. We have been making major changes at MMS, and we will continue to do so.

Under MMS's management, the OCS currently provides 31 percent of the Nation's domestic oil production and almost 11 percent of its domestic natural gas production. The MMS is one of the largest collectors of non-tax and non-trust revenue for the Treasury, and has collected an average of more than $13 billion annually for the past 5 years.

The OCS has been a major part of our vision for a new energy future, and we have worked hard over the past 16 months to realize that vision through change. We have changed the direction of MMS by balancing its ocean energy portfolio to

include offshore wind and renewable energy production. Within months of my confirmation, we issued new regulations governing the establishment of offshore wind generation facilities, and concluded an historic Memorandum of Understanding with the Federal Energy Regulatory Commission to end a bureaucratic dispute that had delayed the introduction of renewable energy projects on the OCS.

Earlier this year, I gave final approval to the Cape Wind project off Massachusetts' coast. And we have taken the first steps to stand up major wind projects off the coasts of New Jersey and Delaware. I am working with the Atlantic Coast Governors to give renewed impetus to developing the potential for offshore wind projects.

We have also implemented reforms to change the agency's culture of doing business. We began by issuing new ethics standards for all MMS employees, effective January 2009, that require all MMS employees to receive ethics training and to certify compliance to a Code of Ethics that exceeds general government employee requirements.

Responding to ethical lapses and criminal behavior uncovered during the previous Administration in connection with the MMS's Royalty-in-Kind program, I terminated that outdated and flawed program. I made that announcement last September before your Committee, Mr. Chairman, because I know how involved you have been on that issue for many years. We have also implemented recommendations to improve MMS's royalty collection program. These recommendations have come not only from our Inspector General but also from the Royalty Policy Committee Subcommittee on Royalty Management, a committee chaired by former Senators Bob Kerrey and Jake Garn.

I also asked the National Marine Board, an arm of the highly respected National Academy of Sciences, to direct an independent review of MMS's inspection program for offshore facilities. The results of that review are due to us this Fall.

The Department's fiscal year 2011 budget request has carried through on this theme of reform. It provides funding for an additional 6 inspectors for offshore oil and gas facilities in the Gulf, an increase of more than 10 percent.

Additional Reforms Now

This tragedy and the massive spill for which BP and others are responsible have made the importance and urgency of this reform agenda ever more clear. With this in mind, I announced last week a set of reforms that will provide federal inspectors more tools, more resources, more independence, and greater authority to enforce laws and regulations that apply to oil and gas companies operating on the OCS.

The MMS has three distinct and potentially conflicting missions – safety and enforcement, energy development, and revenue collection – that in order to be most effective should be divided. The reorganization I announced last week will replace the MMS with the Bureau of Ocean Energy Management; the Bureau of Safety and Environmental Enforcement; and the Office of Natural Resources Revenue.

This next step in our reform agenda will enable us to carry out these three separate and equally-important missions with greater effectiveness and transparency. These reforms will strengthen oversight of offshore energy operations, improve the structure for revenue and royalty collections on behalf of the American people, and help our country build the clean energy future we need.

Under the supervision of the Assistant Secretary for Land and Minerals Management, the Bureau of Ocean Energy Management will be responsible for the sustainable development of the Outer Continental Shelf's conventional and renewable energy resources, including resource evaluation, planning, and other activities related to leasing. The Bureau of Safety and Environmental Enforcement will be responsible for ensuring comprehensive oversight, safety, and environmental protection in all offshore energy activities.

Under the supervision of the Assistant Secretary for Policy, Management and Budget, the Office of Natural Resources Revenue will be responsible for the royalty and revenue management function including the collection and distribution of revenue, auditing and compliance, and asset management.

In addition, we will aggressively look at broader options that may require new legislation. Agencies with responsibilities of this magnitude should be governed by thoughtfully considered organic legislation. Mr. Chairman, I know that you have been pushing very hard over the years for major reform of MMS. I look forward to working with you to draft legislation addressing this issue.

The Administration has also submitted to Congress legislation that requests an additional $29 million for the Department of the Interior to inspect offshore oil and gas platforms, draft enforcement and safety regulations, and carry out studies needed in light of this event. The funds will allow the USGS and the Fish and Wildlife Service to conduct general environmental studies related to the spill. The legislation

would also extend the time allowed by statute for MMS to review and approve oil and gas exploration plans from 30 to 90 days.

This legislative package is multi-Department and comprehensive and also addresses the funding of federal response activities through the Oil Pollution Act, food safety programs, unemployment and nutritional assistance, and other help for communities and individuals affected by the oil spill.

Active Investigation and Independent Review

We are carrying out, with the Department of Homeland Security, an investigation into the root causes of the April 20th explosion, and will hold public hearings, call witnesses, and take any other steps needed to determine the root causes of the spill. In addition, the 30-day safety review that President Obama ordered us to undertake will help us understand what safety measures could and should be immediately implemented.

The National Academy of Engineering has also agreed to my request to review the Deepwater Horizon spill. This highly respected organization is a part of the National Academy of Sciences, will bring a fresh set of eyes to this tragedy, and will conduct an independent, science-based analysis of the root causes of the oil spill. The NAS has carried out similar independent investigations into events like the space shuttle Challenger accident.

We will get to the bottom of this disaster and will hold those responsible accountable.

Informed Energy Strategy

Much of my time as Secretary of the Interior has been spent working to advance the President's vision of a new energy future and moving away from spending hundreds of billions of dollars each year on imported oil. During the past year we have offered new areas for oil and gas development, but instituted reforms to ensure we are offering leases in the right places and in the right way.

Offshore development is a necessary part of that future, and on March 31st we announced a new, balanced, and science-based strategy for exploring and developing our oil and gas resources on the OCS – in the right ways and in the right places, providing order and certainty to industry and investors, and delivering a fair return to American taxpayers for the use of their resources. This strategy would use science and new technologies to expand oil and gas production on the OCS in new areas; provide for exploration in frontier areas; and protect areas that are simply too special to drill.

As we evaluate new areas for potential exploration and development on the OCS, we will conduct thorough environmental analysis and scientific study, gather public input and comment, and carefully examine the potential safety and spill risk considerations. The findings of the Joint Investigation and the independent National Academy of Engineering will provide us with the facts and help us understand what happened on the Deepwater Horizon. Those findings, and the work of the Outer Continental Shelf Safety Oversight Board, will help inform the implementation of the Administration's comprehensive energy strategy for the OCS.

At the same time, we are taking aggressive action to verify the safety of other offshore oil and gas operations, further tighten our oversight of industry's practices through a package of reforms, and take a careful look at the questions that this disaster is raising.

Conclusion

Neither time nor space allow for a detailed description of what our employees and our partners are doing every day on the ground on the Gulf Coast to respond to the spill and protect and restore affected natural resources. This Administration is committed to helping the people and communities of the Gulf Coast region persevere through this disaster, to protecting our important places, and to learning valuable lessons that will help prevent similar spills in the future.

The CHAIRMAN. Thank you, Mr. Secretary. That was perhaps too much information, but we do appreciate the time that you have taken to be with us today and your testimony.

You know, on the surface, it appears that this Deepwater Horizon disaster has been a game change as far as how we manage our offshore energy resources on behalf of the American people. It also appears that with the latest Inspector General report, in which you

have these alleged improprieties of MMS personnel, that this report has put the MMS in the penalty box indefinitely.

My first question would be to you, as we look to the future of oil and gas leasing in America, do you think this disaster has been a game changer as far as managing our offshore energy resources?

Secretary SALAZAR. Mr. Chairman, I think that what this incident brings to light is that the organic legislation which you had been working on for a year, which I testified in support of a year ago, that it is time to get those kinds of initiatives underway. We need to make sure that as we move forward with development of oil and gas resources in the Outer Continental Shelf, that it is being done in a safe way, and that this kind of incident does not ever happen again. To that end, we are committed to working with you, working with members of the Committee and other Members of Congress to make sure that that does in fact happen.

The CHAIRMAN. You have described some of the alleged improprieties and ethical lapses that occurred at MMS as shown in these Inspector General reports, not only the latest one, but we recall the one prior to your taking office about what happened in the Denver office of MMS. It is deeply reprehensible that such activities would be allowed to occur, and job offers from the very people they are supposed to be inspecting, accepting tickets to different events, and even behavior that goes much beyond that, to alleged drug use on oil rig platforms.

How culpable do you believe MMS is in this whole affair?

Secretary SALAZAR. Chairman Rahall, there are 1,700 employees within the Minerals Management Service. Knowing many of them, having actually visited them in their office to announce the ethics requirements that we put into place at the end of January of last year at the beginning of the Administration, I can tell you that my belief is that most of the employees of MMS are good public servants. They get up in the morning, they go to work, and they do their job to the best of their ability. I can also tell you, as is evident from the Inspector General report involving the sex and drug scandals at Lakewood, and the more recent Inspector General report that deals with the 2005-2006-2007 time frame, that there are bad apples within the organization. And what we have done is we have taken appropriate personnel actions. People have been terminated. People have been referred over to prosecution, where that has been necessary. That is exactly what we will continue to do.

We will have zero tolerance with respect to ethical lapses that occurred at MMS. Having said that, I will say of the 1,700 employees at MMS, they continue to do their job. Even in the midst of this very difficult crisis, which is occupying the minds of America today, they continue to work to collect and distribute the approximately $13 billion a year. They continue to work to try to make sure that everything that can be done to stop this oil from continuing its leak is in fact accomplished.

So I would say there are bad apples, and those bad apples will be rooted out with every power that we have.

The CHAIRMAN. You know, I do not mean to insinuate here that we can legislate 100 percent purity among every government employee. In a perfect world, perhaps that would be possible, but I recognize we cannot do that. But it begs the question, if you have

these corruptible people within MMS, does your proposal to split MMS into three different organizations—is that going to help clean house, so to speak? Is it going to address these ethical problems? Has your ethics reform package taken hold that you announced immediately after you took office? How are we going to really do our best, again recognizing we are not going to 100 percent legislate purity? But how can we do a better job?

Secretary SALAZAR. Chairman, Rahall, I think it is by having high standards of ethics first of all, and that is what we put into place. And you will note, including the cover letter from Inspector General Kendall, who will testify on the following panel, the conduct that she was referring to happened in the days of the prior administration. We need to know the truth, so I said to her, I want to find out what it is that has happened from January 20th forward because we need to know what is happening, whether our ethics reforms have in fact worked.

We have hired people who are high-level people to come in and provide ethics training. We have them set up in the offices all around the Department of the Interior now. So there have been major changes with that. Now, having said that, the second point that I would make is I do think organizational change is necessary, and that is why we have proposed and are moving forward with a new restructuring of the Minerals Management Service, and it includes several key components of it.

The first is to remove the revenue collectors away from the leasing and policing functions of MMS. So about 700 employees who are located within that Revenue Treasury function within MMS, I will take those people completely out of that part of the organization and move them over to the Assistant Secretary for Policy Management and Budget. And so those revenue collectors will not be dealing at all with the leasing and inspection functions.

Then we will split the rest of MMS into the two bureaus that I have described. They are first the Bureau of Ocean Energy Management. The future of this country is dependent on having an agency that can deal with energy development in the Outer Continental Shelf, and that is both with respect to conventional energy, as oil and gas, as well as the new efforts we have underway during this last year with respect to offshore alternative energy. So there has to be a bureau that does that.

Then the second part of it would be the Bureau of Safety and Environmental Enforcement. And that essentially would be the place where there would be a director that would carry out the police and inspection and enforcement functions of the Department. David Hayes, along with several other members of my team, is leading the effort to split up the organization into these separate functions. But I think fundamentally, the problem—and you raised it well here in this Committee on numerous occasions—is that you had too much of a mixture between those who were responsible for collecting the revenue and those who were at the same time responsible for giving out leases and then for policing those activities.

So this breakup, I think, will address many of the issues which this Committee has been dealing with, including the royalty-in-kind program. The royalty-in-kind program was eliminated. Frankly, not because people wanted to eliminate the royalty-in-kind pro-

gram in some quarters, but it needed to be eliminated because we needed to make that organizational improvement. The organizational improvement that we have put on the table will help us now take it the rest of the way, and we look forward, Chairman Rahall, to working with you and working with other members of the Committee to make sure that the organization will in fact work to address the missions that we have described for the new organization.

The CHAIRMAN. Thank you, Mr. Secretary. We will work with you, and I do have many more questions on your proposal, which will come at either later rounds or at a later time. But on behalf of this Committee on both sides of the aisle, I think we are—I know we are very serious about working with you. We want to ensure that the American people, the true owner of these resources, receive just return for the use of their resources, and we want to ensure that it is done in a safe and environmental responsible manner.

With that, I will recognize the Ranking Member, Mr. Hastings.

Mr. HASTINGS. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for being here. I would note this is the second time that you have been to our Committee, but we appreciate your being here.

Sometimes there are policies in this government that have unintended consequences. The reason I say that is because there have been Democrats in Congress and members of the Obama Administration that have been critical of the oil and gas industry for their failure to develop their leases quickly enough. And both those Members of Congress and the Administration have pushed various use-it-or-lose-it policies, which presumably is put in place to pressure the oil and gas companies to get their wells operating much sooner. For example, in the President's budget this last February, he had a new tax that proposed to—a new $760 million tax on nonproducing leases, now presumably to get those leases active.

So I have two questions in that regard. Number one, would the Administration rescind that proposal on this new tax? And, second, does this use-it-or-lose-it pressure from the government sometime move these companies to move in a less than environmentally safe manner in order to get these leases in production?

Secretary SALAZAR. Congressman Hastings, on your first question, the answer is no. The proposal is one intended to make sure that you do not have vast acreage, including hundreds of millions of acres out there, which are simply sitting idle and are not being looked at for the possibility of development. We felt that was sound as a proposal when it was proposed in the President's budget. It was sound then; it is in our view still sound today.

Second, on your question as to whether it requires these companies to really accelerate what they do, and whether that would somehow contribute to these issues of what happened here with the Deepwater Horizon and others, my answer to that is no. There is a safety report that will be delivered to the President. There have already been preliminary investigations that have been done about the causes with respect to this Deepwater Horizon incident. There are significant enhancements that can be made with respect to the safety of Outer Continental Shelf oil and gas development, and I

think that is the way for us to go. But I do not think it has anything to do with the use-it-or-lose-it doctrines.

Mr. HASTINGS. Well, OK. Like I say, sometimes you have unintended consequences, and that is the reason I asked that. That is obviously something we need to look at.

Let me get back briefly to MMS and the employees, and specifically the IG reports that came out yesterday. One of the IG reports I think is only one page long, but it reported that one of those employees was fired by the Bush Administration in 2007. So that was three years ago that this employee was fired for whatever he did.

I guess my question is this, and I think it is probably a question that most American people would be asking. If there are individuals that have been identified as doing the wrong things, are they still on the payroll? If they have done the wrong things, why they would not be terminated immediately if they were doing the wrong things? What I heard you say is we are doing whatever we can. But the American taxpayer has to be asking the question, for goodness sakes, if they are doing the wrong, are they still on the government payroll. And that is my question to you.

Secretary SALAZAR. The answer is that if we know that they have done something wrong that requires termination, they have been terminated. And indeed, they have been referred over to prosecution if the facts surrounding the particular incident are harmful enough. I will remind you, Congressman Hastings, that within this Department, the former Deputy Secretary of the Interior went to prison, and other people have been prosecuted for their failures to do what is required of them of law.

We came into this Department to clean up that mess, and to clean up this house. And we have been working relentlessly from day one to clean it up, and it is an agenda which we will continue to work on.

Mr. HASTINGS. Well, just very quickly, my understanding is some of those employees were there at the end of the Bush Administration, and my understanding is they are still on the job. That is my——

Secretary SALAZAR. And I will have David, Deputy Secretary David Hayes, answer specifically with respect to that issue.

Mr. HASTINGS. OK.

Mr. HAYES. Congressman, we just got this report from the Inspector General, literally within the last couple of weeks. We are in the process of reviewing the report. The Inspector General indicated, because of the interest in the issue, that she was going to release it, and she did. We immediately put all of the individuals identified in that report on administrative leave, and have started proceedings to determine whether more disciplinary action is appropriate.

So we moved as soon as we got the information from the Inspector General.

Mr. HASTINGS. OK. So maybe I should ask the Inspector General why this was not made earlier. OK. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman, and thank you, Mr. Secretary, for being here. And I appreciate the comments you have

made in response to both Chairman Rahall and Mr. Hastings, and I would like to join Mr. Hastings. I appreciate the actions that have been taken, and I recognize we knew we had a full-fledged scandal in the past administration, sort of like we had in the Fish and Wildlife Service with people acting in almost what I believe is criminal fashion. I think we have to go back through this with a fine-toothed comb.

When I was Chair of this Committee, I would say that MMS provided a great deal of assistance to this Committee and a great deal of expertise. But I think that agency just went to hell in a handbasket. And we need to know what we are dealing with. And the reason I say that is this. I have been involved in several oil spills. I did the Exxon Valdez—for this Committee. And when you go back through the record, you see the same assurances then that they were giving us today.

You see back in 1982, they are telling us that any oil spill like people were talking about from a tanker in traffic in Prince William Sound is highly unlikely. Do those words sound familiar? Yes. Highly unlikely that anything would go wrong on this drilling rig. These assurances are not worth spit. They are made all of the time, and if you read the internal documents, as I am going back through the history, the companies refused to buy the equipment. Their own internal people tell them, in the case of the consortium in Alaska, to buy this equipment, to update the equipment, and the board turns it down. And yet assurances are given.

They said that they could clean up 30 percent of the oil within 48 hours in Exxon Valdez. They did not clean up 1 percent of the oil. The equipment they needed was all going to be present. No. They had to go to London to get equipment. They had to go to the Middle East to get dispersants, in spite of the assurances to the people of Alaska and to the people of this nation.

So that is why I am being harsh here, because we have to know the integrity of this agency. It is very, very valuable. The regulatory regimes that they provide are for the protection, as we now see, of vast, vast geographical areas of our nation. And so I appreciate your remarks. They are very, very important, as are the actions to follow. In light of the new updated Inspector General's report, I think that is essential.

You know, we are faced here with a situation where clearly the drilling technology has just so outpaced the cleanup technology. What is very clear—my involvement in Exxon Valdez, my involvement in the recent San Francisco Bay spill, and numerous local spills, because I represent refinery and shipping areas in San Francisco Bay—once the oil hits the water, you lose. The people of this nation lose. Oil in the water, the cleanup is a public relations operation.

We go back and review how much oil we have ever picked up out of any oil spill in this country or anywhere else in the world, and especially in open water like the Gulf of Mexico. So these assurances about whether or not we are going to have an accident, you cannot go to the bank on them. And then the question of what is the technology that is in the place to deal with the, quote, "accidents." And what is our ability to clean it up?

Our ability to clean it up today, if you read all of the documents from what used to be the Office of Technology Assessment from the academies, we are basically where we were with the Santa Barbara oil spill in 1969. The booms are longer; they are made out of synthetic materials; they are bigger; they can operate in four-foot seas instead of two-foot seas or one-foot seas. We are still shoveling sand on a beach. That is what we did in 1969 in Santa Barbara.

I think that this Department and this government has got to call back any of these leases that have been let since you have come to office or that have been put in progress based upon old assurances that were made previously. We have to call back whichever of those leases we can so that they can be reviewed. And I really think we have to consider whether or not we can just give a pass to what is really incredible technology, incredible technology. Much of the science for this has developed in my district.

But the cleanup is not there, not there. I mean, we are still throwing diapers on oil. We are putting straw on the water. We are shoveling sand on the beaches, and we are rubbing wounded wildlife with some kind of solvents. You cannot go into 8,000 feet of water, 5,000 feet of water, and I believe that is the response when something like this happens, especially now that we know technically how difficult it is to work in 5,000 feet of water.

So we have to think about putting a circuit breaker on activities in this Department until we know about it, and I mean we, the Congress, the Administration, the American people. And I think we also have to review the categorical exclusions that were given to drilling here because we now see that those add up to be a catastrophe, both economically and environmentally.

Thank you for your time, and I look forward to working with you on this problem.

Secretary SALAZAR. Thank you, Congressman Miller. If I may respond to just two of your points. You are correct that there is a lot more information, a lot more science, and a lot more to come in terms of safety measures. We have been on this, and indeed that is why when you look at the cancellation of the lease sales that have been scheduled by the prior administration in the Beaufort and Chukchi Seas in Alaska and in Bristol Bay, we canceled those leases.

That is probably 200 million acres of leases to be canceled, and precisely for the kinds of issues that you raise here today, and that is that there are questions about oil spill response capability and about the distances, especially when you start working in those kinds of environments. So you raise very important questions that we have been working on.

The second thing on the categorical exclusions, it is a mandate here of this Congress and our national framework over many administrations, Republican and Democrat I might add, that essentially have put a requirement on Interior and MMS to essentially turn around 30 days on approval of an exploration plan. That is not appropriate. We have asked that that be changed, and hopefully that will be one of the reform measures that comes out as part of the President's reform package, which has already been submitted to the Congress.

Mr. MILLER. Well, I appreciate that. I will just say, Mr. Chairman, that if you look at the forensics, what you will find out is this oil spill was the result of a series of activities that were taken over time. It did not happen on that day for that particular reason. And if you go back into almost all of these oil spills, it was a lack of decision-making prior, much prior, to the action, whether it is a tanker spill, or whether it is fixed platform, or a pipeline.

Secretary SALAZAR. I will, Mr. Chairman and Congressman Miller, just add it is the reason why President Obama has set forth a Presidential commission to conduct a thorough and comprehensive investigation. It will be the kind of investigation that was conducted after the Challenger explosion and after Three Mile Island. And the results of that investigation will inform the American public and this Congress on many of these fronts. And in addition to that, there are a host of other investigations that are underway that will get to the root causes of exactly what happened.

Mr. MILLER. That is very encouraging. Thank you.

The CHAIRMAN. The Ranking Member and the Chair will recognize members for questioning by the order in which they arrived at today's hearings. Mr. Flake of Arizona is recognized.

Mr. FLAKE. I thank the Chair and thank you for this testimony. There has been a lot of talk about MMS and criminal behavior that has happened there in the past. I want to talk about just normal bureaucratic behavior, what seems to be, and I would like your response. The Louisiana Governor, Bobby Jindal, has said that he has been seeking permits to build berms on some of the Barrier Islands for days or weeks now, and has yet to get them.

That seems to be a typical Federal bureaucrat response, to hear someone who wants and apparently has some resources at least to go ahead and do this, yet he is being held back because what seems to be a typical bureaucratic response. Can you answer to that? What permits does he need, and which ones can he not get at this point?

Secretary SALAZAR. Congressman Flake, it is a live issue that is under consideration. Let me say to you that there are conversations that have been going on yesterday and even today between the national commander, which is Thad Allen, in charge of this incident and Congressman Jindal to make sure that what it is that we do with respect to Barrier Islands and protection mechanisms in fact make sense. The one thing that we do not want to do is to move forward and do something that ultimately will be environmentally worse than other measures that may be more thoughtful.

And so those conversations are going on. I have met with Governor Jindal. The President spoke with him the day before yesterday on the phone. So we are very aware of their request, and we are taking every action that is humanly possible to make sure that those measures that make sense are in fact being implemented as expeditiously as possible.

Mr. FLAKE. This gets back to what Mr. Miller was talking about. It seems that we do not learn anything from prior spills. It begs the question, what is being done by this Administration and the last one between spills. Do we not study whether it is useful to construct a berm on barrier island in case of an oil spill? The case we are talking about now with BP dumping dispersants in the water,

and telling them no, we do not know the effect of that; why don't you stop or look for other dispersants in the meantime.

The oil is spreading. Perhaps that could help; perhaps it would not. But it just is baffling that every new spill, which is much like the old one—as Mr. Miller said, we are still shoveling sand on the beach or doing some of the same things, washing off birds with Handi-Wipes or whatever else. It just seems that we do not learn. So, when the spill happens, something occurs here; we are still wrangling and questioning with a Governor who wants to move for literally weeks, debating whether or not it is good to construct a barrier—I am sorry, a berm on a barrier island, when that should have been studied beforehand.

That is something that somebody within Interior or EPA or somebody should be doing this, and so we can have more of a rapid response.

Also, there has been reports, many reports, of fishermen and others who have been willing to work to lay boom or absorbent material or whatever else, and have been told, we cannot, or we cannot use you, or do not want to use you at this point. It just seems wrong to turn away help that is there and willing for what seems to be a typical bureaucratic response that we are looking that is under consideration when the livelihood of a lot of people is at stake.

Do you have any response, particularly first to the—what are we learning? Why aren't we between spills doing something that actually will inform us for the next spill so we do not have to spend literally weeks deciding whether it is in our best interest to build a berm?

Secretary SALAZAR. Congressman Flake, I would respond to you in two ways. First, with respect to the broader question about what is being done, this is the largest response of the U.S. Government with respect to an oil spill in history. There are 20,000 people out there. There are 1,000 vessels that are out there. The President has authorized the National Guard and all of the states to be stood up to do whatever it takes to protect the Gulf Coast. So no effort, no resources, is being spared on this protective measure.

Now your second—let me get to your second question, on the barrier island. Some have said that you can construct this thing, but it will get washed out right away. So one of the things that needs to be done is it has to be—whatever is constructed out there—and I have been on bulldozers out there, putting out whatever protections need to be put out there in different places in Alabama and Mississippi and Louisiana. They will be done.

So what the commandant is doing now is working with Governor Jindal to come up with a program moving forward that does in fact make sense. And he is not—and I can tell you, in watching him work this thing 18 and 19 hours a day—and I guess a final point that I would make on your comment on preparedness for spills, you would not see this kind of global response that you see underway in the Gulf if lessons from the past had not been learned.

So there is a lot that has been learned. Maybe it is not everything that needs to be learned, and there will be a lot of lessons that will come from this particular response. But what you see

going on in the Gulf Coast is in essence a manifestation of lessons that have gone on from past spills around the world.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the letter that I was reading from to the District Court be made a part of the record of this hearing.

The CHAIRMAN. Without objection, so ordered.

Mr. MILLER. Thank you.

[NOTE: The letter submitted for the record has been retained in the Committee's official files.]

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey, Mr. Holt.

Mr. HOLT. Thank you, Mr. Chairman. Thanks for arranging for this hearing. Mr. Secretary, I think the American people are right to be demanding of Congress to hold BP accountable. Now, you have said in your testimony that you are sure they will pay all of the—or they have said they will pay all legitimate costs, and you have elaborated on that to say that they will pay all of the response costs, all damages, all costs related to cleanup, all economic damages.

It sounds good, but what I picture happening is we will exhaust the trust fund, which is not so large right now, and then spend years trying to recover money. And the fishing companies and the tourist businesses and everybody else will spend years trying to recover this. You said you have a letter to the effect that this is good. I think we need more.

Fifty-five of us, I along with 55 co-sponsors, have legislation, the Big Oil Bailout Prevention Act, which would significantly raise the cap on liability, which is at the laughably small number of $75 million. Would you join us? Would you support a legislative increase in the liability on behalf of American taxpayers, on behalf of the fisheries, on behalf of the small businesses in the tourism industry, on behalf of people all across America who want justice and accountability, for the Big Oil Bailout Prevention Act so that we can be sure that there is formal liability?

Secretary SALAZAR. Congressman Holt, I am going to have Deputy Secretary David Hayes respond to the specific question on liability because he testified in another committee yesterday on the same question. Let me say two things before he speaks. The first is from the executive branch side and the law that we currently have, we have pushed BP as far as we can, including getting their written and very public——

Mr. HOLT. Within the law that we have.

Secretary SALAZAR. Within the law that we have. Second, within the law that we have, there are also major exceptions to the liability limitation, including gross negligence and violation of operational regulations, and a whole host of other things.

Mr. HOLT. To be adjudicated over many years.

Secretary SALAZAR. Some of them may be. OK. So we are doing what we can within the limits of the executive branch to make sure they are held accountable. In changing the law, we are supportive. The President sent a package here to Congress. There was testimony yesterday from the Department of Justice and Deputy Secretary David Hayes that focused in on the changes that we were

supporting with respect to liability limitation. So I will have the deputy secretary address that issue.

Mr. HAYES. Congressman, the Administration yesterday took the position, and we take the position, that for the highest risk activities in terms of offshore oil and gas development, there should not be a limit in terms of liability on damages. And the Administration would like to work with the Congress to establish essentially a sliding scale of potential liability caps that focus on the relative risks associated with the activities. But for the type of activity that occurred here, the Administration does not believe there should be a liability cap.

Mr. HOLT. Let me just say some of the discussion has had to do with the smaller or independent companies and their ability to pay. The consideration should not be that, but rather the ability to harm. A mom and pop operation, if you want to call it that, could do a billion dollars worth of damage, so we have to keep that in mind.

To follow on Mr. Flake's, Mr. Miller's, and the other concerns, what troubled Americans so much about this recent—the ongoing tragedy is that the Department of the Interior, with all of its agencies, including MMS, not only seemed not to know the answers to the questions, but they did not even know what questions to ask. They did not have in place a mechanism for figuring out even what the size of the leak was. Is it 1,000 barrels a day? No. It is 5,000. Well, no, maybe it is tens of thousands of barrels. Well, maybe it is over 100,000.

You know, as Mr. Flake and Mr. Miller are saying, what were we spending our time doing? How can you assure the people that we have an organization that is putting in place the procedures to deal with things? You know, this you say is unprecedented, but it was not unimaginable. In fact, it was not even unexpected. And yet the procedures for asking the right questions and getting the answers to those questions were not in place.

Secretary SALAZAR. Well, Congressman Holt, I would say that our view is we have been transparent from day one, as we always have in this Administration relative to providing information that we are requested to provide. And we do have a lot of this information that we have provided with respect to what happened. Issues relating to the investigation themselves, those are under investigation, and there will be findings. Those will all be made available to the public.

Just last night or yesterday, the question of whether or not there would be live streaming of the so-called kill today was one of the questions that was addressed. We pushed for transparency, and so as a result of the White House and our intervention, there is full transparency of what is happening on the shore.

Now there is a lot of information that we have provided, not only through the hearings here in the Congress on the oil spill response plans that were in place in the Gulf of Mexico and a whole host of other things. There are science issues which are important that we want to make sure that we get right because of the consequences. And so I can only tell you that even as we are speaking here today, one of the top scientists in the world, Marcia McNutt, who I brought in to run the United States Geological Survey, is

working with a group of scientists to give us our United States of American independent affirmation of what the spill amounts have been.

That is to say, we are not dependent on BP or anybody else to give us that information.

Mr. HOLT. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman. Thank you, Mr. Secretary for being here today. Certainly, we all have questions as to who is at fault, what happened, and we are going to have time to be able to figure all of that out. I think the priority, and I think it seems to be the priority, has been to first stop the leaking oil, but also to be focused on the cleanup. And I have become aware that BP has received some reports, as many as 10,000, up to 40,000 call-ins on technology, new technology, new processes to clean up the Gulf. And my concern is that they are getting so many. Is that a place that the Federal government should be deeply involved with helping to sift through and try to analyze and find and evaluate new technology, a process that can clean up the Gulf quickly and efficiently?

I am concerned that we are not aiding in that effort. Could you respond to that?

Secretary SALAZAR. Yes. Let me say that first of all, good ideas have been welcomed. And the BP command center in Houston is taking the ideas from the national labs. In fact, the national laboratories and the United States Geological Survey have allowed for the diagnosis to take place that essentially is coming up with many of the decisions that are being made today. And so there have been those efforts, as well as other ideas that have come in that have been evaluated for their efficiency. And that is the same to be said with respect to the cleanup efforts, which are underway, and will be underway. And I am going to ask the deputy secretary to comment on that question as well.

Mr. HAYES. Congressman, you ask a very important and good question. The national incident commander, Commandant Thad Allen, has established in the national incident command a repository of all ideas that are coming together. So these folks also have the ability to put them into BP, but those are all coming to the Federal government, the national incident command, and BP is not making the decisions about whether those are good ideas or not. The national incident command is.

Mr. SHUSTER. I understand there is supposed to be a 48-hour response time, and I hear that many of them are not getting 48 hours. There has been weeks. And I understand there are thousands of them coming in. But it just seems that we really need to be, as the Federal government, focused, working with BP and others to evaluate these ideas.

Mr. HAYES. And Commandant Allen has greatly increased the capacity of the national incident command to sort through those issues. As you would expect, they are of varying quality, but some have been useful and are being followed up on.

Mr. SHUSTER. OK. Thank you very much. I yield back my time.

The CHAIRMAN. The gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you very much, Mr. Chairman, and thank you, Mr. Secretary, for being here. Mr. Hastings made an important point, I believe. He said this is not really a time for finger-pointing, but a time for accountability. I could not agree more. But I also believe that there is an historical context to this spill that we have to have the accountability for that, and I think that is vital and necessary for anything we do policy wise and preventing these things.

I really believe that removing total liability caps is a way to protect the taxpayer. This culture of industry facilitation and coziness and promotion by responsible Federal agencies is part of the historical context. And I think part of that historical context has I think been the policy and political impulse to drill first and ask questions later. And that was never a sustainable energy policy, and now the bill for this negligent regulatory attitude is coming due.

I do not believe that, "Drill, baby, drill," was ever a balanced call for energy development, and hopefully some of the calculated slogans like that that led to irresponsibility are going to be put at bay so that we can have an ample time and a dispassionate time to do some real structural and transformational changes in the way we conduct our energy development on public lands and offshore.

But one of the questions I have is just looking ahead. In response to the BP spill, as you mentioned, Mr. Secretary, 20,000 personnel, 970 vessels, boats, aircraft have all gone into the area to help clean and contain the spill. Soon we will be looking at Shell beginning its drilling process in the Arctic Ocean. Does this, Mr. Secretary, what is going on in the Gulf of Mexico, does that require or should it require us to pause until we know the root causes, the impact, and the devastation that is occurring in the Gulf of Mexico? The Arctic is much deeper, much more shallow, and I really think that this would be an opportunity for us to take a deep breath and look at the consequences that we are seeing now, intended or not, and potentially avoid some unintended consequences in the Arctic region. Do you think this is a reason for pause?

Secretary SALAZAR. Congressman Grijalva, two responses to your comments and your questions. First, with respect to the culture, that is in fact what we have been doing, trying to move forward with a balanced view toward development that says you do not drill everywhere, and when you do allow for exploration and development, you are doing it in the right places and in the right ways. And you know from what has happened out in the West that there are reform efforts, and they have been met with some very stiff resistance from our efforts to push it, but we continue to push; the same thing with respect to the offshore.

And specifically with respect to the Arctic, there were five proposed lease sales that were put forth in the 2007-2012 plan. We announced a month ago, a month and a half ago, that those lease sales would be pulled back because we felt that there was additional information that needed to be developed with respect to science and with respect to oil response capabilities, and a whole host of other issues.

With respect to the five exploratory wells in the Arctic that are under the approved exploration plans, those are being examined,

and adjustments will be made in the days or weeks ahead that will address that particular issue.

Mr. GRIJALVA. And back to one of the structural questions that I believe Mr. Miller brought up as well. Part of the historical context has to do with a simple EA analysis or a categorical waiver, as opposed to an EIS, an impact statement. Mr. Secretary, do you feel that it is now the prudent route to require full EIS on all potential drilling sites before a lease or a sale is conducted?

I know you extended the period to 90 days. That is appreciated. I think the question still lingers, not only is that enough time, but are we getting the full look at potential unintended consequences by doing a full blown EIS?

Secretary SALAZAR. Congressman Grijalva, I would first say that it is important to look at the environmental reviews that actually do take place with respect to all these leases. This particular lease sale underwent seven different environmental reviews, including major environmental impact statements, and they start out at the point where you do a major environmental impact statement before you put together an LCS plan. You have another environmental impact statement before you move forward to conduct a lease sale. And so there are a variety of environmental reviews that are done before the drilling actually commences.

There are changes that have to be made, and there are two things that are underway with respect of what we will do with environmental analysis. The first is the joint efforts with the Council of Environmental Quality, directly Nancy Sutley, taking a look at the environmental reviews within the Department of the Interior to see how it is that they might be improved. And so that report will give us some guidance on whether there are places for improvement.

Second, the President's proposal to this Congress that you eliminate the 30-day mandatory requirement for approval of exploration plans, that would be helpful as well because it is difficult to do the rigorous environmental assessment when you are compressed by the law to turn it around in 30 days.

Mr. GRIJALVA. Thank you, Mr. Secretary. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Colorado, Mr. Lamborn.

Mr. LAMBORN. Thank you, Mr. Chairman, and thank you for having this hearing. And, Mr. Secretary, thank you for being here today.

In previous testimony that you have given, you have said that you have concerns about raising the liability for companies under the Oil Pollution Act to high, which could drive out small and medium-sized operators in the OCS. And also in your statement you have acknowledged that BP has, quote, "confirmed that it will pay for all of these costs and damages," unquote.

Do you believe that we should take the simple step, as some in the Senate have proposed, of legislating a fix that would accept the offer made by BP to alter its contract with the Federal government to put into law their offer to pay all costs associated with this disaster?

Secretary SALAZAR. Congressman Lamborn, I think as Deputy Secretary David Hayes testified, it is important that we be

thoughtful and that we do in the right thing. You know, in the heat of the moment of a crisis like this, sometimes decisions are made that have unintended consequences. And so the Administration has taken an approach that the deputy secretary and the Department of Justice testified yesterday, that would look at the liability limitations that are related to the level of risk associated with it.

And so as we work with the members of the Congress in fashioning the liability regime going forward, it is important that we be thoughtful about the different risks and realities.

Mr. LAMBORN. OK. Thank you for that answer. And second, we all want to get to the bottom of this tragedy. And I think we all agree that finger-pointing will not get us there. I do not understand, I have to just be real honest here, why you and others keep harping on what MMS did or did not do in the previous administration when you did know about these problems when you came into office, and you have been in charge of them for more than a year now. Why aren't we talking about the here and now?

Secretary SALAZAR. Well, we are talking, Congressman Lamborn, about the here and now, and that is why people have been terminated, people have been referred over to prosecution, and we have done a lot to clean the house at MMS. Unlike the prior administration, this is not the candy store of the oil and gas kingdom, which you and others were a part of.

So we have moved forward in a manner that is thoughtful, that is responsible, that holds those accountable. And those who violate the law, Congressman Lamborn, will be terminated, and whatever other sanctions of law are appropriate, those sanctions of laws will be applied.

Mr. LAMBORN. OK, thank you. Mr. Chairman, for the remaining moments of time, I would like to defer to my colleague from Louisiana, Representative Cassidy.

Mr. CASSIDY. Thank you, Mr. Lamborn. Secretary Salazar, just to be specific, although we are breaking up MMS at this time, are you stating or implying that there is a direct relationship between the actions or inactions of MMS with this particular spill?

Secretary SALAZAR. The testimony that I provided here in September of last year referenced two different things. The first is that the efforts of the Chairman of this Committee, Nick Rahall, and other members of this Congress, as well as the Senate, were very appropriate, and that is that we needed to move forward with organic legislation given the importance of the missions of this Department. I believe that very much to be the case.

Now with respect to administrative actions that we have taken within the Department——

Mr. CASSIDY. No, no. This particular spill—in fact, BP just about a document where they go by half hour by half hour, and they show from their perspective what happened. I am just wondering, does MMS, in their brief, initial internal review, have they seen for themselves a specific thing that they should or should not have done as regards this particular spill?

Secretary SALAZAR. First, Congressman, this is a BP mess, and——

Mr. CASSIDY. I understand that. But there is a role for government. The President said there is blame all the way around.

Secretary SALAZAR. Let me just finish. And I think what I hear from members of the Committee here, that it is important that we know the truth and the whole truth, and that includes the truth about the government and what the government did do or did not do. I ordered the Inspector General, Mary Kendall, to take a look at this particular issue to find out what MMS did do or did not do. And so we will have investigative information that will come forward.

Everybody needs to be held accountable, and that includes the Federal government.

Mr. CASSIDY. So I am not sure I heard the answer. I guess what the answer is, if I may interpret, is that you do not yet know if there is a specific role that MMS had in the event, beyond the general kind of laxness——

Secretary SALAZAR. Let me tell you what I do have, OK? What I have is a preliminary internal investigation report about the incident itself, which is where the focus has been that has been provided to me. We have—and the members, I think, of this Committee have also now at my request—I have ordered British Petroleum to give us the result of their investigation. I have 80 or so people who have been working on that investigation, and we have a copy of that investigation. And we have asked Mary Kendall to do two things. She is the Inspector General of the Department. The first is to look at the issues relating to this matter of the Deepwater Horizon, and she is involved in doing that investigation.

And fourthly, I have asked her to look specifically at the conduct of MMS employees that would update the report, which will be the subject of her testimony in the panel that follows this one, because I want to know whether or not the ethical mandates and orders and additional people and the consequences that were brought to people who violated ethics rules in the past, which we began to implement right after January of 2009, have been effective or whether they have not. And she——

Mr. CASSIDY. But that is not related to this specific incident.

Secretary SALAZAR. Well, there is an investigation with respect to this specific incident, yes.

Mr. CASSIDY. OK, thank you. Thank you, Congressman Lamborn.

The CHAIRMAN. The gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman. Mr. Secretary, in scripture we read that, who will watch the watchman. And what system of internal surveillance and security—sometime in police departments it is called "internal affairs"—does Interior, and specifically MMS, have to, or had to watch those who are supposed to approve the project for safety and compatibility with the environment around it? Who inside—do you have an internal security to watch those people who obviously, according to the reports, were misbehaving? Do you have that system now? Did you have it before? Or do you propose to increase the system of internal surveillance to make sure we have someone who watches the watchman?

Secretary SALAZAR. The existing system consists of the ethics programs that we have put into place, including having full-time ethics personnel that are involved in training and oversight, including people that we have hired at places like the MMS in Lakewood, Colorado.

Second, the Inspector General, who has been very involved not only in this Administration, but the prior administration, helping watch what is going on and reporting freely to this Congress and to the American people, has done an exemplary job in terms of identifying where these lapses have happened.

And third, we have proposed the creation of a bureau of safety and environmental enforcement within the reorganized agency that will help us make sure that you have the appropriate policemen on the job.

Mr. KILDEE. So the Ethics Committee goes beyond just inspiring people to do what is right. But does it actually watch to make sure that they are doing what is right, certain internal surveillance?

Secretary SALAZAR. You know, from day one, we have had a zero tolerance policy with respect to ethics violations. And when the Inspector General has informed us of ethics violations in the past, appropriate action has been taken, including referrals, which I have direct, to go over to the Department of Justice for review. So that kind of an effort has been in place. The reorganization that will include doing an organic act, as the Chairman has suggested, should take a look at that issue to see how it can be enhanced.

Mr. KILDEE. How common was the dereliction or misconduct of those in MMS? Was it part of a culture? Was it becoming contagious before your tenure?

Secretary SALAZAR. You know, Congressman Kildee, I have to say that in my view, the events that happened in the first Inspector General report, which we dealt with right after my coming into office that dealt with the sex and drug scandal in Lakewood, Colorado, at the MMS offices there, was scandalous and reprehensible. I also have to say, Congressman Kildee, that the newest report from the Inspector General, again that addresses the conduct which is pre-Obama Administration, also is equally reprehensible. I think when inspectors are taking trips on company-paid jets to go to places like the Peach Bowl, I think that is absolutely wrong on reprehensible, and indeed criminal.

And so I think that we need to have a tough hand, and we will have a tough hand with respect to people who have violated the ethical standards that we expect of our public servants.

Mr. KILDEE. Was it becoming, or beginning to become, part of the culture of MMS?

Secretary SALAZAR. My own view, Congressman Kildee, is that it was a part of the culture of MMS, and part of the culture of the prior administration. There was a coziness with industry where industry was running the show. We have changed that. We recognize the importance of industry, and the oil and gas industry will continue to play, I am sure, an important role in the future of the development of oil and gas resources in the country. But the relationship is one which we have worked very hard at changing so it is the appropriate arms length relationship that should exist between those who regulate and those who are regulated.

Mr. KILDEE. That is what is scary to me because I have been in government for 45 years, and when you see a bad cop, that breaks your heart. But when you see a culture developing within a department, then you have a very, very serious problem. And so I would certainly commend you for trying to change that culture. And then

we want to put some people in jail perhaps. But putting people in jail does not undo the damage that took place in the Gulf. So we can change that culture. That will be a very important thing. Thank you, Mr. Secretary.

Secretary SALAZAR. If I may, Mr. Chairman, Congressman Kildee, you raise a very important question that I think this Committee and Chairman Rahall have been working on, and that is that there is need for statutory configuration for an agency that has these very important functions. As I testified here in September of last year, an agency that has these responsibilities of collecting and in some years over $23 billion, on average $13 billion a year, an agency that has this responsibility of developing the nation's energy programs in our oceans, should have organic legislation. And yet this agency, MMS, has existed by fiat of Secretary Hodel that has been in place since 1982.

So the proposal that the Chairman and other members of the Congress as well as senators have been working on now for a year to do organic legislation is something that I testified in support of here last year, as well as doing the kinds of organizational changes that we have been doing on the ground. But I would expect that when we emerge from this, that we will be in a much stronger position to address the concerns that you raise with respect to a culture which has not served the American people well.

Mr. KILDEE. Thank you very much, Mr. Secretary. Thank you.

The CHAIRMAN. The gentleman from Virginia, Mr. Wittman.

Mr. WITTMAN. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for joining us today. I thank you for your efforts, and I want to begin by saying that as my colleagues have said previous to this, I see this process as being a constructive process, a process to make sure we learn the things that have gone on to make sure that things that happen in the future—make sure that these things that have happened are prevented.

I had the opportunity a couple of weeks ago to travel to the Gulf to visit with some folks down there, fly over the area from Moss Point, Mississippi to Cameron, Louisiana, and really understand what was going on. And I had a couple of concerns that I saw. And one is, I was really moved by the frustration with people in the area, whether it is fishermen or citizens. Second was, looking at the process there, there seemed to be a disjointedness to it, a lack of coordination. And I know there is an oil response plan. I know that local governments, state governments, Federal governments get together and go through an exercise to look at that. Whether it is a tabletop exercise or the completeness of that exercise I think is something that needs to be looked at.

I know there is an incident command there looking at making sure that things are coordinated. But it did seem like to me that where oil began to appear, that was not a timeliness in making sure that the response was there. There was also, I think, some frustration with the local fishermen there as to including them in the process. And it seemed like to me that the whole idea of adaptively managing to these crises was not part of this process of looking at how we put together a response plan.

A spill is a pretty dynamic event, and making sure that we have the ability to adaptively manage, I think, is as critical as having a plan that looks at all of the different scenarios.

One element that was very compelling to me is I know the use of dispersants was a critical element of this, and we all know what happens with dispersants. It breaks the oil up into smaller particles, and then it stays—instead of coming to the surface, it stays suspended in the water column, or eventually goes to the bottom.

One of my questions is, is there an element in the planning process that takes into account the suspension of oil in the water column, and what we would have to do to respond to that because I hope it does not turn out to be an out-of-sight, out-of-mind scenario to say, well, as long as it is not on the surface, as long as it does not wash up on the beach, then everything is OK. You know, I think the impact of that suspended oil, especially dropping to the bottom, is as detrimental, if not more so, than what may wash up on the beach.

So I was wondering if you could tell us maybe where the planning stands with suspended oil or oil that makes its way to the bottom, and how that is incorporated into the planning process and the response scenarios.

Secretary SALAZAR. Congressman Wittman, on the question of the dispersants and oil that may go to the bottom or will be suspended in the water column, Lisa Jackson, the administrator of EPA, has probably spent half of her time in the Gulf from the beginning of this incident that she is very much on top of that, working alongside with the Department of Commerce and NOAA, and they are looking at that. Indeed, they will have the third meeting.

We have had scientists that have been helping us from the beginning, including looking at how the well can best be shut off to other issues, and there is a meeting that is planned, where the best scientists in the country will come together to look precisely at that issue. So we are very much working on it.

On your first observation relative to frustration, it is a reality that there is frustration out there, but I can tell you that there is a huge amount of effort to try to address those specific frustrations. Secretary Napolitano and I, along with six members of the U.S. Senate, were in Port Fourchon the day before yesterday meeting with the oyster and commercial fishermen and others, and what we will do under the commander's authority, Thad Allen, is to do everything that we can to make sure that people who are concerned, whose livelihoods are at risk, who feel concern about what will happen with their long-term livelihood, that their concerns are addressed.

Mr. WITTMAN. Very good. And one last comment. I think the whole concept of adaptive management in these sort of crises is critical, and I bring together an example. I was talking with some oystermen there, and they said, we have an area of oysters that has not been impacted yet by the spill, and clearly that is the case. They said, we would like to be able to have the flexibility to go in there and harvest those oysters so we can take advantage of that resource, and then if the spill comes in, we would agree that the area should be closed.

But to have in the planning process, the planning scenarios, the response scenarios, the ability for some adaptive management—and I realize that there are requirements in place for closures and those kinds of things. But it seems like to me in the planning scenarios that there has to be the idea of being able to adaptively manage, to say, listen, during these scenarios, let us go ahead and put the bureaucratic hurdles in the background, and say let us give people the power to make timely, thoughtful decisions in how these responses come about.

I think that is critical, and I think that is one of the elements that sometimes is missing in giving people confidence in the decision-making elements there on the government side. And it goes back to whether it is opening oyster grounds or sand berms or those kinds of things. Timeliness in decision-making in being able to make decisions on the run, responsible decisions, but make decisions on the run in these scenarios is critical. And I certainly hope that that becomes part of the learning process that we go through as we evaluate how this has unfolded, or this scenario has unfolded in the Gulf.

Secretary SALAZAR. Congressman Wittman, I would only say that Admiral Thad Allen, as the serving—until I think yesterday as the Commandant of the Coast Guard—is probably the most experienced person in the country in terms of responding to these kinds of crises. We are on the phone with him every day. The Deputy Secretary David Hayes, the White House, and I get an update on everything that is going on. And when problems are discovered, we take action to address them, and we will continue to do that. And part of it, as you describe, being able to make quick and responsible decisions that would fall within the rubric of what I think you describe correctly as adaptive management.

The CHAIRMAN. The gentleman from Maryland, Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you, Secretary, for being here today. It is really hard to overstate, I think, the scope and dimensions of this disaster. And I was just saying to my colleagues, I think we are on the one-yard line in terms of our understanding of how much damage that will do over the long-term.

I wanted to return to the Chairman's question at the outset of the hearing. He asked you whether this was a game changer. And I guess you could look at that question from a variety of angles. I am focused on whether it is a game changer in terms of our approach to offshore drilling. We have obviously migrated from a time when we had a moratorium to when we were then discussing a certain mileage ban offshore, to where now I guess there are a set of presumptions that operate in terms of how we go forward. And I understand that we are focused on the tragedy at hand primarily, but I think it is important to anticipate where the next tragedy might occur. And I know we have a number of people on the Committee here today who are thinking about what could happen in their part of the world, so to speak.

It is fair, I think, to anticipate this a little bit because the foundation is being laid now in the various comments we hear on what the narrative is going to be going forward. And I would urge you to think about this event as a game changer, and to stimulate a total reevaluation of the policy approach that we are having now

to offshore drilling. I speak as somebody who represents a good part of the Chesapeake Bay. We have Representative Wittman as well, who has got an interest in that, and Representative Kratovil, who was here earlier.

There is a parcel called the Virginia parcel. It is oil and gas lease sale 220, which is about 50 miles off the coast of Virginia's eastern shore. And this was part of the five-year plan that was issued for 2007-2012 under the Bush Administration, and contemplated a lease sale there. The Obama Administration had announced recently its own intention to proceed with that lease sale for that parcel, this Virginia parcel, by 2012, assuming the various due diligence panned out.

Obviously, the Chesapeake Bay is a national treasure. And we are concerned—I am at least concerned; let me speak for myself—about plans to proceed with this. And so my question to you is in this kind of game-changing perspective that I am urging upon you, do you believe there will be a reevaluation, serious reevaluation, of whether to proceed with this lease sale of the Virginia parcel, this oil and gas lease sale 220, which is 50 miles, as I say, off the eastern shore of Virginia?

Secretary SALAZAR. Congressman Sarbanes, let me say first, I believe that the Chesapeake Bay is one of those landscapes of national significance, and there are others around this country, and we will move forward in ways that hopefully has a robust agenda in terms of the restoration and their development.

With respect to the game changer comment that you make and the Virginia lease sale, let me just say to this Committee there are three options. The first option is to shut down all drilling and development in the Outer Continental Shelf, so no more OCS development. The second option is to not make any changes and to simply move forward with the plans as they have been announced. And the third is to make adjustments based on the lessons that are being learned.

The President has said from the very beginning of this effort, we will learn and we will make adjustments as we move forward. And so I would ask you to stay tuned, and there will be additional announcements that will be coming as the President and I consider different options.

Mr. SARBANES. Well, a fourth option, or a version of one of those options that you mentioned, it seems to me, would be to begin establishing presumptions in one direction versus another. In other words, a presumption against offshore drilling in certain places. Now, these presumptions can be overcome. They can be rebuttable based on the evidence that is brought forward, and the comfort level we have about the technologies that are available. But I do not see the harm in beginning a narrative about establishing presumptions against offshore drilling in certain highly sensitive areas, as opposed to, for example, a presumption that goes the other way that then has to be rebutted to stop it.

And I think that that is the game changing nature of this event. That is the kind of lens we ought to be putting on it going forward. And I would urge you to adopt that, not just with respect to the parochial interests I have with the Chesapeake Bay, but for many other areas around the country. And I yield back. Thank you.

Secretary SALAZAR. I will say this, Congressman Sarbanes, that it was precisely because we were attempting to strike those kinds of balances that we said that Bristol Bay in Alaska was a place that was too important to be developed, and it ought to be taken off the development map, and we said that. The President said that. It is precisely because of your kinds of concerns here that we said we do not know enough yet about the Chukchi and the Beaufort Seas to allow further leasing in the Beaufort and the Chukchi Sea up in the Arctic. And it is precisely also because of your comments that when you look at all of the different factors that are set forth under the Outer Continental Shelf Lands Act that the Gulf of Mexico was a place where it was envisioned there would be robust production because that is where the infrastructure was. That is where you had the state support and a whole host of other factors.

But I hear what you are saying, that there are places which are too sensitive, and we ought not to be drilling there. You know, our plan said no drilling off the Pacific in large part because of the environmental sensitivities that we see with many of the marine fisheries in that area. And so it is something that is on the radar screen.

The CHAIRMAN. The gentleman from Colorado, Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman and Secretary Salazar and Deputy Secretary Hayes. Thank you for coming to the Committee.

I think Mr. Kildee said it best when talking about MMS, that a concern that there may be a culture that leads this agency to be a dysfunctional agency. And this is a bipartisan problem. This has occurred not simply over the last administration, but the administration before that. And so my concern is that this goes beyond the consideration of ethics. It is to competence. Everything I read about this agency is that it has done—it in fact contributed to the very crisis that we have today. That it lacks oversight has led us to the point that we are today.

I am glad to hear that we are in agreement that it is vital to the United States to develop these offshore energy resources, and certainly that we are in agreement that it is necessary to balance the concerns of the economic needs of this country with safety and environmental concerns. And I do not think, based on what I have heard—and I look forward to the testimony of the Inspector General later on today—that MMS is capable of doing this job going forward. And there is no question that there needs to be reorganization of this entity, the separating of the revenue and the royalty side of this organization from the safety and the environmental enforcement side of it.

But I also believe, given the history of this organization, given the fact that there has not been the necessary leadership from the Department of the Interior in terms of their ability to turn this around to where the American people can have confidence that we can do offshore oil development safely and environmentally in a sound way, that it needs to be moved outside, that these functions need to be reorganized and moved outside the Department of the Interior.

And, Mr. Salazar, when you say, I have been on this job since day one, that since April 20th of 2010—but I do not think that you have been on this job from January 20th of 2009, when it comes to cleaning up this mess in this Department. And so those are my concerns. And so maybe you can certainly tell me what assurances you can give to the American people that going forward that you can change really what is an incredible dysfunctional agency that what is going to be different going forward in this agency, in MMS, when you were the new sheriff in town on January 20th, 2009, and you have not been able to make a difference, obviously, given the fact that we are in a crisis situation right now in terms of going forward.

Secretary SALAZAR. Congressman and former Treasurer Mike Coffman, I will say this, that the employees of this Department and the history of this Department and the history of this Congress and the development of the Outer Continental Shelf has included the development of over 36,000 wells in the Gulf of Mexico without this kind of an incident. And so when you look back at the history and the safety record, there has been a lot of good, and the energy that you have consumed and your constituents have consumed, and everybody else has consumed, some 30 percent of it, the domestic production, actually comes from the Gulf of Mexico.

Now that having been said, there is no doubt that there does need to be reform of this agency, and we have made major reforms, including the elimination of the royalty-in-kind program, the ethics standards that we have put in place, the ethics personnel, and we have requested, and I have been in front of this Committee testifying in front of Chairman Rahall, that the need for organic legislation is something that we need to embrace.

So my own view on it, Mike, is very simple. You have great agencies in the Department of the Interior, an agency, a Cabinet position established back in 1849. And you have organizations within the agency like the United States Geological Survey, the United States Fish and Wildlife Service, the National Parks Service and other agencies. We can do the same thing with a newly created agency that can manage these areas in our oceans so that we can safely develop renewable energy, as well as safely develop our oil and gas resources. That is my position, and that will be my position as we move forward and we have learned the lessons from this incident.

Mr. COFFMAN. Thank you. Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman's time has expired. The gentleman from California, Mr. Costa.

Mr. COSTA. Thank you very much, Mr. Chairman. Mr. Secretary, I want to commend you for your hard work and your focus on this terrible accident that has taken place, not only the loss of lives, but the recovery focus that frustrates all of us, clearly. And I appreciate your—in response to what is a wide variety of views among this Committee—talking about the perspective of where we are and the importance of the energy resource.

I have several questions I want to ask you. I am one of those that believes we have to use all of the energy tools in our energy toolbox. You noted the 30 percent of energy resource that the Gulf has provided, and I think we need to remind ourselves that every

energy source that we utilize in this country is not without risk. Over a month ago, we had a tragic coal mining accident that took place.

And so our job, I think, in government is to try to deal with the risk assessment and the risk management to assure that we can minimize the risk while allowing this country to deal with a long-term energy policy that is long overdue, that you have talked about and many of us have discussed. I hope in reflection of all of that that this accident, this terrible accident, does not end up providing a reason for a death knell to continuing what I think is important utilization of oil and gas, both on and offshore and public lands.

I want to know how you are trying to deal with the situation, though, in reassessing risk assessment with risk management, realizing that you are trying to triage the situation right now. But as we go forward, the real question in my mind is how do we convey a sense of confidence that has now been damaged with the American public that your Department can adequately manage the risk safely so that we can go forward?

Secretary SALAZAR. Thank you very much, Congressman Costa. I think that it is important to note one of your premises, and that is that nothing in life and nothing that we do is risk-free, and there is always going to be risk. And so the question becomes how do you create a program that does in fact minimize those risks. We will deliver an interim safety report to the President tomorrow that will address——

Mr. COSTA. What is tomorrow?

Secretary SALAZAR.—that will address some of the measures that can be taken to increase safety. In addition, the President's commission to investigate the Deepwater Horizon has been charged with that responsibility as well. And we in Interior, and working with the Presidential commission as well, have the National Academy of Sciences Board of Engineering, the arm of NAE that basically will be involved in helping develop those safety measures so that at the end of the day we have a program for the United States of America that does in fact minimize those risks.

I think, if I may, Congressman Costa, and maybe for other members of the Committee, I think looking at other disasters that have happened in this country in the past and learning from those lessons is important. In the case of the Challenger, the investigation led to a two and a half year stop of the space shuttle program.

Mr. COSTA. And there were lessons to learn.

Secretary SALAZAR. And there were lots of lessons that were learned from that. In the case of Three Mile Island, it led to lots of different consequences, including consequences which we are still living with today, some of which some of you agree with, some of which you do not. But the reality of it is that we need to be, from my point of view, moving forward in a manner that gets us the answers to the root causes of what happened here, and also gets us to developing with Congress the kind of safety regime so that this event does not ever happen again.

And I will note, just for purposes of the record—and, Mr. Chairman, if you would indulge me, just because I think I am in Congressman Costa's time. When you look at other oil and gas spills, if you look at many of them, including one in the Gulf of Mexico

back in 1979, the Ixtoc Well spill, it is somewhere at 3.5 million barrels, OK? The Gulf War and the oil spills there were somewhere on the order of 10 million barrels. You can go through a whole list of probably 10 which have been very horrific, and which are probably much larger even then what we will ultimately see here in the Gulf of Mexico.

And so how we move forward here with the kind of thoughtfulness that you describe relative to creating safety is something which is——

Mr. COSTA. Right. Mr. Secretary, before my time expires—and I hope we will get that recommendation when it comes to the President tomorrow that the Committee will receive it as well. On other area quickly, the Subcommittee that I chair that a number of members are on in June will be reexamining the proposal that you have talked about today on reorganizing Mineral and Management Services.

Everyone should understand that we want to work in coordination with the Department. We do not intend to rubber stamp the proposal. I do not think simply rearranging the boxes of Minerals and Management Services is going to suffice in terms of taking sort of the corrective action that needs to happen. And so we will look forward to the presentation next month when the Subcommittee begins holding hearings on Minerals and Management Service.

Clearly, we have attempted to begin reform last year. We actually have held hearings on this for three years now, and a lot more work needs to be done. But we would like your commitment to understand that this is a collaborative process, and not one that simply—while I think the Department is on the right track, because change is critical and must happen, we need to make sure that in essence the fox is not guarding the henhouse, as we noted with this collusion and the sort of cozy relationships that have existed previously with Minerals and Management Services and industry.

So we want to ensure that you are going to be there in a cooperative, collaborative fashion.

Secretary SALAZAR. You absolutely have my commitment, Congressman Costa, and the fact is, our team that is working on the reorganization is already meeting with staff members, and we would be happy to meet with you all relative to the development of the program with respect to the reorganization. I have no interest, frankly, in shuffling boxes around and shifting labels. We are looking at a fundamental reorganization, and we will do that together.

Mr. COSTA. Thank you.

The CHAIRMAN. The gentleman's time has expired. The gentlelady from Wyoming, Ms. Lummis.

Ms. LUMMIS. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for being here. And I want to follow along Mr. Costa's line of questioning. I am hopeful that as we continue these discussions that we can provide you all the tools you need in order to make this agency function well. And that may include things like the opportunity to retain your best employees and to fire employees that need to be eliminated from employment at MMS.

So to the extent that you may need some exemptions from normal personnel rules in order to accomplish that, I believe you

should request those. In other words, when I was State Treasurer, I found out when I had a troublesome employee that I could spend my whole second term in office fighting this person if I fired them and they sued me, or I could just learn to live with the bad employee.

So I just learned to live with the bad employee. And I think that happens too often under government personnel rules that are designed to protect employees, but when an effort needs to be made to purge an agency of bad employees and start over and put in a new design, that sometimes you need new tools in an exceptional situation. I think this is an exceptional situation. So I hope you will ask for some of those tools, and they include ways to improve the agency by improving the staff through certain salary benefits.

One of the situations in a regulatory agency like this is when you get a great employee, the industry that is being regulated recognizes it, and they hire them away. So your best employees leave and go to the regulated industry. So if you have a way to reward, maybe even on a quarterly basis, employees that are exemplary, that might provide a retention tool for your good employees, and yet also provide you with flexibility to purge the agency of employees that no longer fit the design of what you are trying to achieve.

My question, however, is this. There are oil and gas companies based in Spain, Norway, India, Malaysia, Venezuela, Vietnam, Brazil, and nearby the Gulf, China, all of which own leases in the Gulf. How can we assure ourselves of the safety of their operations when one of the three biggest oil companies in the world, BP, engages in a process in the Gulf that, based on my preliminary review, appears to have been 100 percent avoidable by BP?

I think bad decisions were made on this rig by BP employees, and the consequences to the Gulf, the environment, and to 11 families who lost family members has just been shocking. So I do lay the blame on BP. To take the consequence then of raising the cap on liability so the only companies that can participate are those that self-insure—and BP is one that self-insures—means that there are only going to be three companies left producing offshore, and one of them is going to be BP, and BP is the company that caused this problem.

So I am not convinced that some of the solutions being offered and debated today are the right solutions. I am hopeful that as we continue this dialogue, that you will provide us with information on how we can help you make the successor to MMS the very best regulatory and collection and enforcement agency it can be, with special emphasis on the safety of people and safety of the environment.

Now, I have not left you much time to comment, but I would appreciate your thoughts.

Secretary SALAZAR. Thank you very much, Congresswoman Lummis. Let me just say first on tools, we will be looking forward to having you help us provide additional tools. And the President's request already before Congress asked for additional inspection capability within the Department so that we can do the inspection.

On your second question, whether it is BP or any other company, they operate on our lands, on the American taxpayer's resources,

and they will abide by the law of this land, and we enforce that law.

The CHAIRMAN. The gentlelady's time has expired. The gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much. MMS used to stand for Minerals Management Service. It now stands for Misconduct, Mismanagement, and Spills. And there are some who would like to suggest that this is somehow or another the fault of the Obama Administration. But having spent the last eight years supporting the Bush-Cheney Administration deregulation of the oil and gas industry and its lax administration over the industry, some are now shocked that the gambling with our environment that was going on in the oil and gas industry's offshore casino.

They fail to see any connection between their own "drill, baby, drill" boosterism for offshore drilling and the current "spill, baby, spill" catastrophe we now face. And some have even questioned the patriotism of pledging to keep your feet on BP's neck until they fix their own mess.

But I want to congratulate you, Mr. Secretary, for your very good work in trying to keep everyone focused on solving this problem. The fact is that BP has not been entirely candid and open with the American people about this disaster. Mr. Secretary, initially BP estimated that 1,000 barrels of oil per day were leaking into the Gulf. On April 28, 2010, a new leak was discovered, and Coast Guard officials pushed BP to increase the estimate of the leak to at least 5,000 barrels a day.

However, BP's Chief Operating Officer, Doug Suttles, was initially quoted that day, April 28th, saying that he believed that the flow rate of 1,000 barrels per day was accurate, and that due to its location, we do not believe that this new leak changes the amount currently believed to be released. Yesterday, BP provided me with an internal document dated April 27, 2010, and cited as BP Confidential that shows a low estimate, a best guess, and a high estimate of the amount of oil that was leaking.

According to this BP document, the company's low estimate of the leak on April 27th was 1,063 barrels per day. Its best guess was 5,758 barrels per day. Its high estimate was 14,266 barrels per day. BP has also turned over another document dated April 26th, which includes a 5,000-barrel per day figure as well.

So when BP was citing the 1,000-barrel per day figure to the American people on April 28th, their own internal documents from the day before show that their best guess was a leak of 5,768 barrels per day, and their high estimate was more than 14,000 barrels that were spilling into the Gulf every day.

Mr. Secretary, do you believe that BP was being straight with the American people when they were citing their low-end 1,000 barrels per day estimate and failing to give the full range of the estimates that they had already developed for this spill?

Secretary SALAZAR. Congressman Markey, let me say that our push on BP has been for them to be transparent, and so what you are seeing today in terms of the top-kill operation is in part in response to our directive. The relationship between the United States and BP under our laws, as I have said, we direct them relative to

important things like transparency and making sure the information is being made available.

The quantity is a very important issue for a whole host of reasons, Congressman Markey, and you are right to be focused on those numbers. Because we want to have the United States have independent verification, we have scientists from USGS like Dr. McNutt and NASA and others who will have these independent numbers, and we will share those with you.

Mr. MARKEY. Mr. Secretary, for that first week, was there any reason why BP would have a financial interest in underestimating how much oil was leaking?

Secretary SALAZAR. The answer is yes because liability does apply with respect to the amount of the oil spill. I will tell you this, that the huge focus on the part of everybody that has been involved is to stop the pollution. And I have been at the Houston command center now for four different days, including this last Sunday, where I know the energy that is being spent in terms of trying to bring the problem under control.

Mr. MARKEY. Yes. Under the Ocean Oil Pollution Act of 1990, any owner-operator of an offshore facility that discharges oil into the contiguous zone is subject to civil penalties of up to $1,000 per barrel discharge, or up to $3,000 per barrel discharge in the case of gross negligence. So for BP, the difference between an estimate of 5,000 barrels, for example, and 14,000 barrels, much less 1,000 barrels per day, could really be the difference between a 5 to 15 million barrels [sic.] per day in fines, and 14 to 42 million barrels [sic.] of oil per day—million dollars per day as a penalty.

Mr. Secretary, does the flow rate of the leak have an impact on whether the top-kill procedure that BP will try today will be successful? Does knowing the accurate flow rate impact on their ability to be successful?

Secretary SALAZAR. Congressman Markey, I think with respect to this Apollo 13 type of project which is underway as we speak 5,000 feet below the sea level, that the best of data and diagnostics have been developed, and that is why Dr. McNutt has essentially been camped out there for three weeks. Dr. Chu has been there with a team. The labs have been there. And so the exact question on the amount of flow—I can refer to the scientists on it, but I do not think it would have impacted what is happening today with respect to the top-kill operation.

Mr. MARKEY. Well, BP continues to say that the amount of oil leaking does not affect the response, that it does not matter. But I think that the American people need to know the true extent of the problem that we are facing. The scientists need to know whether there are undersea plumes of oil lurking out there in the Gulf, and BP should want to know as well so that as they are trying to outrun the well with their top-kill procedure exactly how fast the oil is leaking because that determines what it is they have to do in order to stop the leak.

Secretary SALAZAR. Congressman Markey—and if I may, Mr. Chairman, because I think this is a very important point, and we have been working on it very, very hard for some time. I would ask the Deputy Secretary to give you an overview of what it is that we are doing to come up with flow measurements independent of BP.

The CHAIRMAN. Before yielding to the Deputy Secretary, we understand that BP is ready to proceed with their top-kill procedure, and that you want to be able to leave here by 12:15 so you can monitor that situation. Is that correct?

Secretary SALAZAR. That is correct. I would like to—there are some critical decisions that I just want to make sure I am watching.

The CHAIRMAN. We understand, and I am sure all of the Committee members understand that. But you will leave the Deputy Secretary here to respond to questions. Is that accurate?

Secretary SALAZAR. Yes, sir. Yes, Mr. Chairman.

Mr. HAYES. I will be very brief.

The CHAIRMAN. After this response, though, we will go to Mr. Cassidy on the minority side, as he is from Louisiana. I allow him the final questioning of the Secretary.

Mr. HAYES. Just very briefly, Congressman Markey raises very important points about the need for independent scientific understanding of the flow rate. Commandant Thad Allen formed a flow rate task force last week that is made up of distinguished government and independent scientists. That flow rate task force will issue a report as soon as this afternoon that will identify from their point of view what the flow rate has been using three independent different types of analysis.

So I think it will be very useful, and thank you for bringing attention to the importance of this issue.

Mr. MARKEY. And I thank you for your work on that. I think the American public will really be glad that we finally know how big the spill is. And, Mr. Secretary, again thank you for your good work on this project.

Secretary SALAZAR. Thank you, Congressman Markey.

The CHAIRMAN. The Chair recognizes Mr. Cassidy, as is normal procedure, and perhaps Mr. Inslee on our side for very last questions. All members will be able to submit questions for the record, and I am sure the Secretary will respond to those questions that are submitted in writing. Is that accurate?

Secretary SALAZAR. Yes, Mr. Chairman.

Mr. HASTINGS. Will the Chairman yield?

The CHAIRMAN. I yield to the Ranking Member.

Mr. HASTINGS. I think that is very important because this issue is important, and a lot of members are not going to have an opportunity to ask questions. But I do want to note the last time, Mr. Secretary, you were here was eight months ago in September, and we submitted questions then that we have not gotten responses for. So I hope that—I know that—I am sure you do not know that, but we have not gotten responses, and we would like to get response to those questions in addition to the ones that we will be asked here today. So if you would do that, I would appreciate it.

The CHAIRMAN. The gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you. Thank you, Mr. Secretary. Mr. Secretary, part of the frustration in Louisiana—we understand that the $13 billion that MMS has taken in from offshore royalty, probably 60 to 90 percent of that off the coast of Louisiana. Now, having said that, there appears—Mr. Holt said earlier there was a failure of imagination. As I understand, by the second day, there was

more dispersant used than had ever been used at one location in the history of oil spills.

There has never been ROV independent survey of the biology of the seabed in deepwater drilling. In fact, the only test in terms of control of deepwater and ultra-deep drilling, the effects of oil on dispersants, have been done in Norway. That was not ultra-deep; that was deep. Now, it does seem as if an appropriate response would have been proactive. It would have said, OK, if we are going to have a spill, if we are going to use a dispersant, what is the effect of that dispersant. Because there is as much concern about the effect of the dispersants, what I understand is basically kerosene, upon our fishing industry, as it is upon the oil.

There is also concern again that the Stokes law, which I do not know anything about except to quote it, is impeding the flow of oil to the surface, therefore it is going to stay subsurface, as one of my colleagues mentioned, and that this indeed will have a different impact on the plume, et cetera.

Now, this has not been studied proactively. I see somebody later will tell us that you are putting together a task force. But we in Louisiana, who have been contributing 50 to 80 percent of these royalties, needless to say, we feel a little bit like it is after the horse has left the barn, after the oil has left the well. Any comments upon that?

Secretary SALAZAR. Congressman, what I would say is that Administrator Lisa Jackson has been on top of these issues of dispersants from day one. They have pushed BP to use less dispersants. They have looked at whether or not there are less——

Mr. CASSIDY. If I may interrupt, though, that is actually not the question. The question was did somebody ever come out and say, listen, if there is a major oil spill in the ultra-deep, what dispersant will we use, what do we know about the volumes used, what will that do to the plume, what will that do to the fishing industry. And that seems to be an after-the-fact that Ms. Jackson is asking BP not to do it. I guess I am asking why wasn't it considered before the fact. Was there again a failure of imagination, as Mr. Holt suggested?

Secretary SALAZAR. What I would say, Congressman, is that there was a very massive oil spill response plan that had been submitted that assumed worse case scenarios. And it is that oil spill response plan that is being implemented. As it is being implemented, there are issues that have been raised with respect to, for example, the dispersants and their long-term impacts. The EPA has been very involved in it, as well as other scientists, as well as scientists from Louisiana State University. And that is one of the reasons why we have scientists taking a look at it.

Mr. CASSIDY. I am told that there has never been one. I talk to my scientists. They wrote this book. They say they have not really been involved from the coastal environment, and they are very frustrated by that because their publication lists for oil in the marshes apparently exceeds any other university, as you might expect; and also that there has never really been any research done on the activity of oil in the ultra-deep.

Now, it really seems that if we are going to have a response plan, there should have been research done on what does oil do when it

is released in the ultra-deep. That actually seems again a failure of imagination.

Secretary SALAZAR. Congressman, I would just say this, and I am going to have the Deputy Secretary respond as well. But there are many people here who frankly have been involved in the development of the Outer Continental Shelf programs, including the passage of the 2005 and 2007 Energy Policy Acts, which contemplated the development within the deepwater. There were many hearings that were held with respect to all of those changes that were made in the law, and there were many issues that were dealt with in all of those hearings, as well as within the agencies relative to the opportunity, as well as limitations concerning deepwater.

The nation made a judgment that deepwater production was something that should be encouraged, and indeed incentivized by this Congress and by other administrations. So the fact of the matter——

Mr. CASSIDY. I guess my questions, though—there is a California spill of national significance trial run that was done in 2004. And in my mess, I no longer have it in front of me. But it basically says that all of the expertise in dealing with a large-scale spill had been lost, and that middle management was not capable of taking care of such a spill. Now, this is the California spill of national significance, which is not even deepwater. And so it seems as if the preparation—maybe there was a good response to that. But again, I am asking again, was there something done for deepwater in particular——

Secretary SALAZAR. Let me have David, the Deputy Secretary respond specifically to that question. But I can tell you that you would not have the largest response in the history of the world with respect to an oil spill taking place if there had not been preparedness in place. Deputy?

Mr. HAYES. Just to respond that Commandant Thad Allen, who is the national incident commander, was also in charge of the exercise that you are referring to. He believes that was very successful. He administers, along with the Coast Guard, along with EPA, the Oil Pollution Act of 1990. They have the primary responsibility in terms of developing response capabilities.

On the dispersant issue, they, in particular EPA, has pre-approved the dispersants so they are available onsite. The deepwater implications are ironically, now that there is a deepwater ability to inject the dispersants, they are using far, far less dispersant than if they were relying totally on surface. And in fact, Administrator Jackson reached an agreement with BP and ordered BP to reduce the amount of——

Mr. CASSIDY. Let me interrupt, though. I was told that by the second day, more dispersant had been used ever than in the history of any other oil spill, and so maybe in small volumes, it was OK. But for a catastrophic spill, it is unknown as to those effects.

Mr. HAYES. Well, sir, this is an extraordinary event, and as the Secretary referred to, Administrator Jackson, working with your local universities, have established a "follow a protocol." And as you know, for the last several days, they have been pressing very hard to ensure that the dispersants that are being used are in fact of—will break down quickly, will not have long-term effects.

There is no question. I put this in the same category as what the Secretary has been talking about. We are going to learn some lessons here. The Congress in its wisdom put together a response plan that required pre-approval of dispersants, precisely for this reason. We are going to find out if that was adequate, or if new protections need to be put in place.

Mr. CASSIDY. I yield back. Thank you.

The CHAIRMAN. The gentleman's time has expired. Mr. Inslee.

Mr. INSLEE. Thank you. Mr. Secretary, no wind spill has ever hurt anyone. That is why I am appreciative of your permitting these start of winds for offshore wind farms. And no sun spills ever hurt anyone. That is why I am appreciative of the President being at a solar cell manufacturing plant in California today. I just hope you will use this spill again as an inspiration to try to jog our colleagues in the Senate to get off the dime after a year and pass a Clean Energy Bill so that we can move to the next cleaner sources of fuel. I know the President believes that. I believe you do. I just hope you will continue your inspirational efforts.

I want to ask you about the northern seas, the Chukchi Sea and the Beaufort Sea specifically. We know there has been a statement that we are going to put a moratorium on permits for drilling, but I am told that there are some wells that are not started yet by Shell in the Chukchi or Beaufort Sea under—I think it is lease 193. And I read a statement by Vice President Pete Slaiby of Shell of May 14th saying, we have mobilized every piece of equipment that is not local. We are heading up there to do this.

Can you commit to us that you are going to withhold permits on those until we get this thorough review to make sure that MMS acts more like the FAA and less like a group that is not doing their job? Can you commit to us that you withhold permits on those final permits so we can get this done of fixing this problem before they start drilling there?

Secretary SALAZAR. Congressman, let me just first say that the safety report which I have been working on for most of the evening and night and some today will be delivered to the President. Then there will be a series of decisions that will be made with respect to whatever adjustments need to be made. And so stay tuned on your question relative to the specifics on the expiration wells approved in the Arctic. and I will remind you, as I have said to the Committee before, that the plan had been by the prior administration to essentially open everything, Pacific and Atlantic and everything in the Arctic.

We pulled back in the Arctic, specifically in Bristol Bay, in the Chukchi and in the Beaufort, canceling tens of millions, I think, of acres that were going to be leased, precisely because there are some scientific spill response and other issues that need to be addressed. I will take this opportunity as well, Mr. Chairman, in response to the question to also say that I think it underscores the leadership of many members of this Committee to move us forward into a new energy frontier to do the kinds of things that are happening with respect to wind energy and solar energy, where we by the end of this year, just in Interior on public lands, will have permitted over 5,000 megawatts of wind and solar and geothermal energy.

And seeing Congressman Bishop over there, I will also say that I was in Utah, a little place, Milford, Utah, a few weeks ago, and the people in that high school, the kids essentially had developed the idea of creating a new energy revolution within that part of Utah. So they now have underway a wind energy farm that will produce 1,000 megawatts of power, already producing over 200 megawatts of power, I believe; a geothermal plant, which is producing close to 50 megawatts of power right in that same facility; and the construction of a transmission line for renewable energy, which will take the renewable energy to the places where——

Mr. INSLEE. I am really excited about that. We need to string that line over to the U.S. Senate so that they can get a little energy. We have been waiting for a year on them. I want to ask one last question quickly about the control of the drill site. Americans are very frustrated about this, as you know. And you made some comments about perhaps the Federal government, moving BP aside—the incident commander, Thad Allen, suggested, well, BP is really the folks that have the expertise on this.

What I think Americans want are the folks with the expertise to be doing the work. That might be the industry right now because the Navy is not equipped to really do this work, or they do not have drill rigs. But they do want somebody who is going to be making decisions that are based on the good policy and the protection of the environment rather than economics, which is the Federal government.

So I think the people sort of want a mix of the Federal government here, who make a decision to protect them, with those who have the expertise that might be the industry. I guess the question is, is there a circumstance that we should be thinking about that the Federal government would assume control over this drill sight and be making the executive decisions, with executive decision-making authority, and contract with the industry to perform that work, guaranteeing thus Americans the feeling of confidence that they have a government that is making decisions for them and not a private enterprise that is maybe shortening them, but still using the expertise that we need. Is that something that at some point we might be looking at and, if so, under what circumstances?

Secretary SALAZAR. Congressman, that is a good question that is—let my just say, Admiral Allen, whom I have worked with every single day from the beginning of this, and I are in full agreement here. We are holding BP accountable. And in that accountability effort that we have underway, we have them by the neck, and we will keep them by the neck to do everything that has to be done here, which is right.

We have put into place at the Houston command center for BP the best of scientists in the entire world. The global scientific community is focused on what to do with this well in Houston, and it includes colleagues that I have mentioned, Secretary Chu, Marcia McNutt, the heads of the labs, and others. And so I really think what I can guarantee you, Congressman, is that everything is being done that is humanly and technologically possible to stop the pollution, and then to make sure that the pollution is cleaned up, and that those who are affected by this horrific incident are in fact made whole.

Mr. INSLEE. Thank you.

The CHAIRMAN. Thank you, Mr. Secretary.

Secretary SALAZAR. Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Broun of Georgia is next.

Mr. BROUN. Thank you, Mr. Chairman. I thank the Secretary for coming, as he departs, and I thank the Deputy Secretary for staying. So, Secretary Hayes, I just want to say, this massive and ongoing environmental disaster has destroyed untold natural resources, resulted in the tragic loss of life, and will have a devastating impact on the economy of the Gulf Coast region for years, probably decades, to come.

The first and most important thing we need to do is get this spill under control before it does far more damage. Tough questions must be asked in the days, months, and years ahead to determine what happened, to hold those responsible accountable for their actions or inactions, and to prevent a disaster like this from ever happening again in the future.

I am concerned that the Federal government has not taken the lead in the response to this tragedy. Too much reliance has been placed on BP to find and fix this problem. Sadly, we are now 36 days into this disaster, and the Federal government is still looking to BP to take the lead in solving this problem.

We just heard the Secretary give that testimony. He has pointed his finger at BP. He does not point the finger at himself or the Department. Mr. Deputy Secretary, this past Sunday, Secretary said that this past Sunday in regards to BP, quote, "We are 33 days into this effort, and deadline after deadline has been missed." He went on to say, "If we find they are not doing what they are supposed to be doing, we will push them out of the way appropriately," unquote.

On Monday, Admiral Thad Allen, who was appointed by the President to oversee spill relief efforts in the Gulf, was asked whether the government was pushing the cleanup initiative strongly enough. Admiral Allen replied, quote, "We are actually defining it as we go. This is an unprecedented, anomalous event," unquote. And in response to Secretary Salazar's statement on BP, he said, quote, "To push BP out of the way would raise the question, to replace them with what," unquote. Farther going on, "They just need to do their job," unquote.

Between the Secretary's statements today and those he has made recently and actions taken to date by the Administration, it is clear that the Federal government has not taken the lead from day one. The protection of American interests is the responsibility of the Federal government, not BP.

I heard the Secretary over and over say that it is BP's responsibility, and would not take responsibility. He said over and over that you guys have been doing everything that you all can do. And I find that totally incorrect.

Deputy Secretary, do you believe that the Federal government's response and the Department's response has been adequate?

Mr. HAYES. I absolutely do, Congressman. We are implementing the law that this Congress passed, the Oil Pollution Act of 1990, which establishes responsibility on companies like BP, who create this kind of damage, to fully fund and implement the cleanup. It

also establishes a structure under the national contingency plan that establish a national incident commander, here Thad Allen, that has the responsibility and oversight of the responsible party. That is absolutely occurring.

Let me suggest a separation between two issues because I think you are confusing some very different situations. First of all, in terms of the response itself, Thad Allen and the Coast Guard has stood up an organization of now over 20,000 people in the Gulf of Mexico responding to the spill. You have heard the testimony today of the thousand ships, the thousands of employees, the millions of miles of boom, the dispersants. This is the most coordinated, hard-hitting response effort ever.

The other piece of it is what is going on in terms of stopping the flow. And we have experts from the Navy. We have Nobel Prize winning Dr. Stephen Chu. We have the heads of three national labs. We have the head of the United States Geological Survey—all embedded in Houston. Every decision that BP is making, they are asking us for permission, and we are directing them what to do.

Today's top-kill is the culmination of intense effort with them. We are 5,000 feet down. The U.S. Navy has confirmed that actually the best technology is the technology that industry brings to bear. They are doing it under our direction. And their complete livelihood is at stake. There is no question, I do not think, about the commitment of the Federal government and the effort of response. And for someone who has been working on this matter since hours after it occurred, to suggestion that the Federal government is not putting everything at this effort is disappointing, to say the least, and incorrect by any empirical measure.

Mr. BROUN. Well, Secretary Hayes, I respectfully disagree with you. Reports come out of Louisiana, where Federal vessels were sitting there idle, and the state had to take its emergency management authority to try to get those responding to the spill. And I do not mistake that there are two pressing issues. One is stopping the continual flow of oil into the Gulf, and the second one is cleaning up what is there.

But it is my belief and understanding that the Federal government has the responsibility under the law to take the lead role, and you guys have not done that. Shouldn't you have taken the lead role from the very beginning?

The CHAIRMAN. The gentleman's time has expired. Who is next on our side? The gentlelady from the Virgin Islands, Dr. Christensen, is recognized.

Ms. CHRISTENSEN. Thank you, Mr. Chairman, and thank you for holding this hearing. Deputy Secretary, there have been calls for a national disaster declaration, and I recognize that the Secretary has testified, and I realize that all hands are already on deck. But the impact of this disaster, as my colleague said, will be far-reaching and last a very long time.

In your opinion, is there that could be gained, or would the response be any better, any stronger, if this Deepwater Horizon spill were officially declared a national disaster?

Mr. HAYES. Congresswoman, I am not an expert in the legalities of the different types of declarations and their impacts. My under-

standing is that because we are under the jurisdiction of the Oil Pollution Act, and we have access to the billion dollar fund, and also the responsibility of BP, that the normal kind of disaster declaration that triggers under the Stafford Act, actually requirements for states often to provide matching funds, is not appropriate, and actually would be counter-productive in this situation.

However, there are many complexities. There is a different type of disaster that can be called under the Magnuson-Moss Act dealing with the fisheries. So I do know this, that the Administration and the Department of Justice has the lead on this with the Department of Homeland Security—is making sure that every resource available through whatever mechanism, declarations or not, is appropriate are being followed up to the maximum extent.

Ms. CHRISTENSEN. OK. Thank you. And I just want to clarify, Congressman Inslee sort of asked this question, but the testimony of the Secretary is that no applications for drilling permits will go forward. There is a moratorium in place. But it has been reported that drilling projects are still being approved. Can you give me some reassurance that that moratorium is in place and none are being approved?

Mr. HAYES. Sure. I am happy to clarify that point. Let me first say that the policy was to put a moratorium on approving new applications to drill offshore until the Secretary presents the report to the President on interim safety measures. That will occur tomorrow.

So the moratorium is focused on the fact that since April 20, no new applications to permit to drill in offshore have been approved or are going forward. There were two actually that were approved after April 20, but suspended on May 6. So there have been no processed and allowed to go forward new applications to permit to drill.

Confusion has arisen because while ongoing—in connection with ongoing drilling processes, there have been some revisions and some side drills basically for safety purposes. They have been allowed to continue because those are changes in ongoing things. Those have been reported as new permits. They are not new permits in that sense.

Also, it has been reported that there have continued to be approvals of exploration plans. That is true. That is because we are forced to respond to those within 30 days. But the approval of an exploration plan does not lead to a drilling permit. That is a separate action. So we have worked hard to put this pause button on. It is on until tomorrow, when the President will receive the report, and then the decisions will be made about what to do going forward.

Ms. CHRISTENSEN. Thank you. One of the most important parts of managing a crisis is the dissemination of information to the public. And when I listen to some of the officials from Louisiana, watch the news, it seems as though the message on what, why, and where is really being led by the media and by people who are panicking because they are concerned for their and their constituents' livelihood. And then there are sometimes conflicting statements from different government officials.

What is being done to improve and have the Federal government coordinate and really take control of the message that is coming out on this disaster because it just creates more confusion and really hampers the ability for the Administration to move forward.

Mr. HAYES. It is a very good question. It is a tremendous challenge coordinating the messaging and the information flow. I was last Thursday in the home command center and also Mobile, Alabama command center. All of the command centers have what is called a joint information center, where under the Coast Guard's jurisdiction, all of the Interior Department, Commerce Department, BP folks, all are working together, and the communications all come out of the joint command.

That process is up and running. I think it is going well, and that is the primary mechanism we are doing. But it is a tremendous coordination challenge. But Thad Allen is up to it, I think.

Ms. CHRISTENSEN. Thank you, Mr. Chairman. My time is up.

The CHAIRMAN. The gentleman from Louisiana, Mr. Fleming.

Mr. FLEMING. Thank you, Mr. Chairman, and thank you, Mr. Deputy Secretary, for coming today and speaking with this on this important topic. I represent the Fourth District of Louisiana, as Dr. Cassidy and I are both members from Louisiana.

Over two weeks ago, our Governor, Governor Jindal—and you heard this discussed earlier—requested a certificate, requested permission to dredge our shoreline in order to build berms for protection and to vary our island level to hopefully protect our coastline and our natural resources, our wildlife, and so forth.

About six days ago, the entire delegation, Democrats and Republicans alike, sent a letter to the Corps of Engineers and to Admiral Allen requesting an answer. So we are well over two weeks. The people of Louisiana are waiting for an answer. Mr. Deputy Secretary, are we going to get an answer today?

Mr. HAYES. As the Secretary testified, Commandant Thad Allen is in daily contact with Governor Jindal on this issue. I know that he is continuing to work it. The primary issue is whether building the barrier island will do more harm than good in terms of fighting off the potential of an oil spill impact. And those discussions are continuing. I am sure they are going to mature into a final decision very, very soon.

The main concern of the national incident commander has been not to make the situation worse.

Mr. FLEMING. Mr. Deputy Secretary, do you think we will hear within a week?

Mr. HAYES. Absolutely.

Mr. FLEMING. OK. So could I expect perhaps an answer in three to five days? Would that be a good window?

Mr. HAYES. It is really probably best to put that to Commandant Thad Allen, but I can assure you that an answer is forthcoming. But more importantly, discussions are ongoing. There are daily discussions between Commandant Thad Allen and the Governor.

Mr. FLEMING. Well, the Secretary referred to conversations. You refer to discussions. Isn't this, sir, really paralysis through analysis? We have 84 miles of shoreline that are now affected. By the time we figure out whether this will work or not in some way be a problem for the environment, it will be too late to do anything.

Mr. HAYES. The proposal as it was originally envisioned was to build 90 miles of barrier island. The concern is that it would wash away literally in a matter of months with the first storm event, and then perhaps more importantly that in connection with the dredging and filling operation, that oil would be drawn into the marshes that it is trying to protect.

Those are very serious, very serious questions that go to the appropriateness of this mechanism as a spill response mechanisms. Thad Allen has the national incident command team working on it very hard, working in communication with the delegation and with the Governor. We have a shared interest in getting the right answer, and I am confident the Commandant and the Governor will close on this soon.

Mr. FLEMING. OK. Thank you, sir. Just to kind of switch the topic and kind of go back to something that we have been talking about all along, we have been hearing comments from the Secretary, the other side of the aisle, how the problems within MMS have been very problematic and have carried on to this situation that we have today.

But the fact is that this has happened on President Obama's watch. Now, I am not here to point fingers. I am not here to blame. I think President Bush and his Administration no doubt clearly has blame in this, that BP does as well. But I think the American people are growing very I think unhappy with the constant statements made—and the Secretary made them today; other members of this Committee did as well—that it was the problems, it was the candy store—I think was the comment made by the Secretary—that is was a close relationship between corporate America and the Bush Administration. Isn't it, sir, really destructive and really kind of covering one's backside to continually point fingers at another administration rather than accepting the fact that this has in fact occurred during the Obama Administration? And wouldn't it be more construction to look at what is happening at this moment and going forward rather than constantly pointing fingers?

Mr. HAYES. Perhaps so, Congressman. The reality is that we just received an Inspector General report within the last 48 hours that focused on inappropriate behavior that occurred under the previous administration. Those issues are front and center. And the Secretary was presented with that situation when he walked in with the Lakewood, Colorado issue.

So it is a reality that it is something we have had to deal with, and we are trying to deal with the cultural issues that have been raised throughout this hearing. I will say this, what we are most interested in—and I know you share this—is finding out what really happened here with this particular circumstance. We do not know whether the culture of MMS really had a connection with this or not. We are going to find out.

The combination of in particular the President's commission, the National Academy of Engineering Work, the joint USGS-MMS investigation overseen by the Secretary, all of these things coming together are going to give us the answers. And I think we are all going to look forward to getting those answers. That is where we need to be.

The CHAIRMAN. The gentleman's time has expired. The gentleman from New Mexico, Mr. Heinrich.

Mr. HEINRICH. Thank you, Chairman. Undersecretary, this exploratory well was permitted under a categorical exclusion, as was alluded to earlier. It was based on a prior EIS, environmental impact statement, and an EA, an environmental assessment, both done under NEP.

That EIS evaluated the potential environmental impacts of drilling in the western and central Gulf of Mexico, and the EA evaluated the impact of the lease sale that led directly to this well. The EIS estimates that we can expect two to three blowouts in the central Gulf and one to two blowouts in the western Gulf as a result of the 2007 to 2012 lease sales. The EIS also stated that since lost of well control events and blowouts are rare events and of short duration, potential impacts to marine water quality are not expected to be significant.

Given that we now know that a blowout in the deepwater may be of very long duration and obviously has significant impacts on marine water quality, do you believe that MMS should reconsider the underlying EIS and EA and other similar existing NEPA decisions that do not take the consequences of a deepwater blowout very seriously?

Mr. HAYES. I would answer in two ways, Congressman. First of all, of course, as the Secretary testified, the Council on Environmental Quality is working with us to do a thorough review of the NEPA policy as it applies to Outer Continental Shelf Leasing Act. So we are going to take a stem to stern look at NEPA reviews, and there are some limitations under current law that we have talked about already.

The other observation I will make is that under the Oil Pollution Act of 1990, there is actually a requirement for a spill response plan to be put together on a worse case analysis. This is not under NEPA; this is under OPA. And BP was required to put together a spill response plan that truly did, I think, assume worst case, 260,000 barrels per day for 30 days, and bigger than our current spill. It is because of that that we are able to respond as we have been in terms of the boats, the dispersant, all those issues.

But there is no question, I think, in all of our minds that the question of worst-case analysis needs to be updated with an idea of the lessons of this accident. We have to learn what those lessons are first, and the investigations will help us there.

So we look forward to it. I cannot speak to now as to whether the specific EISs are still adequate or not, but they will be part of our review.

Mr. HEINRICH. When we talk about the Alaska leases that have been referenced on a number of occasions—and some of those having been granted. I know many of them were canceled before they were actually leased. Do those leaseholders have a contingency plan in place if something like this happens in the Arctic?

Mr. HAYES. They do have spill response plans in place. Those are all appropriately subject to additional reviews, I think.

Mr. HEINRICH. Is MMS—do they have the authority to require these kinds of contingency plans for all leases moving forward, and is that being exercised?

Mr. HAYES. They do, and they have. The very robust spill response plan that BP is required for in the Gulf, the 260,000 barrels per day response capability plan, was approved by MMS. So they do have that authority, that responsibility.

Mr. HAYES. I know the response is unprecedented, but I would not exactly characterize what BP has been able to do over the past 37 days as a successful response——

Mr. HAYES. Right, right.

Mr. HEINRICH.—to this situation, and I think we need to be careful about how we characterize that. Theoretically, if we use the correct response, either the dome or a top-kill procedure would have been successful weeks ago.

Mr. HAYES. Right. No. I think you raise a very important point, Congressman. The traditional spill response plan looks at those traditional assets that are brought to bear when there is a spill. What we have here is a situation where the containment at the first instance has been the problem. We need to look hard as to whether we have appropriate mechanisms in place for that at all. And we will do so.

Mr. HEINRICH. Thank you, Undersecretary. Mr. Chair, I yield back.

The CHAIRMAN. The gentleman from Utah, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. I appreciate Undersecretary Hayes staying here. I am sure you have the Secretary's ear, so you will bring back our comments to him as well. I hope that you will be—sorry that Mr. Inslee is no longer here, that you are up to taking his challenges of wind and sun spills so that as soon as you have cleaned up the coast, you will then solve the problem of hurricanes and skin cancer at the same time. I am sure you will go forward with that. And just for the record, the Milford Flat will not produce 1,000 megawatts of power at the best, under perfect conditions. It can do 200 megawatts of electricity. I just do not want anyone to accuse the Interior Department of giving false information.

So let me go to this. As you know, I have been somewhat critical of the Interior Department in the past. In this particular issue, though, I have no intention of trying to do a simple and quick rush to judgment. I think this Committee wants to know, number one, what has the government done; two, what could they have done; and specific answers to what Mr. Cassidy was trying to get as to the relationship of MMS to this particular situation?

We need those specific answers. And I recognize, Mr. Chairman, this is the first of a series of meetings that we will have to come up with those specific answers. Once those answers are there, then we can make some kind of adjustment to that. So I appreciate your willingness to be there, but I also appreciate your recognizing this is the first step, very skimming of the service, and we will come up with more specifics as time goes on.

I also recognize that MMS has a checkered past. During the Clinton Administration, MMS made some very bad decisions that cost this government a great deal of money in favor of the private sector. During the Bush Administration, there were problems that the investigation of which was initiated and completed during the Bush Administration that pointed to other problems.

There are still problems with MMS. And as long as the rhetoric does not get in the way, I really hope that we can work together in a bipartisan way to solve that particular problem, which is not unique to your administration, but is still there with this Administration, and has been there in the past, and we can move forward on those areas.

I am grateful to find out that Ms. Kendall is going to initiate a report on this particular situation. I am under the hope and assumption that as soon as that report is available, Congress will get a copy of that report in a timely manner? That was the question, sir.

Mr. HAYES. I am sure that is the case, and the Inspector General can answer for her own sake in the next panel, but I am sure that is the case.

Mr. BISHOP. I look forward to that. As you told Representative Holt over there, there is the intention of being a very open and transparent——

Mr. HAYES. Right.

Mr. BISHOP.—administration. Mr. Hastings asked for certain documents to be brought today. I am under the assumption they were not brought today?

Mr. HAYES. I did not come with additional documents.

Mr. BISHOP. And when we have asked for documents that deal with the southern border, they have yet to come as well. To your knowledge, because we asked this of Mr. Jarvis yesterday in a hearing—to your knowledge, when there was those brainstorm meetings that dealt with the monuments, were those initiated by requests from the White House, or did the meetings come to your knowledge from the Interior Department?

Mr. HAYES. They came from the Interior Department.

Mr. BISHOP. I appreciate that, with once again the request that those documents that we have repeatedly asked and have yet to appear are given to us so that we can participate in the process and do the role that Congress was required to deal with. And I hope that also applies to this particular situation because as we have heard today, there are a lot of questions that have been asked. Very few answers are there. It may indeed be that the Department does not yet have the answers to share with us. But when those answers are there, we hope we can get them in a timely manner, and then we can make some adjudication about how we go forward in the future and what was or was not the occasion down in the Gulf.

I thank you for your time and being here.

Mr. HAYES. Thank you.

Mr. BISHOP. I yield back, sir.

The CHAIRMAN. You did not use the word "unintended consequence" at all.

Mr. BISHOP. I yield back, and expect the unintended consequences, sir.

The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. BOREN. Thank you, Mr. Chairman. I appreciate you having the hearing today, also Deputy Secretary Hayes for being here, and also for the Secretary for being here earlier. A couple of points. I am kind of like Mr. Bishop. I have been critical of the Department

on a number of issues, mainly about access. I am one of those rare pro-oil and gas Democrats who does support drilling, but at the same time I think we need to be thoughtful about it. I think this is a time for us to pause, for us to be very careful.

I do want to say to you and to the Secretary, I have watched your response, and I know that you all kind of have the weight of the world on your shoulders right now, and you do not need someone else to be piling on. So I am not going to do that today, and I just want to thank you for your service to this country.

A couple of the questions I do have—and this was something that Congressman Holt brought up. He talked a little bit about independent oil and gas companies and being involved in whether or not they should be drilling in the offshore because of the liability issue. And you mentioned OPA '90 a couple of times. You know, we have this fund. You know, there is a $75 million cap, but then you have this fund, over a billion dollars, that is sitting there that is used for these cleanups.

Would it be better instead of just having an unlimited cap—would it be better—because then, as was mentioned by other members, you would only have a few companies that would be able to drill, including like the Chinese and folks that are not necessarily friendly to the United States. Would it be better to solve Rush Holt's problem to increase the—and all of our problem—to increase the fee on the oil and gas industry, to raise that fund level to 4 or 5 or $10 billion, whatever the magic number is—and I do not know what that is—so that when there is a big disaster, that we can clean up the pollution. We can solve the problem that both Rush Holt and I both have while still allowing independents who produce a vast majority of a lot of the oil and gas that is out there.

We have a lot of partnerships. For instance, we have a company in Oklahoma. They have since sold their offshore. Devon Energy partnered with Chevron and found a really big discovery. We want that kind of technology sharing. We want those kind of people, Oklahomans and others, creating those jobs to be out there.

So my first question is can't we accomplish the end goal of cleaning up the mess and having the money there without necessarily keeping all of the folks out? That is my first question. And my second question is about the moratorium. I have had a lot of the shallow water drillers in my office, the folks that drill anywhere from 35 to 400 feet. I think they are vastly different than what you have in the offshore. They complete wells in a short amount of time. There could be literally thousands of people laid off if the moratorium goes past—I guess the 28th is the day. We are very concerned about that. And also even the moratorium in the offshore.

But I obviously understand you have to go in. You have to do the inspections. I also want to applaud you all for looking at breaking up MMS. I think it is a positive step forward. Again, I am not here to talk about the Clinton Administration, the Bush Administration—sorry, Mr. Bishop—or whatever, the Obama Administration. There is a lot of blame to go around and all that.

I just want to find the best solution, and I think I would love to hear your thought about OPA '90 and Mr. Holt's and my issue that we can work out, and then also about the drilling. I would love for

you to say, you know, the 28th we are going to say we can start drilling again.

Mr. HAYES. Congressman, on the first point, the Administration is absolutely open to working with the Congress on this suite of issues. I think we have a shared interest in making sure that the companies that operate in the offshore have the wherewithal to respond to any problem that arises. We have that shared view.

I could only speak to that issue of the cap, but there may well be other ways to skin the cat, so to speak, and——

Mr. BOREN. Well, let me, because the light is getting yellow. Let me just say real quickly, I am just worried in this political environment someone is going to attach this to a must-pass bill.

Mr. HAYES. Sure.

Mr. BOREN. And all of a sudden, we are just going to have the Chinese drilling on our offshore.

Mr. HAYES. I understand. In terms of the shallow water issue, the moratorium, this pause button, if you will, is associated with a report that will soon be delivered to the President, and then decisions will be made. That is about all I can say about that.

Mr. BOREN. OK. Thank you for your service.

The CHAIRMAN. The gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman, Deputy Secretary. We heard Secretary Salazar talk about his wanting to help us to get the answers, but we also have heard the Ranking Member talk about requests that were made eight months ago for which we have not got answers. That really needs to be responded to. I do not care who is in the majority, there ought to be respect enough for this body and this body's oversight that we get answers within eight months. And not only that, there ought to be enough respect for Congress within Congress that when Congress cannot get answers, we demand them, and do not reward an agency until they comply.

So I am hoping—maybe it is a little bit Pollyanna, but I am hoping for the future we are going to have a little respect from the Department of the Interior and get answers to questions.

Also, looking at AP article, the AP obviously did not get any respect from DOI, but they had requested information so that they could put together stories. They indicate they got information from DOI that Deepwater Horizon was inspected 40 times during its first 40 months after September 2001, when it went into the Gulf, but that more recently, the numbers keep being amended by MMS as to how many times it was seen. It went from 26 to 48 times reported for the 64 months since January of 2005. And a Freedom of Information request by the AP indicates MMS only released copies of three inspection reports. And I know people would love to know—and I know you said you are looking forward to getting the reports and finding out what happened. Why couldn't we just see the records?

If we could just see the records, we can read those. As a judge, I frequently had to review evidence myself. You get people to come in and know what they are talking about, hopefully, and to give you their assessment. But why can't we just say, here is the report, here is the blowup of any testing that was done, here is the record that it was not done. Here is what happened. And then we would

know, and we would not have to wait from somebody within MMS or DOI to tell us what happened.

Can we get those reports, just here is what happened, without an investigation and waiting for that?

Mr. HAYES. Congressman, with all due respect, we are being inundated with requests for information at the same time that we are devoting an incredible effort at addressing——

Mr. GOHMERT. Well, then I can understand when you wait eight months to respond to questions we ask, it really must build up pretty significantly over time. But if we could just get the copies of what has happened. It doesn't do you any good to come in and say we have all of these requests building up when you keep letting them build up over months. Well, my time—one of the problems with having only five minutes—let me get to this.

We heard Secretary Salazar mention, quote, "A prior administration when industry was running the show," and he says the relationship between MMS and big oil is arms length now. And we know—we have had hearings in this room. We have had the IG come in, and we got down to two people that may have known about that prior administration when industry was running things in 1998 and 1999, and they left out the language on the price control for the leases that just made millions for big oil and cost our Federal treasury millions and millions of dollars.

And when I asked the Inspector General, why didn't you talk to these people, he said they both left government service; there is nothing I can do. And I could not believe he would not even try to call them and see if they would voluntarily respond, but he did not. And it turns out one of those went from the Clinton Administration to become First Vice President of Health, Safety, and Environment for British Petroleum North America. Then she was promoted to Director of Global Health, Safety, and Environment and Emergency Response for British Petroleum. And then she became General Manager for Social Investment Programs Strategic Partnerships at British Petroleum. And then last summer, Secretary Salazar said, she understands the value of partnerships, so he has now put her with the Minerals Management Service in the Department of the Interior.

And so I hope that you will look closely into that cozy relationship the President has talked about wanting to end. And I am very concerned that if Minerals and Management is overseeing British Petroleum, just how cozy this has gotten. And I realize my time has expired, but I am just asking, please look into this. The Inspector General refused, and we have to rely on you to help because Congress is not adequately looking into it. Thank you. I yield back.

Mr. HAYES. Just for the record, Sylvia Baca has been completely recused from this matter because of her prior employment with BP.

Mr. GOHMERT. Oh, when you say completely recused from this matter, does that leading up to the blowup event or failing to work properly——

Mr. HAYES. She has not been involved in offshore energy issues.

The CHAIRMAN. The gentleman's time is expired. The gentleman from Wisconsin, Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman. Deputy Secretary, thank you for being here along with the Secretary to give us an update

on what is taking place. And I do appreciate what the Administration and what the Department of the Interior has been trying to do in light of this accident. And if my recollection is correct, since coming to office, the Department of the Interior has eliminated the scandal-plagued royalty-in-kind program. That has already taken place. It established new ethics standards, if I recall, within the Department, balanced MMS mission to include renewable energy production as part of its portfolio. You have slowed down the new leasing that was taking place for a more thorough review and analysis before any of the leasing decisions are ultimately made; moved in the direction of more science-based determination as far as leave approval within the agency. And obviously the Secretary announced the division of MMS now into separate entities so that there is more focused attention on what needs to be done. All necessary steps.

But I know the people in western Wisconsin are wondering why this happened and what steps can be taken to avoid it from occurring in the future. How much will the Department be taking into consideration what other countries have been required, especially in the area of deepwater drilling, as far as improvements that we need to be making to ensure that any future project, or even current project that is taking place right now meets the optimal measurements of safety and again science-based determination to avoid something like this from occurring in the future?

If I recall, I think Canada already requires a secondary pipe or a secondary valve to be drilled at the same time the primary one is in any of their deepwater drilling. Am I correct in that?

Mr. HAYES. I do not know the details of that specific point, but to your more general point, we are very interested in having world class standards, and that means benchmarking against other countries and taking the best that they have to offer. In fact, in the report that we are preparing for the President, we have started that function. There already is a lot of international discussion along these lines. But we take your point. We want to have the best standards in the world.

Mr. KIND. Is that going to be part of the commission's purview as well——

Mr. HAYES. Absolutely.

Mr. KIND.—when they are moving forward is to look at best practices in the industry and what is——

Mr. HAYES. It will be part of—absolutely, absolutely, yes.

Mr. KIND. Right. And also, I think taking a look at the opportunity for secondary safety valves to be established in case we get a blowout of this order, that there is a second and third alternative in order to shut something like this off quickly.

Mr. HAYES. Yes, Congressman.

Mr. KIND. Yes. Now, obviously, the Inspector General is going to be testifying briefly before us, too, and we have known for some time that we have a cultural problem within MMS. And in her report, I think she indicated very clearly that a lot of this is human nature just playing out.

First of all, I think we have a terrible problem with the revolving door, of those in the industry going into the overseeing agencies to conduct oversight from the place they just came from, and also vice

versa, those within going to the private industry, knowing how to play the game. I do not know what we can do really to get at that other than some brighter line rules in order to prevent what appears to be a very cozy relationship and a lot of transition from public and private sector work that has been going on for a very long time.

Have you guys been thinking about this in coming up with some recommendations for us to consider as far as the revolving door problem that I think I and others——

Mr. HAYES. We absolutely have. And in fact, as the Inspector General, Acting Inspector General, may testify, as soon as we receive the draft report, we are looking internally at some new rules that we might consider, and we are in a dialogue with the Inspector General about some new requirements that we would have on the revolving door theory. So we are absolutely attuned to that.

Mr. KIND. Now, maybe ethically, but is it prohibited by law or by criminal penalties from accepting gifts or kickbacks or things of that nature from the industry that you are supposed to be overseeing?

Mr. HAYES. Oh, there are some very bright lines in terms of what can be accepted as gifts. And I think there the lines are much clearer, and the ability to take disciplinary action is much more clear. I think the issue that Mary Kendall has raised appropriately is the cultural question of the friendships and the close relationships, et cetera. That is a harder nut to crack, and we look forward to working with the Inspector General.

I will say that we have really enjoyed a very good professional relationship with the Acting Inspector General, and we in fact—she is working with us on a special safety oversight committee function moving forward for precisely this reason. It is very instructive to get reports of the Inspector General's office. It is even, I think, more helpful to get the input and experience of the Inspector General as we look going forward at new things we can do to avoid the problem so that we do not have those reports.

Mr. KIND. Well, I appreciate that response. It is going to be crucial for that type of collaboration and cooperation as we move forward because when you get comments that we are all oil industry, it is very troubling, and that is not the way this is supposed to work.

Mr. HAYES. Yes.

Mr. KIND. So we will look forward to working with you on that as we move forward. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired. The gentleman from New Mexico, Mr. Luján, is recognized, whom we formerly recognized as a new member prior to your arrival this morning.

Mr. LUJÁN. Thank you very much, Mr. Chairman. I look forward to working with you, with all of the Committee members and the staff as well to really make a difference here, Mr. Chairman.

Deputy Secretary, following the '89 Exxon Valdez spill, we heard reference to the 1990 Oil Pollution Act that was brought forth and what that did to shift responsibility to these companies, putting the Federal government on a back step, if you will, as far as having that direct involvement. Learning from that, how can we assure in

the future that the Federal government will have the capability to take greater control of cleanup efforts, whether it is creating or establishing an entity where we can utilize personnel, equipment, technical expertise from the private sector to drive this home and make sure that we are doing the things we should be doing off the bat?

Mr. HAYES. Congressman, I think that will be part of our debrief, if you will, after this incident has been controlled. I think a lot of the confusion is more in terms of the relative roles. The Oil Pollution Act, you are correct, did make it clear that the companies have responsibility. BP in this case, along with some other parties, are responsible parties, have to open their checkbooks, have to make it happen.

But the reality is that the Federal government also is the primary player here in telling them what they have to pay for, and that is what we are doing through Thad Allen and the national incident command. But like everything else associated with this incident, we will look forward to looking back and seeing whether it would be useful to clarify the law or clarify the responsibilities.

Mr. LUJÁN. And, Deputy Secretary, I know that there has been a lot that has been said about this; Mr. Dudley from BP, Mr. Suttles from BP as well, talking about some of these attempts, failed attempts, to stop the leak, that it has never been done before, that there is no certainty at these kinds of depths. Why was it that BP did not move forward with trying to kill the well to begin with? Why is it that these flows—it looks like all these attempts was to keep the flows alive as opposed to go in and just shut if off.

Mr. HAYES. This was a catastrophic failure, and if there had been a technical way to stop—to kill the well earlier, you can be assured they would have done it, and would have required them to do it. What happened was essentially the entire infrastructure associated with killing the well was lost with the explosion. So what has been happening over the last couple of weeks in particular has been a reconstruction effort to enable what is scheduled for today, the top-kill, which requires under pressure very large volumes of drilling fluids to be injected in the well. And at 5,000 feet, without delivery mechanisms, those mechanisms had to be constructed, and it has been a 24/7 operation to get to this point today.

Mr. LUJÁN. And I think there is a lot of concern there because in some recent articles coming out of the Washington Post, this one from yesterday, it cites that there are rig workers and lawmakers that have faulted BP for failing to pay enough attention to a spike in pressure in the drill pipe and for neglecting to ask for a second cement plug in the well, both of which could have been addressed with more time. Instead, rig workers have said BP pressed ahead with substituting seawater for drilling mud in preparation for closing the well and moving the exploration rig off the site.

It then goes on to say that time worries were not the exclusive province of BP. In a 2006 trade journal, trans-ocean General Electric engineers wrote about how to save time on a blowup preventor test by leaving test valves in place. At a conference in '09, a Halliburton official spoke about how to get cement to set faster. On a

conference call last August, we continued to hear about what that means to saving costs.

Leaving these test valves in there or turning them where there could have been other ways to shut this off are things that I hope that we will look to do, and I certainly hope that now with what is being done with the restructuring of MMS that we are able to address the concern that was issued to notice to lessees that MMS had issued dating back to at least 2002. That requirement was lifted from most wells in the central and western Gulf of Mexico to have some of these contingency plans as well.

And so going forward, I hope that we are able to conduct a thorough audit of those that do not have these contingency plans in place. I hope that we can learn that agencies can work close with one another, as you have done, to bring experts necessary here to address these issues, but make sure that we are using modeling and simulation to be able to find out if these contingency plans are truly going to work because we have seen that that absolutely is not the case.

They are still saying today that they know it is not working. So with that, Mr. Chairman, I appreciate it very much. I yield back my time.

The CHAIRMAN. The gentleman yields back. The gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. I am puzzled. Is there or is there not a moratorium? There are press accounts saying that permits have been issued, statements that the Secretary put forward said you are required to issue these permits upon 30 days after—you know, within 30 days in approval or disapproval. Are you under a moratorium or not on permitting?

Mr. HAYES. We are not approving any—we have not approved any new applications for drilling in the deepwater since April 20th. And we put a full stop after May 6th all new applications to permit to drill, period, shallow water and deepwater.

The confusion, Congressman, has been that there are revisions to permits, so-called, sidetracks, bypasses. Those appear on the MMS website as though they are new permits. They are not new permits in the sense of new operations starting. They are ongoing operations, drilling is already occurring. They have hit a safety problem; they need to do a bypass; they need to do a side drill, move around the problem. We are allowing those to go forward here during this period. Those are not new applications for drilling.

Also, the important thing also, Congressman, is that this was in place until the President gets the report, which looks like will be tomorrow, and then decisions will be made about the future.

Mr. DEFAZIO. OK. Now, in the case of the test wells in the Arctic, do they have to have a plan for a catastrophic failure before they drill a test well?

Mr. HAYES. We have not received yet the APD request from Shell for those proposed exploratory wells for this summer. They also have to submit an APD, an application for a permit to drill.

Mr. DEFAZIO. Right.

Mr. HAYES. So they have an exploration plan, but the next step is for them to send us so-called APDs, which are the final step for

review. And at that point, we review the entire situation and decide whether to allow the exploration activity to go forward or not.

Mr. DEFAZIO. But exploration activities do require a catastrophic response plan.

Mr. HAYES. Yes, yes, they do. Yes, they do, absolutely.

Mr. DEFAZIO. OK. And you can envision the concern about——

Mr. HAYES. Sure.

Mr. DEFAZIO.—spill, even a fraction of this magnitude, in the difficult conditions in the Arctic.

Mr. HAYES. Yes, yes.

Mr. DEFAZIO. So I would assume that there is going to be extraordinary scrutiny applied to what they allege they have in place to deal with this, a catastrophic event.

Mr. HAYES. That is an appropriate assumption, Congressman.

Mr. DEFAZIO. OK. Now, in a hearing last week, it came out that there is a lot about the blowout preventor having been modified and whether or not it had a hydraulic leak and was functioning improperly, the condition of the batteries, and that. But there was one thing even more disturbing than that beyond potential for malfunction or actual malfunction. It is that it turns out that these blowout preventors cannot sever the pipe where it is joined. So 10 percent of the pipe being used on these deepwater wells, these blowout preventors are not designed to deal with.

How can we be allowing this to go forward with blowout preventors that cannot do the job, even if they work?

Mr. HAYES. Right. Well, that is a very serious issue. There are really two issues there, as you may know. One is whether the pipe rating matches the ability of the shears to cut through it, and then the second issue is that where the pipes are put together, you have thicker material, and the likely failure of those shears.

We are going to need to look into this. My understanding is, I have been told that in this case the shear rams had the capability of cutting through this quality of pipe. But that obviously is going to be a factual question for this matter, and will be part of the more general review. MMS has done studies through the years on this question and tightened up these regulations, but we are going to look to see whether they have to be tightened up more.

Mr. DEFAZIO. Right. Press accounts say there was a study done by MMS, a subsequent study done, which was '07 that BP engineered saying basically that most or many blowout preventors were not capable of cutting pipe of this thickness. So, that is a very serious concern.

Mr. HAYES. Right.

Mr. DEFAZIO. We do not want to have blowout preventors as a feel-good device because I do not feel too good about this one right now.

Mr. HAYES. No, absolutely.

Mr. DEFAZIO. So, that is something that I really think you need to be looking at. With that, Mr. Chairman, thank you.

Mr. MILLER. Will the gentleman yield?

Mr. DEFAZIO. Yes, I will certainly yield.

Mr. MILLER. I thank the gentleman for yielding. You put your finger on a very important point here. What we have demonstrated over the last 37 days is that if the oil is out of the pipe, we have

no means to control it when it comes to the surface. We just have no ability to do this. We can try and manage it and all that.

So we are back now to reliance on these blowout devices. And until such time—I mean, you can have of all these plans you want, but the only thing that stands between us and a catastrophic event is that blowout device because we now know, I do not care what they file about how many ships they are going to have in place and all the rest of it, you cannot deal with it once it is in the water.

So I just hope that—this is kind of the fail-safe point for the moment unless technology changes or procedures. I think Mr. DeFazio just raised a critical point here. And the idea of going forward relying on shears that may not—we do not even know on other existing wells whether they are sufficient and placed in the right place.

Mr. KIND. Will the gentleman yield for one last question?

Mr. MILLER. Yes, I yield.

Mr. KIND. What about the possibility of a secondary pipe also going in at the same time as the primary pipe pumping it out? Would that be another alternative to avoiding something like this?

Mr. HAYES. I am not yet a petroleum engineer, Congressman. I seem to be heading that way. But I really cannot speak to that.

Mr. KIND. We all seem to be, and that is what is scary.

Mr. HAYES. Yes.

Mr. KIND. Right. Thank you, Chairman.

The CHAIRMAN. The gentleman's time has expired. The gentleman from Maryland, Mr. Kratovil.

Mr. KRATOVIL. Thank you, Mr. Chairman. Mr. Deputy Secretary, first of all, thank you for being here and for your service in what clearly must be a very, very difficult and stressful situation. You know, oftentimes when we have these kinds of events, the first reaction obviously is to go after someone and figure out who is to blame. It seems to me the first issue, as you have correctly pointed out, is figuring out how do we stop the leak.

In that regard, assuming today what we are trying to do today does not work, then what?

Mr. HAYES. There is a backup plan that the Secretary alluded to briefly that Secretary Chu and the directors of the national labs have been working on with BP that would contain all of the flow, and that would swing into action.

I am sure that if the top-kill fails, there will be a lot more discussion of that backup plan. But again, I am probably not the best person to speak to the Ps and Qs of it.

Mr. KRATOVIL. Let me go back to a number of—obviously, there has been a lot on the issue of the blowout. It is my understanding that back in 2001, MMS issued a safety alert recommending that all of these OCS operators include a secondary activation system. And still there is no regulation requiring that, correct?

Mr. HAYES. There is a requirement for redundancy in the MMS regulations for BOPs. Is that what you are referring to?

Mr. KRATOVIL. Yes.

Mr. HAYES. Yes. Now there is a lot of confusion about this, and I know that Ms. Birnbaum is on your witness list. I would recommend that you go through that with her.

Mr. KRATOVIL. OK. And in terms of the exploration plans being required to have a blowout scenario that explains how they would respond, why have those been in a sense waived?

Mr. HAYES. The primary reason for the categorical exclusion application for exploration plans is that the only 30 days is allowed under the Outer Continental Shelf Lands Act. So there is no way to do certainly a complete environmental analysis. And it is something the Administration has requested that Congress address. So that is the primary reason.

And as I mentioned before in response to Congressman Heinrich's question, we are doing a thorough top to bottom review of the National Environmental Policy Act's application under the Outer Continental Shelf Lands Act.

Mr. KRATOVIL. Mr. Boren raised the difference between these deepwater wells and non-deepwater wells. Is there any distinction—I gather there is not any distinction in the tax associated with the liability fund as it relates—making a distinction between deepwater and non-deepwater. Do you think there should be?

Mr. HAYES. I have not thought about that question.

Mr. KRATOVIL. OK. Switching to more of a local area, one of the areas they are talking about drilling is off the coast of Virginia. And, obviously, certain areas have been determined to be too environmentally sensitive. Can you give me an idea of why an area that is very, very close to the Chesapeake would not qualify similarly to some of the other areas that have been determined to be too environmentally sensitive?

Mr. HAYES. It might. The decision was to go forward with an environmental impact analysis, to see whether a lease sale should go forward. So that environmental impact analysis has not been done.

Mr. KRATOVIL. OK. There are other issues related to that specific location, as you may know, related to the Navy, related to NASA.

Mr. HAYES. Right.

Mr. KRATOVIL. What kind of coordination is done when that decision is made to open up an area like that with other agencies and entities that may be affected by it?

Mr. HAYES. We work very closely with the Department of Defense. In fact, the Department of Defense has recently gone public with an evaluation of expressing concern about most of that proposed lease sale area as being needed for training purposes.

Mr. KRATOVIL. I know. But why not do that before making the decision to explore opening that up?

Mr. HAYES. Again, the decision is contingent upon bringing in all sorts of evidence. The next step would be a scoping process, particularly to get this kind of information. The Virginia lease sale was put on the existing five-year plan by the previous administration. It is something that we had that was already presented to us.

Mr. KRATOVIL. Thank you. I yield back.

The CHAIRMAN. The gentleman from New Jersey, Mr. Pallone.

Mr. PALLONE. Thank you, Mr. Chairman. And, Mr. Secretary, in all fairness, I should probably preface my questions by saying that I personally was very disappointed in the Administration's decision to expand leasing to the Atlantic, and beyond what had been the area prior to when we had a moratorium in Congress. And I have been here 20 years. Most of the time, we had presidents who

through executive order or through the appropriations process that they supported a moratorium on any expanded leasing.

And I was very disappointed to see that this Administration broke that and started expanding the leasing to include parts of the Atlantic and other areas that were deepwater. And I suspected that we would have another spill, a catastrophic spill, like this because you are going into deepwater, where the technology is not there to prevent a spill or to cap a spill after it occurs.

My hope is that the Administration has learned its lesson after this and will go back to the moratorium we had before—either the President issues an Executive Order like the one that was in effect under Bush and Clinton and others, or we adopt through the Interior Appropriations process another moratorium, as we have had in the past.

I guess my questions relate to that. I have not seen any indication that the President is willing to change his position. In other words, he is saying he is setting up this commission. There is going to be an investigation. But on several occasions since the spill, he has made it quite clear, I think, that his intention is when this over and when the so-called technology is available, that we will now expand, and he is not reconsidering.

Can I just ask you three questions relative to that, though? Is there any reason to believe that the President is willing to sign an executive order that would prohibit any further lease sales, EISs, or explorations in areas that are now open to leasing, similar to what was in effect under the first Bush, Clinton, and most of the time under the second President Bush? Any reason to believe that he would sign that executive order?

Mr. HAYES. I certainly cannot speak to that, Congressman. The President is focused entirely, as are we, on dealing with the current unfolding crisis.

Mr. PALLONE. Is there any reason to believe that he would support a legislative moratorium in the Interior appropriations bill similar to what we had for 20 years?

Mr. HAYES. I cannot speak to that at this point. We are focused on the unfolding disaster that——

Mr. PALLONE. Is Mineral Management in any way considering revising the five-year plan which continues to open the Atlantic Coast and other potentially environmental and economic devastation areas? Is there any suggestion that they would reconsider the decision to expand pursuant to your five-year plan?

Mr. HAYES. That decision was a draft. There is no new five-year plan yet in effect. It will not go into effect until 2012. The decision that was made was to begin an evaluation of potential additions to the Outer Continental Shelf.

Mr. PALLONE. Is there any suggestion that that might be reconsidered in light of this spill?

Mr. HAYES. We are putting all of our attention on the spill right now, Congressman.

Mr. PALLONE. So I take it since you are not responding, I should assume that there really are not any changes that are being suggested.

Mr. HAYES. I do not think that is fair to make any assumption based on my response.

Mr. PALLONE. OK. Well, I would just ask again that all of those things be reconsidered. I listened to the Secretary's remarks, and he was sort of trying to separate himself from the previous policies of Mineral Management, but it seems to me that in many ways you are continuing them. In other words, as long as we say that are going to continue opening up these areas to more leasing, to more exploration, to more EISs that essentially continues the policy of the previous administration. And that is very disappointing to me.

Mr. HAYES. I will just make a comment here that I think as the Secretary pointed out, the approach that we have taken is a very cautious approach. We are asked—we are required by a court action to re-review decisions that the prior administration had made in the Arctic with regard to oil and gas leasing. As a result of that opportunity, we canceled five lease sales scheduled for the Chukchi and the Beaufort Sea. We canceled lease sales associated with Bristol Bay. And in fact, the President withdrew Bristol Bay by Presidential proclamation under the Outer Continental Shelf Lands Act.

Our approach has been and will continue to be a prudent approach.

Mr. PALLONE. I would just ask that you revisit the approach. We do not really want to see any drilling in the Atlantic, and we think this oil spill shows that it cannot be done without a catastrophic spill. Thank you.

Mr. HAYES. Thank you.

The CHAIRMAN. The gentleman's time has expired. The gentlelady from California, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair. Mr. Hayes, Secretary Hayes, how are you, sir? I have several questions, and I will rattle them off because I may not have time to get them all answered at the same time. But this is the second hearing that I have attended—one was in Transportation—with regard to the spill. And there are still some of the questions that remain. How many deep wells does BP have, and how many do other oil companies have in the same depth as this particular one? And does any other company have the same record of I would say the wanton disregard for the governing regulations and the workers's safety? Because this is not only hurting our country; it is also giving the industry a bad name.

One of the recommendations that has come to my attention is that maybe we might have Congress pass a bill to force BP to divest all of its U.S. interests, which would send a strong message to all of the other companies that are considering trying to get away with that kind of action.

Second, do we have adequate baseline information or maps of the shorelines, the barrier islands, and the wetlands to be able to quantify the impact the oil spill is having on these valuable resources? If not, maybe—or I know you are utilizing resources from the bureau and USGS to gather information so they can accurately assess the damages that BP can be held accountable for.

And referring to the Exxon Valdez, that was 41 years ago, I believe. And they are still having impacts. I know BP professes, at least in the last hearing, that they will be responsible for paying any and all claims. Well, that may be well and good, but can they replace lives? How about those people that were killed?

And the third issue is mental health services that some of the families and some of the people that are being affected by this spill in that area will have need of because there were some suicides, if I remember correctly, out of some of the other accidents that happened. And then are you considering any addition to your guidelines for employees and entering such a statement as to there will be Federal prosecution for those that have been playing patsy with the industries.

And my understanding, of course, is that we also have that same kind of issue with water. Now you can reply.

Mr. HAYES. Thank you, Congresswoman. And it is a pleasure to work with you on water issues. This is a different kind of water issue than we have been working on. Just to take your questions in order, I will defer to Liz Birnbaum in terms of the BP wells, in terms of the numbers. I will say that there are in the Gulf of Mexico 1,988 deepwater wells currently, and 35,000 shallow water wells. So there has been a significant amount of drilling activity here over the last several years.

In terms of your second question, do we have good maps, are we doing a careful job of evaluating the potential impacts on coastal resources, that has actually been a very important initiative we have had in the recent weeks. We have had National Parks Service, Fish and Wildlife Service, BLM, and other—NOAA, EPA folks, but particularly our resource agency folks doing coastal assessments and baseline analysis before the oil hits so that we will be able to quantify the damage. And the fact that the spill stayed offshore for the first couple of weeks provided us with that opportunity to do that.

Mrs. NAPOLITANO. OK. Mr. Hayes, before you go on, you did not fully answer the first question because I was asking the number of BP wells, deep sea wells.

Mr. HAYES. Yes. And I will have to defer to the Director of MMS. I do not know the answer to that, unfortunately.

Mrs. NAPOLITANO. Thank you.

Mr. HAYES. In terms of mental health assistance, I assume that that is available, and it should be available. And we will be happy to pass along that concern to Thad Allen, who runs the national incident command.

And finally, have we provided guidelines to employees, made it clear that employees who have ethical issues will be prosecuted, the answer is yes. In fact, just yesterday morning, in connection with the release of the Inspector General's report, the Secretary made clear that if there were violations of ethical concerns, folks would be fired, prosecuted, whatever was appropriate. And in fact, he immediately put the individuals identified in the Inspector General's report on administrative leave precisely for that purpose. That follows up on the same approach that he took upon coming into office in January 2009, in connection with the Lakewood, Colorado concerns that had been raised by the Inspector General.

Mrs. NAPOLITANO. Right. But I just want to be sure that not only in this particular agency but all of the other agencies in the Department of the Interior.

Mr. HAYES. Yes.

Mrs. NAPOLITANO. Simply because this could happen again, and it is probable. Bureaucracy maintains.

Mr. HAYES. Right.

Mrs. NAPOLITANO. And unless we take steps to ensure that they are aware that if they are dilly dallying, that they all will be held responsible to the full extent of the law.

Mr. HAYES. Yes. We have really worked hard to promote a new sensitivity to ethics in the Department. It is one of the Secretary's highest priorities, and we will remain vigilant throughout the Department, Congresswoman, not just at MMS.

Mrs. NAPOLITANO. Well, thank you very much, and you have been a great pleasure to work with, sir. Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Mr. Deputy Secretary. We understand you have a meeting at the White House in 20 minutes, so we will allow you to leave at this point.

Mr. HAYES. Thank you very much. I appreciate the chance to be with you, and I am impressed with your ability to avoid lunch and bathroom breaks, and your commitment to public service in all of that regard.

The CHAIRMAN. I am the only one that has been able to last. Mr. Deputy Secretary, I join with many of my colleagues that have already expressed deep appreciation to you for the tremendous number of hours that you have spent on this tragedy, tremendous sacrifice to yourself, to your family, and we really appreciate it. Thank you for your service.

Our next witness is Mary L. Kendall, the Acting Inspector General, U.S. Department of the Interior, who has been with us all morning. And we do appreciate your patience, and you may proceed as you desire.

STATEMENT OF MARY L. KENDALL, ACTING INSPECTOR GENERAL, U.S. DEPARTMENT OF THE INTERIOR

Ms. KENDALL. Thank you, Mr. Chairman. Mr. Chairman and members of the Committee, I thank you for the opportunity to testify today about a recent Office of Inspector General report that addresses a number of issues concerning the Minerals Management Service at the Department of the Interior.

As you well know, we have previously identified programmatic weaknesses and some egregious misconduct within MMS, the later of which received considerable coverage in the press and scrutiny by this Committee, as well as others. In the report released this week, we found more of the same, although the misconduct is dated, arguably less egregious, and considerably less salacious than that in our report issued in 2008 about misconduct in the royalty-in-kind program.

As a result, we issued our most recent investigative report according to our routine protocol, providing a copy to the Department and requesting a formal response in 90 days, at which point we would provide copies of the report to cognizant committees and post it to our website.

Given the events of April 20th of this year, however, this report had become anything but routine. We expedited its release. While I neither condone nor excuse the behavior chronicled in this, our most recent report on MMS, for the most part the improper con-

duct of the employees at the Lake Charles District Office preceded the termination of the regional supervisor in 2007 for his gift acceptance. And, as our report indicates, this behavior appears to have drastically declined.

As such, I am more concerned about the environment in which these inspectors operate and the ease with which they move between industry and government. I am also concerned about the conduct of industry representatives, something we also identified in our 2008 report. That they should think it permissible to fraternize and provide Federal government employees with gifts after all of the media coverage of this practice is hard to fathom, but may be informed by the environment as well.

While not included in our report, we discovered that the individuals involved in the fraternization and gift exchange, both government and industry, have often known one another since childhood. Their relationships were formed well before they joined either industry or government. MMS relies on the ability to hire employees with industry experience. And in my very brief but intense experience in this arena the past month or so, the MMS employees that I have met who have come from industry are highly professional, extremely knowledgeable, and passionate about the job they do.

As you know, all of the OIG reports related to MMS have made headlines, some more sensational than others. This report has done the same. Headlines, however, are not our goal. Rather, our goal has always been and is today to effect positive change. To this end, I must credit the Department for the seriousness with which it has taken the findings contained in this report, and for taking swift action in response to the misconduct and the challenges inherent to the industry-government dilemma.

As you also know, Secretary Salazar has announced that MMS will be split into two distinct bureaus under the Assistant Secretary for Land and Minerals Management, and a third independent office for the collection of royalties under the Assistant Secretary for Policy, Management, and Budget. As this reorganization progresses, I am hopeful that the Department will incorporate our recommendations for programmatic improvements. These must, however, be bolstered with an emphasis on ethics to include controls and strong oversight.

We are pleased with Secretary Salazar's continued emphasis on ethics, and MMS's preliminary response to our most recent report, indicating that it will, among other things, enhance ethics training, specifically for its inspectors, and establish controls, like a two-year waiting period to further ensure ethical compliance.

The final element is strong oversight. In the fall of 2008, Inspector General Earl Devaney testified before this Committee, describing what was then a fledgling office within the Office of Inspector General, now called our Royalty Initiatives Group. Since that time, we have also established an investigative unit dedicated to energy issues, and have expanded our oversight coverage beyond MMS to the energy and minerals program at the Bureau of Land Management.

Until recently, these two offices had been dedicated to the royalties-related oversight and improvements. Since the events of April 20th, it has become increasingly clear that we must expand their

scope to providing oversight of the operational, environmental, safety inspection, and enforcement aspects of energy production on Federal lands and in the Outer Continental Shelf.

We have begun a multi-pronged effort to address these issues as quickly and thoroughly as possible, including an inquiry into whether or not the ethics issues in MMS have in fact ceased. We are also conducting an investigation into the actions of MMS officials concerning the approval and inspection of the operations on Deepwater Horizon.

Beyond these efforts, which are clearly spurred by the immediate urgency of the matter at hand, we will focus on building our oversight capacity beyond royalties into the areas of safety and oversight of drilling operations, both off and on shore.

This concludes my prepared testimony today. I would be happy to answer any questions.

[The prepared statement of Ms. Kendall follows:]

Statement of Mary L. Kendall, Acting Inspector General, U.S. Department of the Interior

Mr. Chairman and members of the Committee, I want to thank you for the opportunity to testify today about a recent Office of Inspector General (OIG) report that address a number of issues concerning the Minerals Management Service (MMS) at the Department of the Interior (Department or DOI).

I will keep my remarks brief today, as I believe that the body of our work over the last several years speaks for itself. We have identified programmatic weaknesses and egregious misconduct, the latter of which received considerable coverage in the press and scrutiny by this committee, as well as others.

In the report released this week, we found more of the same, although the misconduct is arguably less egregious, and considerably less salacious, than that in our report issued in 2008 about misconduct in the Royalty in Kind program. For this reason, we issued our investigative report under our routine protocol, providing a copy to the Department and requesting a formal response in 90 days, at which point, we intended to provide copies of the report to cognizant committees, and post it to our website. Given the events of April 20 of this year, however, this report had become anything but routine.

While I neither condone nor excuse the behavior chronicled in this, our most recent report on MMS—gift-acceptance, fraternizing with industry, pornography and other inappropriate materials on government computers, and lax handling of inspection forms—I am more concerned about the environment in which these inspectors operate, and the ease with which they move between industry and government.

I am also concerned about the conduct of industry representatives, something that stems from our 2008 report; that they should think it permissible to fraternize and provide Federal Government employees with gifts after all the media coverage of this practice is somewhat hard to fathom, but may be informed by the environment, as well. While not included in our report, we discovered that the individuals involved in the fraternizing and gift exchange—both government and industry—have often known one another since childhood. Their relationships were formed well before they joined industry or government. MMS relies on the ability to hire employees with industry experience, and in my very brief, but intense, experience in this arena the past three-plus weeks, the MMS employees I have met are highly professional, extremely knowledgeable, and passionate about the job they do.

As you know, all the OIG reports related to MMS have made headlines, some more sensational than others. That, however, was never our goal. Rather, our goal has always been, and is today, to effect positive change. To this end, I must credit Secretary Salazar, Assistant Secretary Wilma Lewis and MMS Director Liz Birnbaum for the seriousness with which they took the findings contained in this report and for taking swift action in response to the misconduct and the challenges inherent to the industry/government dilemma.

As you also know, Secretary Salazar has announced that MMS will be split into two distinct bureaus under the Assistant Secretary for Land and Minerals Management and a third independent office for the collection of royalties under the Assistant Secretary for Policy, Management and Budget. As this reorganization progresses, I am hopeful that the Department will reconsider some of our recommenda-

tions for programmatic improvements. These must, however, be bolstered with controls and strong oversight to ensure that these new entities do not simply absorb the same weaknesses that have been identified in MMS.

In the fall of 2008, Inspector General Earl Devaney testified before this committee, describing what was a fledgling office within the OIG, now called our Royalty Initiatives Group, (aptly known as RIG). Since that time, we have established an investigative unit dedicated to energy issues, and have expanded our oversight coverage beyond MMS to the energy and minerals programs at the Bureau of Land Management. Until recently, these two offices have been dedicated to royalties-related oversight and improvements. Since the events of April 20th, it has become increasingly clear that we must expand their scope to providing oversight of the operational, environmental, safety, inspection and enforcement aspects of energy production on federal lands and in the OCS. We have begun a multi-pronged effort to address these issue areas as quickly and thoroughly as possible. We are also conducting an investigation into the actions of MMS officials concerning the approval and inspection of the operations on *Deepwater Horizon.*

Mr. Chairman, this concludes my prepared testimony today. I would be happy to answer any questions that you or other members have.

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

May 24, 2010

Memorandum

To: Secretary Salazar

From: Mary L. Kendall, Acting Inspector General

Subject: Investigative Report—Island Operating Company, et. al.

With this memorandum, I am forwarding our investigative report entitled "Island Operating Company, et. al" which addresses a number of allegations that Minerals Management Service (MMS) employees at the Lake Charles District Office had accepted gifts from oil and gas production companies.

At the outset, I want to note that all of the conduct chronicled in this report occurred prior to 2007, and pre-dating your tenure as Secretary and your January 2009 Ethics Guide. While this conduct is dated, it is more evidence that there was, indeed, a much-needed change to the ethical culture of MMS.

Initially, the Office of Inspector General issued this investigative report according to our routine protocol, providing a copy to MMS and requesting a formal response in 90 days; upon receipt of that response, we would then provide copies of the report to cognizant committees, and post it to our website. Unfortunately, given the events of April 20 of this year, this report had become anything but routine, and I feel compelled to release it now. We have, however, already received a preliminary response from MMS to this report.

Of greatest concern to me is the environment in which these inspectors operate—particularly the ease with which they move between industry and government. While not included in our report, we discovered that the individuals involved in the fraternizing and gift exchange—both government and industry—have often known one another since childhood. Their relationships were formed well before they took their jobs with industry or government. MMS relies on the ability to hire employees with industry experience. I am pleased that MMS has advised us that it will enhance ethics training specifically for its inspectors to address this unique industry/government dilemma, and will establish controls, like a two year waiting period, to minimize the potential for conflicts of interest.

We appreciate MMS' prompt and thoughtful response to our report even as it responds to the *Deepwater Horizon* disaster in the Gulf of Mexico, and your announcement to reorganize MMS into three distinct bureaus.

If you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Attachments

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

APR 12 2010

Memorandum

To: S. Elizabeth Birnbaum, Director, Minerals Management Service

From: John E. Dupuy, Assistant Inspector General for Investigations

Subject: Report of Investigation—Island Operating Company et al., Case No. PI–GA–09–0102–1

The Office of Inspector General recently concluded an investigation based on allegations that Minerals Management Service (MMS) inspectors in the Lake Charles District had accepted gifts from oil and gas production company representatives. These gifts reportedly included hunting and fishing trips from the Island Operating Company (IOC), an oil and gas production company working on oil platforms regulated by the Department.

During our investigation, a number of MMS employees at the Lake Charles District office admitted to attending sporting events prior to 2007 in which oil and gas production companies sponsored teams, as well as receiving lunches and accepting gifts. Through numerous interviews, we found a culture where the acceptance of gifts from oil and gas companies were widespread throughout that office, but appeared to have declined after the investigation and termination of Don Howard in January 2007 for his acceptance of a gift from one of these companies.

Two employees at the Lake Charles office also admitted to using illegal drugs during their employment at MMS. We found that many of the inspectors had e-mails that contained inappropriate humor and pornography on their government computers. Finally, we determined that between June and July 2008, one MMS inspector conducted four inspections of IOC platforms while in the process of negotiating and later accepting employment with that company.

We are providing this report to you for whatever administrative action you deem appropriate. Please send a written response to this office within **90 days** advising us of the results of your review and actions taken. Also enclosed is an Investigative Accountability Form that should be completed and returned with your response. Should you need additional information concerning this matter, please contact me at (202) 208–5351.

Attachment

Investigative Report

Island Operating Company et al

Report Date: March 31,2010
Date Posted to Web: May 25,2010

This report contains information that has been redacted pursuant to 5 U.S.C. §§552(b)(6) and (b)(7)(C) of the Freedom of Information Act. Supporting documentation for this report may be obtained by sending a written request to the OIG Freedom of Information Office.

RESULTS IN BRIEF

We initiated this investigation after receiving an anonymous letter, dated October 28, 2008, addressed to the U.S. Attorney's office in New Orleans, LA, alleging that a number of unnamed Minerals Management Service (MMS) employees had accepted gifts from oil and gas production company representatives. The complainant specifically suggested that MMS employees be investigated for accepting gifts, including hunting and fishing trips, from the Island Operating Company (IOC), an oil and gas production company working on oil platforms regulated by the Department of the Interior (DOI).

During the course of our investigation, a number of MMS employees at the Lake Charles, LA district office admitted to attending sporting events prior to 2007 in which oil and gas production companies sponsored teams, as well as receiving lunches and accepting gifts. Through numerous interviews, we found that a culture of accepting gifts from oil and gas companies was prevalent throughout the MMS Lake Charles office; however, when MMS supervisor Don Howard, of the New Orleans office, was investigated and later terminated in January 2007 for his gift acceptance, this behavior appears to have drastically declined.

During our investigation, two MMS employees at the Lake Charles office admitted to using illegal drugs during their employment at MMS. We also found that many of the inspectors had e-mails that contained inappropriate humor and pornography. Finally, we determined that between June and July 2008, an MMS inspector conducted four inspections on IOC platforms while in the process of negotiating and later accepting employment with the company. We presented our findings to the U.S. Attorney's Office for the Western District of Louisiana, which declined prosecution. We are providing a copy of this report to the MMS Director for any administrative action deemed appropriate.

BACKGROUND

MMS has leased areas in the Gulf of Mexico to about 130 qualified oil and gas companies such as Shell, Exxon, Chevron, British Petroleum, Apache Corporation, and Newfield Exploration Company. Approximately 4,000 offshore platform facilities are located in the Gulf of Mexico throughout four MMS districts in Louisiana—Lake Charles, Lafayette, New Orleans, and Houma—and one in Lake Jackson, Texas. The IOC is one of many companies contracting with oil and gas platform owners in the Gulf of Mexico to ensure that they operate in compliance with all applicable federal regulations. The Outer Continental Shelf Act requires that MMS inspect these platforms for safety and operational compliance and, if necessary, issue violations known as incidents of non-compliance to the owners of the facilities to correct deficiencies. Between 2004 and 2009, platform owners contracting with the IOC were fined $572,500 because of violations.

MMS also issues "safe awards" to both oil and gas companies and production companies with the lowest number of violations and civil penalties in each district. The safe awards are highly sought by production companies because they help demonstrate they are operating safely. The companies who receive these awards use them to promote and market their businesses. The IOC received the safe award for the Lake Charles district in 2004 and the Lafayette, LA district in 2006.

This investigation follows an investigation by our office into the activities of Don Howard, the former regional supervisor at the MMS office in New Orleans, who was terminated in January 2007 for accepting gifts from an offshore drilling contractor (Case No. PI–PI–06–0153–1). On November 5, 2008, Howard pled guilty to making false statements for failing to report those gifts on an OGE Form 450 (Office of Government Ethics Confidential Financial Disclosure Report). Prior to our investigation of Howard, receiving gifts such as hunting trips, fishing trips, and meals from oil companies appears to have been a generally accepted practice by MMS inspectors and supervisors in the Gulf of Mexico region. After 2007, the MMS Southern Administrative Service Center Human Resource Office in New Orleans began sending e-mails reminding employees that they were not allowed to accept gifts from prohibited sources.

DETAILS OF INVESTIGATION

We initiated this investigation after receiving an anonymous letter, dated October 28, 2008, addressed to the U.S. Attorney's office in New Orleans, LA, alleging that a number of MMS district office personnel had accepted gifts, including admission to sporting events and hunting and fishing trips, from oil and gas production companies. The complainant specifically suggested that MMS employee interactions with the Island Operating Company should be investigated.

During our investigation, we reviewed hundreds of e-mails and financial disclosure reports from MMS employees. We also interviewed 15 MMS inspectors and supervisors. We developed confidential sources during our investigation, who provided additional information pertaining to MMS employees at the Lake Charles District Office, including acceptance of a trip to the 2005 Peach Bowl game that was paid for by an oil and gas company; illicit drug use; misuse of government computers; and inspection report falsification. During our review of MMS employee e-mails, we also obtained information that an MMS employee was negotiating for employment with the IOC while he was still performing inspections on platforms operated by the company.

Gifts and Gratuities

According to a confidential source, a number of Lake Charles office employees participated in shooting contests sponsored by offshore production companies. The source said these shooting activities happened in the past but were no longer occurring. The source also said that in approximately late 2005, an offshore operating company provided a former MMS inspector at the Lake Charles office who now works for the IOC with air transportation on a company plane to a college football

game. The source thought the company also provided game tickets to this inspector but did not know for sure.

E-mails for MMS inspectors from the Lake Charles office revealed that in 2005, 2006, and 2007, various offshore companies invited MMS personnel to events such as skeet-shooting contests, hunting and fishing trips, golf tournaments, crawfish boils, and Christmas parties. Some e-mails confirmed that MMS inspectors attended these events.

In an e-mail dated January 3, 2006, to other MMS employees, the former MMS inspector at the Lake Charles office stated, "The 40 to 3 ass whipping LSU put on Miami was a lot more impressive in person. My daughter and I had a blast". The next day, the inspector sent another e-mail attaching pictures, including the plane on which he, and an oil and gas production company official, and others flew to Atlanta for the 2005 Peach Bowl game.

Confidential financial disclosure reports from 2005 through 2009 for Gulf of Mexico region employees document that only one individual reported receiving gifts and reimbursement for travel. We confirmed that all Gulf of Mexico region employees received annual ethics training.

Federal regulations and agency ethics rules prohibit employees from directly or indirectly soliciting or accepting gifts, including meals, over $20 at one time and $50 per year from a prohibited source. Federal employees are also prohibited from accepting gifts given in association with their official position. They are required to declare gifts and travel reimbursements aggregating over $335 during the reporting period, from any one source, as well as the identity of the source, in an annual financial disclosure report. For travel-related gifts in association with their official position, employees must document the travel itinerary, including dates, and the nature of the expenses.

We showed MMS Lake Charles District Manager Larry Williamson nine photos named, "LSU football pictures," that we discovered on a former MMS inspector's computer. Williamson identified two MMS inspectors in the pictures, which showed tailgating festivities at the Peach Bowl game.

According to Williamson, many of the MMS inspectors had worked for the oil and gas industry and continued to be friends with industry representatives. "Obviously, we're all oil industry," he said. "We're all from the same part of the country. Almost all of our inspectors have worked for oil companies out on these same platforms. They grew up in the same towns. Some of these people, they've been friends with all their life. They've been with these people since they were kids. They've hunted together. They fish together. They skeet shoot together....They do this all the time."

Williamson said MMS began providing additional ethics training to employees regarding acceptance of gifts shortly after the Don Howard investigation. He said MMS made it clear that even having lunch with an industry representative would not be allowed. Williamson explained that MMS employees now leave meetings when meals are provided.

Williamson admitted to receiving a Casio watch that he valued at $20 from "PennEnergy" as a ceremonial remembrance gift approximately 5 or 6 years ago. According to Williamson, the watch stopped working after about 6 or 8 months.

Marcus Mouton, an MMS supervisory inspector, admitted that he participated in skeet-shooting fundraisers sponsored by nonprofit organizations and charities in the past. He said various offshore companies sponsored a five-person team at the events, which would cost the production companies about $500, or $100 per person, and he attended less than 10 over his career. He said he had thought participating in the events was acceptable because many MMS employees, including senior managers, attended and participated in them. He explained that he did not think offshore companies received any favors in exchange for inviting MMS inspectors to these events. According to Mouton, he stopped attending these events after the investigation of Howard and the appointment of a new regional manager.

We showed the photos of the Peach Bowl trip to Mouton, who identified Carlos Kibodeaux, a former foreman from Production Management Incorporated, an offshore production company that formerly operated in the Gulf of Mexico, and his wife; a MMS inspector and his wife; and another MMS inspector and his daughter.

When we interviewed one of the inspectors, he admitted that he had traveled to Atlanta, GA, for the 2005 Peach Bowl football game between Louisiana State University and the University of Miami. He said he attended the game with his wife, and another inspector attended with his daughter, and Kibodeaux and his wife.

Agent's Note: Pictures of the tickets show that they each cost $70.

This inspector claimed that he reimbursed Kibodeaux for the Peach Bowl tickets, gave the private pilot $100 to $200, and bought his own meals. He said he was not

sure who paid for the hotel or ground transportation. He said he never thought to report the trip as a gift on his confidential financial disclosure report.

During a second interview with this inspector he told investigators that he had paid for his hotel room and gave the pilot a $100 tip but did not pay for the Peach Bowl tickets. He admitted that he should not have accepted the trip from Kibodeaux, even though they were friends, because of how others might perceive this. He explained that he was a "big LSU fan," and he could not refuse the tickets.

Agent's Note: The inspector later sent an e-mail to the Office of Inspector General admitting to participating in several sheet-shooting events, including the 2009 "Evangeline Tournament". He said, however, that he paid his own entrance fee. He also admitted to winning two shotguns in drawings at two of the events between 2002 and 2005.

An MMS clerical employee informed investigators that one inspector at the MMS Lake Charles Office, had told her "everyone has gotten some sort of gift before at some point" from an oil and gas company representative. She said that on a number of occasions, two former MMS inspectors frequently took most of the Lake Charles Office to lunch.

We interviewed one of the former MMS inspectors and he said that during his tenure at MMS, no offshore company or company official paid fees for him to hunt or fish. He admitted, however, to participating in five sport- and skeet-shooting fundraiser tournaments in which an oil and gas company paid the entrance fees for his team. He explained that participating in those tournaments "used to be an accepted practice," and "everybody was doing it." The inspector said he also remembered playing in a golf tournament sponsored by Baker Energy, but there was no entrance fee. In addition, he said that from 2000 through 2007, about six or seven times a year, various oil and gas companies paid for his meals. He stopped participating in many of these events, however, around the time the Office of Inspector General started investigating Howard, he said, and a once-accepted practice quickly became unaccepted.

This former inspector said he did not consider the trip to the 2005 Peach Bowl game to be a gift from an oil and gas company. He viewed it as three friends going to a football game. According to him, another MMS inspector called him and asked if he wanted to go to the game. He explained that Kibodeaux, a friend who worked for Production Management Incorporated, had an acquaintance or client who had scheduled the trip but could not make it. The inspector explained that no airfare was associated with the trip because Kibodeaux's acquaintance was already scheduled to go to Atlanta for a business meeting. He said he contributed $200 to $300 for fuel and gave the pilot another $200. In addition, the former MMS inspector declared that he gave another $100 to $150 for ground transportation and paid for his own meals. He could not provide any receipts to substantiate these costs.

After we showed the nine pictures to the former MMS inspector that we recovered from his computer, he identified Kibodeaux and his wife, another MMS inspector and his wife, his daughter, and himself.

We showed this former MMS inspector an e-mail dated April 6, 2006, in which he told an employee with Conoco Phillips, that he had accepted gifts from certain "good friends" in the oil and gas industry. The e-mail chain began with the inspector sending the Conoco Phillips employee an e-mail with the subject line, "Civil Penalty Case recaps—1st quarter 2006." He stated, "These are the fines that we assessed to different companies for breaking the rules." The Conoco Phillips employee responded, "[E]ver get bribed for some of that?" He replied, "They try all the time." The Conoco Phillips employee responded back, "[E]ver take em?" the inspector said, "I accept 'gifts' from certain people. But we have VERY strict ethic standards as you could imagine." The Conoco Phillips employee replied, "[CJertain people, meaning women?" the inspector said, "No. meaning good friends that I wouldn't write up anyway."

When we asked the former MMS inspector to explain this e-mail, he replied, "Maybe I was referring to a skeet shoot. I don't know." He said admissions to skeet-shooting events were the only gifts he received from companies, which cost about $100 per person. He denied that he ever received a gift in exchange for not carrying out his official duties. He said he did, however, receive smaller gifts from production companies, including jackets, baseball caps, and pocket knives.

He admitted that after resigning from MMS in August 2008, he had taken MMS employees to lunch on about five occasions. Although the same employees did not attend every time, he explained that he had taken the majority of inspectors, and on one occasion two engineers were present as well. He claimed that he paid for those employees' lunches with his own personal funds, however, and the lunches did not exceed $10 per person.

Carlos Kibodeaux, owner of Contract Operator Production Services, an offshore production service company, told investigators that he had been the offshore manager of Production Management Incorporated from 2004 through 2006. He acknowledged that an MMS inspector and his daughter and another MMS inspector and his wife had accompanied him and his ex-wife to the 2005 Peach Bowl game. He said two of his friends had six tickets to the game but could not go, so they offered him the tickets. Since his friends owned the plane, they also told him they would drop him off in Atlanta and pick him up after a planned trip to Miami. Kibodeaux said he accepted the tickets and invited the two inspectors, the two biggest "LSU" fans he knew. Contrary to the inspector's statements, Kibodeaux indicated that collectively, he and the two inspectors gave the pilot $150 for fuel. Kibodeaux also said everyone paid for their own rooms, and he paid a total cab fare of $30 for the group.

Michael Saucier, the Regional Supervisor of Field Operations for MMS in New Orleans, LA, said he did not believe MMS employees could attend skeet-shooting events and fishing tournaments sponsored by oil and gas companies; however, he added that prior to the Howard investigation, many thought their attendance at those types of events was acceptable.

Another MMS lead inspector, said that with the exception of Howard, he had no knowledge of anyone else at MMS doing anything wrong. He claimed that he did not know many of the inspectors on a personal level and would not know about any instances of ethical lapses.

Another MMS inspector at the Lake Charles office, said he had no knowledge of anyone receiving entrance to skeet-shooting events, hunting trips, or gifts of any sort from offshore oil and gas companies. According to this inspector, after their departure from MMS, the two inspectors bought lunch for Lake Charles office inspectors, on a few occasions.

Another inspector at the MMS Lake Charles office, admitted that he participated in 12 different events paid for by offshore oil and gas companies, including production companies, such as golf tournaments, skeet-shooting events, and hunting and fishing tournaments during the course of his employment with MMS. He said he received a shotgun as a "door prize" at one of the events in 2002. He also said that since his employment at MMS began in 2000, oil and gas company representatives bought him lunch about three or four times a year. He indicated, however, that "everything came to an end" after the investigation of Howard. An MMS inspector said MMS management told the inspectors, "If you all are going to shoot, pay your own way; don't accept any more invitations."

According to this MMS inspector, what the oil and gas companies received for paying inspectors' entrance fees and buying their lunch was a "better working relationship." He said the companies were not "buying the inspectors off" by hunting, fishing, or being friends with them. He claimed that he had never ignored his duties as an inspector by not writing a violation or incident of noncompliance because of friendship or gifts.

Illegal Drug *Use*

In addition to providing information about the Peach Bowl trip, the confidential source claimed that an MMS inspector had used drugs, including crystal methamphetamine. The source claimed to have heard that this inspector might have used these drugs offshore on the platforms.

An MMS clerical employee told investigators that she began using cocaine and methamphetamine with an inspector when she started working at MMS approximately 2 years ago. According to the clerical employee, the inspector recently told her that he had not used crystal methamphetamine in the past 3 or 4 months. While the clerical employee said she had no knowledge of the inspector's use of drugs while at work, she said that in the past, he had used crystal methamphetamine the night prior to coming to work at MMS.

During his interview, the MMS inspector initially denied using crystal methamphetamine, but he later admitted to it. He claimed that the last time he used crystal methamphetamine was the weekend of the 2009 Super Bowl, in February. He explained that he had never possessed or used crystal methamphetamine while at work but admitted that he might have been under the influence of the drug at work after using it the day before.

Inappropriate Use of Government E–Mail

The confidential source also informed us that some of the MMS Lake Charles inspectors had pornography or other improper materials saved on their MMS computers.

Federal and department regulations prohibit the use of government office equipment for activities that are illegal, inappropriate, or offensive to coworkers or the

public. This includes the use of e-mail to either send or receive sexually explicit or discriminatory material, gambling, or communications that ridicule others on the basis of race, creed, religion, color, gender, disability, age, national origin, or sexual orientation.

We reviewed the e-mail accounts of MMS employees at the Lake Charles and New Orleans offices from 2005 to 2009. We found numerous instances of pornography and other inappropriate material on the e-mail accounts of 13 employees, six of whom have resigned. We specifically discovered 314 instances where the seven remaining employees received or forwarded pornographic images and links to Internet websites containing pornographic videos to other federal employees and individuals outside of the office using their government e-mail accounts.

Falsification of Inspection Forms

Another confidential source told investigators that some MMS inspectors had allowed oil and gas production company personnel located on the platform to fill out inspection forms. The forms would then be completed or signed by the inspector and turned in for review. According to the source, operating company personnel completed the inspection forms using pencils, and MMS inspectors would write on top of the pencil in ink and turn in the completed form.

We reviewed a total of 556 files to look for any alteration of pencil and ink markings, notations, or signatures. We found a small number with pencil and ink variations; however, we could not discern if any fraudulent alterations were present on these forms. According to a lead MMS inspector, MMS inspectors often used pencil to complete inspection forms. He said that anyone from MMS involved in the platform inspections could author the inspection form, and inspectors routinely signed each other's names on the forms.

Seeking Employment

During our review of MMS employee e-mails, we found several referencing employment discussions between a former MMS inspector and the IOC. According to the Ethics Guide for DOI Employees, federal employees are required to receive a written waiver from an ethics counselor before participating in any particular matter at DOI that affects the financial interest of a prospective employer. The Office of Government Ethics interprets any form of communication regarding prospective employment with a nonfederal source to be seeking employment, other than requesting a job application.

In a June 12, 2008 e-mail, an IOC employee, told a former MMS inspector the IOC would like to hire him in the compliance department. In an e-mail dated June 16, 2008, the inspector discussed his excitement about coming back to work for the business with another IOC employee. The inspector said, "I'm excited about coming back to work with IOC. Do you think [an IOC official] would go with $65,000 a year? And all the trimmings you told me about." The IOC employee replied on June 17, 2008, "Yes I think [he] will. When you hire on you will talk to him". On June 19, 2008, the IOC employee urged the inspector to come to the IOC and meet with "[an IOC official]" regarding potential employment.

Agent's Note: The inspector resigned from MMS on August 8, 2008, to work for the IOC.

After discovering that the MMS inspector had engaged in employment negotiations with the IOC and later accepted a position, we conducted a review of inspections in the New Orleans district from 2005 through 2009 to determine if he conducted any of the inspections of the IOC. We discovered that the inspector, who was employed by MMS from July 2, 2007, through August 8, 2008, and had previously worked for the IOC, conducted 51 inspections of IOC platforms, 47 of them between October 1, 2007, and May 19, 2008, resulting in 16 incidents of noncompliance. After his employment negotiations began on June 12, 2008, the inspector conducted four inspections of IOC platforms, none of which resulted in an incident of noncompliance.

DISPOSITION

On October 15, 2009, the U.S. Attorney's Office for the Western District of Louisiana declined this case for prosecution. This case is being referred to the Director of the Minerals Management Service for any action deemed appropriate.

Investigative Report

Donald C. Howard

Report Date: February 16, 2009
Date Posted to Web: May 25, 2010

This report contains information that has been redacted pursuant to 5 U.S.C. §§ 552(b)(6) and (b)(7)(C) of the Freedom of Information Act. Supporting documentation for this report may be obtained by sending a written request to the OIG Freedom of Information Office.

This investigation was initiated in 2006 based on allegations made by Chris Oynes, Regional Director, Gulf of Mexico Region (GOMR), Minerals Management Service (MMS), U.S. Department of the Interior (DOI), New Orleans. Oynes alleged that Donald C. Howard, Regional Supervisor, GOMR, had attended one or more hunting trips with officials of offshore oil and gas companies.

The investigation disclosed that between August 2004 and July 2006, Howard accepted an offshore fishing trip, two hunting trips involving transportation on a company airplane, meals, and other gifts from Rowan Drilling Company, Inc. (Rowan), an offshore drilling contractor affected by MMS regulations and decisions. These gifts were valued at approximately $6,678. Howard failed to report at least one of these gifts as required on a Confidential Financial Disclosure Report (Form OGE–450) he submitted to MMS in October 2005. Subsequent to receiving these gifts, and at the apparent request of Rowan, Howard improperly issued a letter directing Rowan to salvage the *Rowan Halifax,* a Rowan-operated, offshore drilling rig that sank in the GOMR during Hurricane Rita in September 2005. At the time, this letter appeared to be integral to Rowan's efforts to collect $90 million in insurance proceeds related to the sinking of the *Rowan Halifax* and other Rowan drilling rigs.

MMS terminated Howard's employment in January 2007 based on information provided to them by the OIG. On October 28, 2008, an information was filed against Howard in U.S. District Court for the Eastern District of Louisiana, charging him with one count of false statements (18 U.S.C. § 1001). The charge stemmed from Howard's failure to report gifts he received from Rowan on the Form OGE–450 he submitted to MMS in October 2005. Howard pleaded guilty to the information on November 5, 2008. On February 3, 2009, Howard was sentenced to one year of probation. He was also ordered to pay a $3,000 fine and a $100 special assessment. In addition, he was ordered to perform 100 hours of community service at the "Rebuild Homeless Center" in New Orleans.

Based on the above, no additional investigation will be conducted and this case will be closed.

Mr. MILLER [presiding]. Thank you very much for your testimony. And the work, obviously, by this office, and certainly the testimony early on and the investigations done by Mr. Devaney I think pointed out all of the problems that we have discussed here today. And I think they are obviously very important, and I appreciate your telling the Committee that you believe that there has been a very serious response by the Secretary and the Assistant Secretary and the Director of MMS with regard to these because I know that is how this Committee and certainly the Chairman that has led the way on these investigations—we take this very, very seriously. It is taxpayer monies, it is the environment. It is a lot of very serious issues.

But I would like to move, if I can, to on your last page. I am Chair of Education and Labor Committee and deal with OSHA and deal with worker safety, and the Chairman and myself have just returned from a hearing on the coal mine safety and the accident that took place at the Big Branch Mine. And apparently you are not going to be part of a committee that is going to be reviewing safety. Is that correct?

Ms. KENDALL. Yes. It is the——

Mr. MILLER. Are we talking about safety in terms of the rigs and the environment, or safety with the tragic loss of life of the 11 workers?

Ms. KENDALL. It covers both.

Mr. MILLER. It will cover both?

Ms. KENDALL. Yes.

Mr. MILLER. Because I think this is a very hazardous industry. As we see, when things go wrong, they can go wrong in a very big way. And that is not to say that it has—you know, I think there has been a great reduction, or there appears to be a substantial reduction, in injuries and the rest of that. We will find that out. But we have a number of industries where that does not tell you what can happen when things go wrong. And there are processes in place in other areas, not in the Minerals Management Service at the time, but where we changed the burden of proof when you are engaged in activities or changes within the chemical industry and other places if you are moving on.

In this case, they were going to engage in capping this well. I believe the exploration was done. You are going to get this rig off and bring in a production facility at some time in the future. And I do not know, but I would really be interested in knowing whether then there is a checklist that people go through about where people are going to be engaged in this process, how is this going to be handled, and whether the—I know the Coast Guard, I do not think, does these rigs; they do ships and vessels. And this, I think, is a hybrid. It is neither fish nor fowl.

But in my district, if you were going to shut down a refinery, you would be going through a checklist of what is going to take place during that time, just as if you were going to restart that refinery. And I would just hope that you would look at this in terms of events that take place on these rigs, where you may want people to stop and think about, now, how is this transaction going to take place. And it could be as small as loading and unloading cargo, and can be whether or not you are going to cap a well and try to change out drilling for production.

Am I making any sense to you? You are looking at me like——

Ms. KENDALL. No. Yes, you are.

Mr. MILLER. It would not be the first time a witness looked at me like I was not making any sense.

Ms. KENDALL. No.

Mr. MILLER. But I think it is a very serious concern. You know, I have put on our other hats. We lost 11 people on this rig, and we are starting to get some information about what took place, and it is not what you would like to be the regular order, given the transaction that they were going through in swapping out this well.

Ms. KENDALL. Absolutely. Part of the responsibility of this oversight board is to be informed by what it learns from the investigation. And I think we have learned a great deal. The next question becomes what needs to be done in terms of improvements in the process in MMS's oversight and the like, what I identified as our next task, which is to send out Office of Inspector General teams to really dive into these areas and bring back information probably to be reviewed by a series of experts since we do not have that technological expertise in our office, but we do have the capability

to go out, collect information quickly, make a quick analysis, and present it through the safety oversight board to the Secretary, who then will probably employ a series of experts, either from the National Academy of Engineering or from the President's commission, to review this information.

Mr. MILLER. And if I can just finish up, the thinking is that this would then be incorporated into the discussions of the reorganization——

Ms. KENDALL. Absolutely.

Mr. MILLER.—the architecture of MMS, and maybe even the Coast Guard and/or whatever else. I would certainly hope so, yes.

Mr. MILLER. OK. Thank you. Thank you very much. That is very helpful.

The CHAIRMAN [presiding]. The gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you, Mr. Chairman. There is a little bit of a mixed message from your report. You speak about the concern that folks have known each other so long they fraternize. On the other hand, you speak of the high level of professionalism among the people you met. Presumably, some of the folks you met were those who were fraternizing. So is it the fraternizing per se or—you see where I am going with that.

Ms. KENDALL. I do. The fraternizing certainly is not acceptable. But one of the—maybe one of the weaknesses is a weakness in the ethics regulations which allows gift acceptance if it is based on a personal relationship.

Mr. CASSIDY. But I think gifts are allowed to be, if there is a preexisting relationship. So if two kids went to Sulphur High School, they both go to Petroleum Engineering at LSU or Texas A&M or one of the—because there are not that many petroleum engineering schools. And so there is going to be one or two degrees of separation between everybody in the field. Does that make sense?

Ms. KENDALL. Yes. Yes, it does.

Mr. CASSIDY. So it almost seems if they played on the state championship team at Sulphur High School in 1971, and now they are in industry, one is regulatory and one is private, is that the type of fraternizing you are concerned about?

Ms. KENDALL. It is, simply because it is—if you look a the gift-giving regulations, it would be in violation of the gift-giving regulations, which are designed not only to effect or prevent real effect over a government employee's job and how he or she——

Mr. CASSIDY. Now the fraternizing—I see your point, and I do not mean to interrupt. I just have a limited time. I am sorry. The fraternizing obviously is important, potentially, but potentially not, because again I am struck that you say that the level of professionalism and motivation among the career employees was great. So it tells me on the one hand they may know each other, but they still may be willing to throw the other into the pokey if they are doing a bad job.

Do you have any data on the year-by-year number of infractions and the intensity of the infractions that have been meted out, if you will, by the Lake Charles office or other offices in the Gulf of Mexico?

Ms. KENDALL. I do not.

Mr. CASSIDY. Because that seems like that is critical. I mean, if you have a correlation where a—in fact, I am a little surprised you do not. What you are alleging—I am a little schizophrenic—is that because of the fraternizing, there are people who they are going lighter on. But on the other hand, there is still a level of professionalism. Both of those statements are in your testimony or report. But on the other hand, the real issues is, is it impacting enforcement.

Ms. KENDALL. Well, we did not find a quid pro quo involved in this investigation.

Mr. CASSIDY. When you say this, you mean the Deepwater Horizon?

Ms. KENDALL. No, no. I am sorry.

Mr. CASSIDY. In your IG report.

Ms. KENDALL. The Lake Charles investigation. We did not find quid pro quo either in this or in the MMS investigation that we conducted out on the royalty-in-kind group. But there is a clear violation of the ethics regulations and the acceptance in both instances——

Mr. CASSIDY. Put it this way. I think there is a lot of attention, and there is almost a presumption that if there is a violation of the ethics code, that in some way it is impacting the implementation or the enforcement of regulations. But what I think I am hearing from you is that what we are really concerned about is a violation of the ethics code, but that violation does not seem to have had an impact upon enforcement.

Ms. KENDALL. Well, I do not know if it had an impact. We did not find quid pro quo kind of examples. Your suggestion that we look at the data of the inspection frequency and extent I think is a good one.

Mr. CASSIDY. Now, it also seems to me that you are going to have a very hard time in the future monitoring—well, let me back up a little bit. I am struck that the advanced permit to drill, the APD, is supposed to MMS's ability to sign off on a drilling plan, in effect doing what Mr. Miller was speaking of, signing off on the safety of the plan, is it wise, is it not. Now, was that not done in this case? Or put it this way, is that not done regularly? Because APDs theoretically prevent accidents by saying, stop, you cannot do that because that is not safe. You see where I am going with that.

Ms. KENDALL. I am not sure I do. APDs, they must be approved by MMS. I do not know the technicalities involved in the APD process, so I really cannot speak to that.

Mr. CASSIDY. OK. Now it also seems like—again, there is going to be one degree of separation between every petroleum engineer in the United States. It is going to be a relatively small sorority/fraternity, if you will. And so if you are going to have a safety board which is going to actually begin to go out and do oversight, either you are going to put people in a box and you are not going to let them go to an LSU football game, which would be a terrible tragedy for all of us, or you are going to say, well, listen, you know the guy; you went to grad school together, and now he is earning three times as much as you in the private sector, and you are in the public sector, but somehow we are not going to let you transi-

tion. It almost seems inherent in this smallness of this industry is the problems which you detail.

Ms. KENDALL. Well, I think you are right. But the simple fix would be go to the LSU game and pay your own way.

Mr. CASSIDY. Well, that is absolutely true. That is absolutely true. But I am going back to what you said, how many of these people have preexisting relationships, and somehow we are supposed to put a Chinese wall between them once they go into the regulatory environment.

Ms. KENDALL. I do not think that is what I am saying. I am saying that you remove the appearance of favoritism and impropriety if you stop the gift-giving. People can be friends and——

Mr. CASSIDY. And so in your follow-up report, will you do an analysis of the again numbers of infractions and the severity of infractions meted out over different time periods?

Ms. KENDALL. We can certainly do that. The direct of MMS may be able to give you that information more quickly than I can.

Mr. CASSIDY. Thank you.

The CHAIRMAN. Thank you. Let me ask my questions here first. Thank you very much for the work that you have done. This report is rather detailed and extensive, and certainly it took a lot of long hours, and we appreciate it. You may have heard me earlier, since you have been here all morning, mention to the Secretary that as much as we would like to see it in a perfect world, we are never going to have 100 percent honesty, integrity, purity if you will. That is just impossible to legislate or make happen.

My question, I guess, is—my thought first is that you need stiff penalties in order to make it as little as possible what has occurred here. But what recommendations do you make? I am not sure, for example, breaking MMS up into three different departments or agencies or whatever you want to call it is going to address the problems that you have addressed in your report.

So what recommendations would you make to the Secretary, or have you made to the Secretary, or to MMS to address the problems that you have found?

Ms. KENDALL. Well, we have made a number of recommendations as we have gone along. Most have to do with strengthening ethics requirements and ensuring——

The CHAIRMAN. Or that what the Secretary has already promulgated upon his taking office?

Ms. KENDALL. Yes, and ensuring that that in fact has happened. And part of the effort that we will be undertaking in the next couple of months will be to ensure that that in fact has occurred.

The other is I think that the Secretary can take some very short-term measures, like instituting a two-year waiting period. An inspector, say, who comes from Shell, moves to MMS, should not be allowed to inspect a Shell platform or rig for at least two years.

The CHAIRMAN. There is no waiting period now?

Ms. KENDALL. I do not believe so, no. So that kind of measure is a fairly simple measure that can be taken almost immediately without legislation, without change in even regulation, but could be done even by just internal guidance or secretarial order.

The CHAIRMAN. In response to the earlier question, you had mentioned the exceptions for personal hospitality—people that have

known each other their whole lives, went to high school together and all that—that there is an exception there, much like afflicts us or affects us as Members of Congress. We have that personal hospitality exemption rule. Is that the same type of rule that——

Ms. KENDALL. It is. It is a specific exception to the gift rule in the Office of Government Ethics regs.

The CHAIRMAN. OK. The recommendations that you make include—well, let me on that last point I just addressed—we, though, have a ban on if we leave service in the Congress, I think there is a one-year ban, or maybe two-year ban, before we can go into the industry or become a lobbyist, so to speak. So I am surprised to hear that there is no such waiting period for MMS.

Ms. KENDALL. Well, there are similar bans going from government to industry. But it also depends on how involved you were in a particular matter. There are all sorts of elements that go into whether there is a lifetime ban, a two-year ban, or a one-year ban. But that addresses going from government to industry, not industry to government.

The CHAIRMAN. OK. Your report notes that on October 15th, 2009, the U.S. Attorney's Office of the Western District of Louisiana declined to prosecute the issues raised by your investigation. The U.S. Attorney there at the time was Donald Washington, a Bush Administration appointee. Could you tell us why he failed to prosecute?

Ms. KENDALL. Mr. Chairman, the U.S. Attorney's offices exercise a great deal of discretion, and oftentimes we will not get a specific reason in their exercise of that discretion. My recollection in this one was that they said there was a lack of prosecutorial merit.

The CHAIRMAN. Lack of prosecutorial merit.

Ms. KENDALL. And sometimes that means—in some districts in my experience, it may mean it has not reached a particular dollar threshold. For fraud cases, it may not reach another kind of—I mean, for instance, the U.S. Attorney's Office in Billings, Montana is going to probably have a lower dollar threshold than the U.S. Attorney's Office in Los Angeles. Those are the kinds of elements that go into their decision, and we are bound by them.

The CHAIRMAN. Have there been other cases where the U.S. Attorney has failed to prosecute?

Ms. KENDALL. Oh, yes.

The CHAIRMAN. OK. The gentlelady from Wyoming, Ms. Lummis.

Ms. LUMMIS. Thank you, Mr. Chairman. Thank you for attending today.

Ms. KENDALL. Absolutely.

Ms. LUMMIS. The first question, are you actively investigating the Department's response to the explosion, whether it was immediate, whether there were failures in preparation or response to the explosion?

Ms. KENDALL. What we are looking at are MMS's role leading up to the explosion. There is an MMS team who has expertise. Unfortunately, my office does not have technical expertise to look into the root cause of the explosion. But what we are trying to determine is MMS's role up to the explosion, and whether there was any contributing action, inaction, or conduct that had some effect on the resulting disaster.

Ms. LUMMIS. Regarding back to the discussion about MMS employees socializing with oil company executives, is that unique to the MMS, or are there rules against that kind of socializing within the U.S. Fish and Wildlife Service or the Park Service or any other agency within the Department of the Interior to prevent socializing between contractors or regulated businesses and the regulator.

Ms. KENDALL. The rule is not against socializing per se. It is against acceptance of gifts, which usually come by way of buying a meal, paying for a round of golf, a ticket to LSU championship. It is the acceptance of gifts, not the socialization that is being regulated.

Ms. LUMMIS. And do the new ethics rules that have been enacted for MMS apply across agencies within the Department of the Interior, or are they specific to the MMS?

Ms. KENDALL. The preliminary response that we have received from MMS has suggested that they will implement ethics training specific to their inspectors to address the kinds of issues that we raised in this report relative to the gift-giving between industry and government, but people who also happen to be close friends. That is sort of an anomaly for MMS.

Ms. LUMMIS. OK. So for the time being, these new ethics rules just apply to MMS.

Ms. KENDALL. The ones that they are proposing, yes. I believe so. I would want you to confirm that with Ms. Birnbaum.

Ms. LUMMIS. OK. Are there other agencies within the Department of the Interior that have ethics rules?

Ms. KENDALL. Oh, we are all bound by ethics rules, all bound by the same ones that are issued out of the Office of Government Ethics.

Ms. LUMMIS. And were they inadequate to serve MMS's situation? Is that why a unique set of ethics rules has been enacted that applies only to MMS?

Ms. KENDALL. No. I think the problem is with this exception for close personal friendships, it did not—I do not know that OGE envisioned when they put these regs together in—I want to say the late '80s—that they envisioned this kind of problem. So I think it is somewhat unique to MMS. There may be other government entities who have the same kind of relationships with industry that it may apply to as well, but I am not aware of any.

Ms. LUMMIS. Well, I suspect that there are regulatory relationships with businesses, for example, at EPA, where a regulator may be inspecting a refinery for whom they formerly worked, and vice versa. How do those agencies handle it? In other words, have you looked to other regulatory relationships within government where there is a flow of employees between the regulated community and the regulator community to find out if there is a good model?

Ms. KENDALL. No, we have not. But that would be I think a very good suggestion.

Ms. LUMMIS. You stated in your testimony that you are conducting a review of the status on non-producing DOI leases at the request of Congress. Can you provide us with a copy of the letter outlining the parameters of the request?

Ms. KENDALL. That actually is a relatively old request. It was a request made by then Chairman Dicks of our Appropriations Committee, and that report was issued—I want to say about a year ago.

Ms. LUMMIS. The request was——

Ms. KENDALL. The report, the actual report was.

Ms. LUMMIS. The report, OK. And do we have a copy of that report, Mr. Chairman?

Ms. KENDALL. It is available on our website, but I can certainly provide it to the Committee if you wish.

Ms. LUMMIS. Even if you just provide where we can go to review——

Ms. KENDALL. I would be glad to do that.

Ms. LUMMIS. That would be great. Did you in that report look at an analysis of the loss of revenue to states and the Federal treasury that results from the regulatory processes that might be not only improved for efficiency, but also expedited?

Ms. LUMMIS. That was not within the scope of what we looked at, no.

Ms. LUMMIS. OK. Mr. Chairman, thank you.

The CHAIRMAN. The gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman, and thank you, Ms. Kendall. And I was glad to hear—and correct me if I heard wrong—that part of the enhanced role of your office will be looking at BLM as well.

Ms. KENDALL. Yes.

Mr. GRIJALVA. Well, that is good. I appreciate that. We heard from the Secretary and from Mr. Hayes that part of the problem—at least I interpreted that that is what they said. Part of the problem is this rush to judgment, that we must get these requests, these applications, permitted and out, i.e., I have 30 days to do environmental assessments. The Secretary has extended it to 90 days. I do not believe that is enough. Did you in your look at MMS see that as a pressure point for maybe not conducting the oversight?

Ms. KENDALL. That is something we will be looking at, both in terms of the role of MMS and then our contribution to what the Secretary has requested in terms of looking forward where we can find better practices, gaps in regulations, or procedures and that sort of thing. I think we would certainly include that in what we are going to do looking forward.

Mr. GRIJALVA. Yes. And I would be curious to see if there was ever a denial of a permit for drilling based on an environmental assessment, EIS that are done regionally. I believe they should be done specific to the site. And I am just curious to see if there was ever one denied, and of the categorical waivers of which 26 have occurred after, after the spill. The point being made is that we rush to make these things happen because of the legislation, and maybe that is one area in which Congress does have a role.

Ms. KENDALL. Well, it certainly is envisioned in what we will be looking at.

Mr. GRIJALVA. The restructuring. Given the relationship issue, given the fact that much of the oversight responsibility is within MMS, but also the royalty collection is with them as well, given that the restructuring that the Secretary talked about, is that

enough to full restructure and reform this agency that has been persistently a problem?

Ms. KENDALL. I do not know that there is any single right answer to resolving the concerns about MMS. I think going forward, however, if there is not only a focus on the restructuring, but sort of the reforming the character and culture——

Mr. GRIJALVA. How do you transform the culture? That is part of the question. I think you can restructure it, but there is a transformation that needs to happen. I think the Chairman spoke to that as well. And it worries me that we are just going to do window dressing restructuring, and the fundamental root cause is going to remain the same.

Ms. KENDALL. I do not have a sample answer. I simply do not.

Mr. GRIJALVA. And the last is the oversight staffers at MMS are being oversighted by who? Who has oversight responsibility over the oversight folk that are at MMS?

Ms. KENDALL. There are two levels of oversight, I think. Certainly one of them is my office, the Office of Inspector General. MMS also has an audit function contained inside of MMS. My understanding is they audit primarily the royalty aspects of MMS, but they may have an audit function over the operational—the inspection function as well.

Mr. GRIJALVA. Thank you. I do not think the issue is do I know somebody, and do I go with somebody to a football game. I think the issue is the kinds of regulatory ethical parameters that we need to establish for that agency. So I want to thank you very much for your work.

Ms. KENDALL. Thank you.

Mr. GRIJALVA. I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Costa.

Mr. COSTA. Thank you very much. I assume it is the Auditor General—or the Inspector within the Department of the Interior, you perform audits on all of the various agencies within the Department?

Ms. KENDALL. Yes.

Mr. COSTA. Have you attempted, in light of what has been ongoing now for several years, as you cited in your own testimony, any comparative analysis as to how—I mean, sadly, MMS does not have a very good reputation, for a combination of reasons that we have all discussed. But is this the worst in your observations of the others within the—I mean, is it average? How many personnel are we talking about here, 1,700? Did I hear the number correct?

Ms. KENDALL. That is what I understand, yes, 1,700 personnel in MMS. Congressman Costa, the Department is made up of almost 72,000 employees. My office has approximately 200 auditors and investigators to oversee.

Mr. COSTA. That is a big job. I understand that. But I am just trying to get some sort of comparative analysis. I mean, when we talk about a culture of corruption, that it is endemic, and we are trying to figure that out, there are a lot of other agencies that perform similar roles. So I am just trying to get a sense of is this the exception.

Ms. KENDALL. I would say that MMS has unfortunately received most of the publicity. But certainly the other bureaus have chal-

lenges in them, some more than others. But certainly, these were issues that—and I want to cite Inspector General Devaney. This is a department that has everything that people want. They want the minerals, they want the land, they want the oil, they want the water. And so the kinds of issues that I think we find in this department may be somewhat different than we might find—my former agency was EPA, and I do not remember the kinds of findings from the Inspector General at that agency like we have here.

So I do not know that I can say better or worse. I would just say different.

Mr. COSTA. OK. You explained in your testimony how you are being brought into this discussion as it relates to the application of the reorganization. You view this within the Department as a work in progress? Are they continuing to receive your input?

Ms. KENDALL. Yes. And let me clarify. We are not trying to influence how the Department chooses to reorganize.

Mr. COSTA. Are you making recommendations?

Ms. KENDALL. What we are trying to do is inform in areas where our work would suggest that as they go forward with the reorganization that they look at issue areas to make sure that practices are in place or policies are in place to ensure that they do not repeat some of the mistakes that we have identified in the past.

Mr. COSTA. Well, let us take that as an example in trying to determine oversight capability. If we divide, as is being proposed, the collection of royalties—well, that program is going to be eliminated, but the collection of fees and so forth from the inspection part of the process—I think Undersecretary Hayes quoted 1,800-plus deepwater wells and 38,000 shallow wells. I mean, you just begin to think of those numbers out in the Gulf, and I have been out there with the Chairman. It is a very large responsibility.

Certainly with those amount of wells, it would be a challenge to have a person, an inspector, on each individual well. So what kind of proposing ratios or recommendations are you making? Are you getting into that level of detail?

Ms. KENDALL. We may be in this next effort that we are undertaking. But the focus there is more on safety and environmental issues. And I think what you are suggesting with the number of wells and the royalties aspect of managing royalties from those wells, they are different from the health and safety and environmental issues.

Mr. COSTA. No. I understand, but one of the areas that was cited in your report was inspection sheets on these rigs that simply were handed to their friend, who knew someone who said, hey, why don't you guys fill this out. We assume that you are running a good operation.

Ms. KENDALL. In fact, that was the allegation that we received. That did not bear out. In fact, we found that what was happening is the inspectors were actually filling the forms out themselves in pencil, coming back and filling them out in pen. We did not find any instances in which they handed them to industry and said, you fill it out, and then they basically signed it.

Mr. COSTA. So that never happened.

Ms. KENDALL. We did not find any instances of that.

Mr. COSTA. OK. My time has expired. Thank you very much, Mr. Chairman. And we will look forward to your continued input as the Subcommittee holds hearings in the next month.

Ms. KENDALL. Thank you.

The CHAIRMAN. The gentleman from New Mexico, Mr. Heinrich.

Mr. HEINRICH. Thank you, Chairman. Ms. Kendall, you mentioned one recommendation, I believe a two-year period or something between I guess people moving from regulated to regulator, and vice versa. But as you discussed a little bit earlier, part of the issue here is that when you grow up with the kind of close relationships that really start long before even your professional career does, it is much harder to know where to draw that line.

Do you have any other recommendations? Are there training recommendations or other ideas for how to make it abundantly clear, to create some direction there, so that the fundamental cultural issues become very well defined, and people know exactly where to draw the line.

Ms. KENDALL. Well, let me give credit where it is due. It was MMS's response to our report that outlined this two-year waiting period. But what you are suggesting, I think, would be in a training—an education kind of concept. And one of the other things that MMS responded to us was to develop a specific ethics training course for their inspectors to address this very kind of issue. And I think we cannot govern human behavior by regulation or rule, but if you can be very specific in terms of the expectations and be clear about those, I think we will be in a much better position.

Mr. HEINRICH. Thank you, Mr. Chair.

The CHAIRMAN. The Chair recognizes the gentlelady from Wyoming.

Ms. LUMMIS. Thank you, Mr. Chairman. I thought that I heard Secretary Salazar say in his testimony this morning specifically that it was MMS employees who allowed industry representatives to fill out the forms in pencil and then the MMS employees went in later and filled them out in pen, giving the appearance that it was MMS employees who were in collusion or deferring their responsibilities to inspect to industry, thereby creating a fox in the henhouse scenario. And if I heard correctly, I was tremendously alarmed by that.

I am now hearing from you that that allegation did not prove to be true. Mr. Chairman, I think we should go back and look at Secretary Salazar's testimony, and if it turns out that he was mistaken, we should ask him to correct his statement prior to it being permanently memorialized because that maligns the agency unfairly if he inadvertently or mistakenly believed that allegation to have been true. Thanks, Mr. Chairman.

Ms. KENDALL. I know I heard that in this hearing room. I do not remember who it was attributed to. I also know that there have been press reports making the allegation the actuality, when in fact I think a careful reading of our report would suggest that that was the allegation. We did not find it to be substantiated.

Ms. LUMMIS. Well, Mr. Chairman, and I do not recall who said it either this morning. But I think it is important regardless of who said it that we make some sort of correction to make clear that that was not the case. I think that incorrectly maligns the MMS

inspectors, and that has been disproven by the current testimony. Thank you, Mr. Chairman.

The CHAIRMAN. The Chair would note that in the report, of which I am reading this specific language, there were found out of 556 files that were reviewed for any alteration of pencil of ink markings, notations, or signatures, "We found a small number with pencil and ink variations." The report goes on, "However, we cannot discern if any fraudulent alterations were present on these forms. According to the lead MMS inspector, MMS inspectors often used pencil to complete inspection forms. He said that anyone from MMS involved in the platform inspections could author the inspection form, and inspectors routinely signed each other's names on the forms."

Is that accurate?

Ms. KENDALL. Yes, sir.

The CHAIRMAN. OK. The gentleman from Wisconsin, Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman. Ms. Kendall, thank you very much for being here and your testimony, and thank you and your entire staff at the Inspector General's Office for the service you are doing on behalf of the American people. I think it is clear from starting with Mr. Devaney's earlier report a couple of years back to the most recent one that there was desperate need of sunshine being let into the MMS offices and the conduct that was occurring there. And it is not just Houston, we have a problem, or Denver, we have a problem, but now Lake Charles office, we have a problem, and on and on.

Now the Secretary was here and testified today what steps the Department has taken in response to this and other activities over the past year or so with the new Administration, and also announced the restructuring of MMS, dividing that up, new ethical standards. In your opinion, the steps that are being taken now by the Secretary and the Department of the Interior, is this moving in a very helpful direction in order to avoid the type of circumstances that you have highlighted in the report and Mr. Devaney did in his previous report?

Ms. KENDALL. I think they have a very challenging job in front of them. I think that the way that the Secretary has proposed dividing MMS makes sense. I am not sure that just by virtue of that division you are going to solve the really sort of human nature problems. But it is certainly a step in the right direction.

Mr. KIND. You know, that is what kind of jumped out at me in glancing at your report that you had submitted, that you were particularly concerned with the ease in which the Federal inspectors move between industry and government, and I assume from government to industry, too, this idea that there is a revolving door taking place. And it is not just the Department of the Interior. I think it is throughout the Federal government that we have a problem. And I know folks back home in western Wisconsin think that there has been a too cozy relationship between those in charge of oversight and the industry in which they are supposed to be overseeing.

And I think it is true for previous administrations. There have been a lot of political appointees made from people from these various industries that they are going in now to conduct oversight

functions over. And I do not know if in your opinion, based on the investigations and the information you have been able to uncover, whether we need more bright line rules in order to get at this revolving door culture that I think has been existing for too long without doing it in a way that jeopardizes the type of expertise and the type of professionalism that you want in these offices at the same time.

Ms. KENDALL. I think you hit it right on the head. That is exactly the balance that is difficult to strike. You make the restrictions too onerous, and government will not have the benefit of any of the kind of expertise it needs. Industry will buy it away almost all the time.

I think there is a balance to be had. I do not know if we have that specifically in the regulations, but I think some of the steps that MMS is proposing to take certainly goes a long way in striking that balance.

Mr. KIND. Let me ask you a couple of factual questions, and you can correct me. But it was my understanding that in MMS there were bonuses given out to the employees for expediting lease approvals. Is that something that you are familiar with?

Ms. KENDALL. It is not.

Mr. KIND. OK. So I may be asking the wrong person about that. There was also a memorandum back in 2005 with MMS that there was an assumption that the private industry would best know the environmental impacts of any project or any operation that they were undertaking, and that I think influenced kind of MMS's review of the environmental impact on projects. Were you familiar with that 2005 memorandum and whether it is still in existence today?

Ms. KENDALL. Unfortunately, I am not.

Mr. KIND. OK. Well, we will have to do some independent follow-up with the agency itself then to find it. But you had explained that this is an inherent problem, I think, even with elected officials with the past relationships that you might have had with people in the past, friendships. And I think you point that out very well in the report and how difficult it is to straddle that line between personal friendships and the job that you are entrusted to do.

But finally, with the type of abuses that were uncovered by Mr. Devaney and also you, were there any consequences to the MMS employees, but also to the private industry representatives who got caught with the meals and the football tickets and things of that nature?

Ms. KENDALL. There were to the MMS employees. In the 2008 report, that was one of our concerns. Are there any consequences to the industry folks who are involved in this? And my answer, I think, is no.

Mr. KIND. Well, do you think we ought to be considering Committee-enhanced penalties for private industry representatives engaged in this type of conduct?

Ms. KENDALL. Well, I think any penalties perhaps. I do not know that there are any that exist at all.

Mr. KIND. OK. Thank you very much.

Ms. KENDALL. Thank you.

Mr. KIND. Thank you, Mr. Chairman.

The CHAIRMAN. The gentlelady from the Virgin Islands, Dr. Christensen.

Ms. CHRISTENSEN. I do not have any questions, Mr. Chairman. The main question was asked by my colleague right here.

The CHAIRMAN. OK. Ms. Kendall, let me ask you one last question. In your report, in your investigation, you say two MMS employees at the Lake Charles office admitted to using illegal drugs during their employment at MMS. If there are two admissions, obviously there could be many others as well. My question is, any way of telling if any inspector on this rig—I recognize Deepwater has only been around since the first of the year, but nevertheless, this rig has been around for some time that could date back to the years of your investigation. Any way of telling if this rig, in which 11 people lost their lives and others injured, had been inspected by an MMS employee on drugs?

Ms. KENDALL. I do not know the answer to that, Mr. Chairman. I do know that the Deepwater Horizon was not inspected by the people involved in this report. We did make that determination. I do not know if MMS has a random drug test program for their inspectors. Perhaps Ms. Birnbaum would be able to answer that for you.

The CHAIRMAN. OK. Thank you. Thank you very much.

Ms. KENDALL. Thank you.

The CHAIRMAN. We appreciate your patience. Our third panel today is composed of the following individuals: Rear Admiral James Watson, Deputy, Unified Area Command on the Deepwater Horizon Fire and MC 252 Oil Spill, with the U.S. Coast Guard; Dr. Jane Lubchenco, the Undersecretary of Commerce for Oceans and Atmosphere and NOAA Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Justice; and Ms. S. Elizabeth Birnbaum, the Director of the Minerals Management Service, U.S. Department of the Interior.

OK. We will proceed with the panel. Rear Admiral James Watson, welcome. Thank you for your service.

STATEMENT OF REAR ADMIRAL JAMES WATSON, DEPUTY, UNIFIED AREA COMMAND ON THE DEEPWATER HORIZON FIRE AND MC 252 OIL SPILL, U.S. COAST GUARD

Admiral WATSON. Good afternoon, Chairman Rahall and distinguished members of the Committee. Thank you for the opportunity to testify on the ongoing response to the explosion and subsequent oil spill from the mobile offshore drilling unit Deepwater Horizon.

Since the night of the explosion, Federal, state, and local authorities, and the responsible parties, BP and Transocean, have been working around the clock to secure the leak and mitigate environmental damages. My role as the Deputy Federal On-Scene Coordinator to support Rear Admiral Mary Landry, who is our Eighth District Commander out of New Orleans, and the FOSC at the area command level in Roberts, Louisiana, is managing and has oversight of all response operations.

The Deepwater Horizon explosion on the night of April 20th set off an unfortunate chain of events. The event began as a search and rescue case. Within the first few hours of the explosion, 115 of the 126 crew members were safely recovered. After three days

of continuous searching, the Coast Guard suspended the search for the 11 missing crew members. My deepest sympathies go to the families and the friends of those crew members who lost their lives in the line of duty.

A massive oil spill response following the sinking of the Deepwater Horizon, unprecedented in its scope, complexity, and indeterminate nature, the spill has required an extraordinary unified response across all levels of government, industry, and the communities of five coastal states in the Gulf of Mexico. An incident command system was quickly established to coordinate this massive operation, employing lessons learned from the Exxon Valdez, the Cosco Busan, and spill of national significant exercises. Through the implementation of the Oil Pollution Act of 1990, the response community galvanized their efforts under the common framework provided by the national contingency plan.

This framework developed over the last two decades enables us to respond to these catastrophes in a way that leverages the strengths of private industry under the leadership of the Federal on-scene coordinator. In accordance with the Oil Pollution Act of 1990, we integrated the best Federal, state, and local resources, alongside the best and brightest minds of industry, academia, and the public, in a unity of effort to protect our natural resources, livelihoods, and the security of the nation.

The Federal government has taken an all-hands-on-deck approach from the moment the explosion occurred, including the designation of a spill of national significance, and designated Admiral Thad Allen as the national incident commander. From the start, our objectives have remained constant: stop the leak, fight the spill offshore, protect environmentally sensitive areas, and mitigate the effects on the environment, the economy, and the local communities.

Despite several aggressive measures, including the top hat and the riser insertion tube tool, engineers have been unable to stop the flow of oil. Today, we eagerly await the outcome of BP's deployment of the top-kill to the wells blowout preventor. As of this morning, this complex operation is still scheduled to be conducted. They are executing the last-minute diagnostics to ensure the systems are in place, given the inherent risks associated with this first of a kind operation. Once top-kill commences, the process is expected to take three to four days to complete.

In parallel, BP is continuing to drill relief wells from two additional rigs. I personally meet with BP officials and know they are working around the clock to secure this source. While we work to permanently secure the leak, we are also attacking the spill as far as offshore as possible. As the oil moves from one large, monolithic slick to multiple pools of oil, we continue to deploy traditional methods, including surface dispersants, in situ burning, and surface cleanup equipment.

However, the magnitude and dynamic nature of the spill has required us to look at non-traditional mitigation response strategies. The use of subsurface dispersants and satellite imagery to help direct the movement of the skimmers in the burning are just a few examples of innovative technologies as new approaches to responding offshore.

In addition to our offshore efforts, we continue to deploy nearshore measures to protect predesignated environmentally sensitive areas as outlined in our area contingency plans. This includes different types of booms and other non-conventional barrier methods, including the National Guard's deployment of PESCo barriers in Mississippi, and there are sandbags in Louisiana.

As oil reaches the shoreline, we have seen in Louisiana over the last several days—and we continue to monitor the responsible party's actions. We are requiring BP to obtain and deploy whatever resources are necessary, including new technologies, to ensure we are doing everything we can to protect the shoreline and the environmentally sensitive areas in the Gulf region.

Mitigating the effects of this spill extend beyond environmental impacts, and include damages to surrounding communities, who depend on the Gulf of Mexico for their livelihood. The fishermen and small business owners are anxious to do whatever they can. Recognizing the desire of so many to help and support the local economies, the unified command has established a volunteer and vessel-of-opportunity program to maximize the opportunities available to the local communities to support response and cleanup operations.

Although the incident remains under investigation by a joint Minerals Management Service and Coast Guard Marine Board of Investigation, it may take months before we fully understand what caused the explosion. However, the spill has highlighted the need for building resiliency into our nation's critical infrastructure so we are better prepared to respond to system failures and prevent spills of national significance.

Our response to this historic spill is far from over. I want to ensure you that the entire response community is fully committed, and will continue to aggressively pursue all available options to mitigate the environmental and economic impacts from this spill.

Thank you for the opportunity to testify today. I look forward to your questions.

[The prepared statement of Admiral Watson follows:]

Statement of RDML James Watson, Deputy, Unified Area Command U.S. Coast Guard

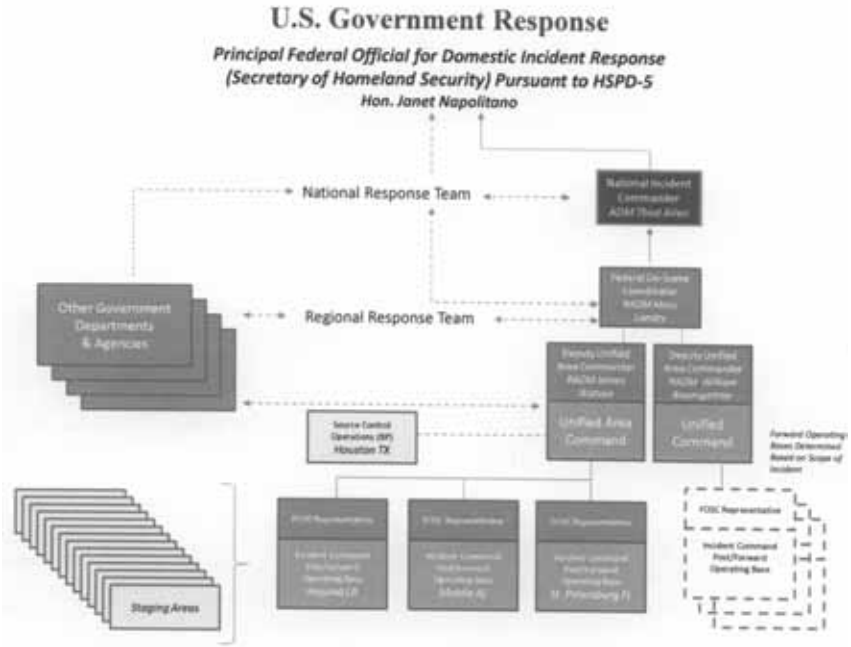
Good morning Chairman Bingaman and distinguished members of the committee. I am grateful for the opportunity to testify before this committee on the subject of the BP Deepwater Horizon oil spill currently ongoing in the Gulf of Mexico.

On the evening of April 20, 2010, the Transocean-owned, BP-chartered, Marshall Islands-flagged Mobile Offshore Drilling Unit (MODU) DEEPWATER HORIZON, located approximately 72 miles Southeast of Venice, Louisiana, reported an explosion and fire onboard. This began as a Search and Rescue (SAR) mission—within the first few hours, 115 of the 126 crewmembers were safely recovered; SAR activities continued through April 23rd, though the other 11 crewmembers remain missing.

Concurrent with the SAR effort, the response to extinguishing the fire and mitigating the impacts of the approximate 700,000 gallons of diesel fuel onboard began almost immediately. In accordance with the operator's Minerals Management Service (MMS)-approved Response Plan, oil spill response resources, including Oil Spill Response Vessels (OSRVs), were dispatched to the scene. After two days of fighting the fire, the MODU sank into approximately 5,000 feet of water on April 22nd. On April 23rd, remotely operated vehicles (ROVs) located the MODU on the seafloor, and, on April 24th, BP found the first two leaks in the riser pipe and alerted the federal government. ROVs continue to monitor the flow of oil.

As the event unfolded, a robust Incident Command System (ICS) response organization was stood up in accordance with the National Response Framework (NRF)

and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). ICS is utilized to provide a common method for developing and implementing tactical plans to efficiently and effectively manage the response to oil spills. The ICS organization for this response includes Incident Command Posts and Unified Commands at the local level, and a Unified Area Command at the regional level. It is comprised of representatives from the Coast Guard (Federal On-Scene Coordinator (FOSC)), other federal, state, and local agencies, as well as BP as a Responsible Party.



The federal government has addressed the Gulf Oil Spill with an all-hands-on deck approach from the moment the explosion occurred. During the night of April 20th—the date of the explosion—a command center was set up on the Gulf Coast to address the potential environmental impact of the event and to coordinate with all state and local governments. After the MODU sank on the 22nd, the National Response Team (NRT), led by the Secretary of Homeland Security and comprised of 16 Federal agencies including the Coast Guard, other DHS offices, the Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration (NOAA), Department of Interior (DOI), as well as Regional Response Teams (RRT), were activated.

On April 29, Secretary Napolitano declared the event a Spill of National Significance (SONS), which enhanced operational and policy coordination at the national level and concurrently allowed Admiral Allen's appointment as the National Incident Commander (NIC) for the Administration's continued, coordinated response. The NIC's role is to coordinate strategic communications, national policy, and resource support, and to facilitate collaboration with key parts of the federal, state and local government.

The NIC staff is comprised of subject matter experts from across the federal government, allowing for immediate interagency collaboration, approval and coordination. While the FOSC maintains authorities for response operations as directed in the National Contingency Plan, the NIC's primary focus is providing national-level support to the operational response. This means providing the Unified Command with everything that they need – from resources to policy decisions – to sustain their efforts to secure the source and mitigate the impact. This will be a sustained effort that will continue until the discharges are permanently stopped and the effects of the spill are mitigated to the greatest extent possible. Beyond securing the source of the spill, the Unified Command is committed to minimizing the economic and social impacts to the affected communities and the nation.

UNIFIED RECOVERY EFFORTS

The Unified Command continues to attack the spill offshore. As of May 13, 2010, over 5 million gallons of oily water have been successfully recovered using mechanical surface cleaning methods. Further, approximately over 704,000 of surface dispersants have been applied to break up the slick, and controlled burns have been used as weather conditions have allowed. In addition to the ongoing offshore oil recovery operations, significant containment and exclusion booms have been deployed and staged strategically throughout the Gulf region. These booms are used to protect sensitive areas including: environmental and cultural resources, and critical infrastructure, as identified in the applicable Area Contingency Plans (ACPs). To date, more than a million feet of boom have been positioned to protect environmentally sensitive areas. Fourteen staging areas have been established across the Gulf Coast states and three regional command centers. The Secretary of Defense approved the requests of the Governors of Alabama (up to 3,000), Florida (up to 2,500), Louisiana (up to 6,000), and Mississippi (up to 6,000) to use their National Guard forces in Title 32, U.S. Code, status to help in the response to the oil spill.

VOLUNTEERISM AND COMMUNICATION WITH LOCAL COMMUNITIES

A critical aspect of response operations is active engagement and communication with the local communities. Several initiatives are underway to ensure regular communications with the local communities.

1. Active participation and engagement in town hall meetings across the region with industry and government involvement.
2. Daily phone calls with affected trade associations.
3. Coordination of public involvement through a volunteer registration hotline (1–866–448–5816), alternative technology, products and services e-mail (horizonsupport@aol.com), and response and safety training scheduled and conducted in numerous locations.
4. More than 7,100 inquiries received online via the response website (www.deepwaterhorizonresponse.com) with more than 6,121 inquiries completed, with 4-hour average time of response.
5. Over 568,000 page hits on response website.
6. Over 110 documents created/posted to response website for public consumption.
7. News, photo/video releases, advisories to more than 5,000 media/governmental/private contacts.
8. Full utilization of social media including Facebook, YouTube, Twitter and Flickr.
9. Establishment of Local Government hotlines in Houma, LA (985–493–7835), Mobile, AL (251–445–8968), Robert, LA (985–902–5253).

MODU REGULATORY COMPLIANCE REQUIREMENTS

43 U.S.C. § 1331, *et seq.* mandates that MODUs documented under the laws of a foreign nation, such as the DEEPWATER HORIZON, be examined by the Coast Guard. These MODUs are required to obtain a U.S. Coast Guard Certificate of Compliance (COC) prior to operating on the U.S. Outer Continental Shelf (OCS).

In order for the Coast Guard to issue a COC, one of three conditions must be met:

1. The MODU must be constructed to meet the design and equipment standards of 46 CFR part 108.
2. The MODU must be constructed to meet the design and equipment standards of the documenting nation (flag state) if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR part 108.
3. The MODU must be constructed to meet the design and equipment standards for MODUs contained in the International Maritime Organization Code for the Construction and Equipment of MODUs.

The DEEPWATER HORIZON had a valid COC at the time of the incident, which was renewed July 29, 2009 with no deficiencies noted. The COC was issued based on compliance with number three, stated above. COCs are valid for a period of two years.

In addition to Coast Guard safety and design standards, MMS and the Occupational Safety and Health Administration (OSHA) also have safety requirements for MODUs. MMS governs safety and health regulations in regard to drilling and production operations in accordance 30 CFR part 250, and OSHA maintains responsibility for certain hazardous working conditions not covered by either the Coast Guard or MMS, as per 29 U.S.C. § 653 (a) and (b)(1).

COAST GUARD/MMS JOINT INVESTIGATION RESPONSIBILITIES

On April 27th, Secretary Napolitano and Secretary of the Interior Ken Salazar signed the order that outlined the joint Coast Guard-MMS investigation into the Deepwater Horizon incident.

Information gathering began immediately after the explosion—investigators from both agencies launched a preliminary investigation that included evidence collection, interviews, witness statements from surviving crew members, and completion of chemical tests of the crew. The aim of this investigation is to gain an understanding of the causal factors involved in the explosion, fire, sinking and tragic loss of 11 crewmembers.

The joint investigation will include public hearings, which have already begun in Kenner, LA. The formal joint investigation team consists of equal representation of Coast Guard and MMS members. The Coast Guard has also provided subject matter experts and support staff to assist in the investigation.

LESSONS LEARNED FROM PAST RESPONSES

The Coast Guard has been combating oil and hazardous materials spills for many years; in particular, the 1989 major oil spill from the EXXON VALDEZ yielded comprehensive spill preparedness and response responsibilities.

In the 20 years since the EXXON VALDEZ, the Coast Guard has diligently addressed the Nation's mandates and needs for better spill response and coordination. For example, a SONS Exercise is held every three years. In 2002, the SONS Exercise was held in New Orleans to deal with the implications of a wellhead loss in the Gulf of Mexico. In that exercise, the SONS team created a vertically integrated organization to link local response requirements to a RRT. The requirements of the RRT are then passed to the NRT in Washington, D.C, thereby integrating the spill management and decision processes across the federal government. The response protocols used in the current response are a direct result of past lessons learned from real world events and exercises including SONS.

Although the EXXON VALDEZ spill shaped many of the preparedness and response requirements and legislation followed to this day, other significant events since 1989 have generated additional lessons learned that have shaped our response strategies. For example, the M/V COSCO BUSAN discharged over 53,000 gallons of fuel oil into San Francisco Bay after colliding with the San Francisco-Oakland Bay Bridge in heavy fog. Through the recovery of over 40 percent of the spilled product, the Unified Command recognized improvements were needed in some areas. As a result, new guidance and policy was developed to better utilize volunteers in future responses. Additionally, standard operating procedures for emergency notifications were improved to ensure better vertical communications between the federal responders and local governments. Furthermore, steps were taken to pre-identify incident command posts (ICPs) and improve booming strategies for environmentally sensitive areas.

Most recently, the Coast Guard led a SONS exercise in March, 2010. Nearly 600 people from over 37 agencies participated in the exercise. This exercise scenario was based on a catastrophic oil spill resulting from a collision between a loaded oil tanker and a car carrier off the coast of Portland, Maine. The exercise involved response preparedness activities in Portland, ME; Boston, MA; Portsmouth, NH; Portsmouth, VA; and Washington, DC. The response to the SONS scenario involved the implementation of oil spill response plans, and response organizational elements including two Unified Commands, a Unified Area Command, and the NIC in accordance with the National Contingency Plan and national Response Framework. The exercise focused on three national-level strategic objectives:

1. Implement response organizations in applicable oil spill response plans
2. Test the organization's ability to address multi-regional coordination issues using planned response organizations
3. Communicate with the public and stakeholders outside the response organization using applicable organizational components

The SONS 2010 exercise was considered a success, highlighting the maturity of the inter-agency and private oil spill response capabilities and the importance of national-level interactions to ensure optimal information flow and situational awareness. The timely planning and execution of this national-level exercise have paid huge dividends in the response to this potentially catastrophic oil spill in the Gulf of Mexico.

ROLE OF THE OIL SPILL LIABILITY TRUST FUND

The Oil Spill Liability Trust Fund (OSLTF), established in the Treasury, is available to pay the expenses of federal response to oil pollution under the Federal Water Pollution Control Act (FWPCA)(33 U.S.C. § 1321(c)) and to compensate claims for oil

removal costs and certain damages caused by oil pollution as authorized by the Oil Pollution Act of 1990 (OPA) (33 U.S.C. § 2701 *et seq.*). These OSLTF uses will be recovered from responsible parties liable under OPA when there is a discharge of oil to navigable waters, adjoining shorelines or the Exclusive Economic Zone (EEZ).

The OSLTF is established under Revenue Code section 9509 (26 USC § 9509), which also describes the authorized revenue streams and certain broad limits on its use. The principal revenue stream is an 8 cent per barrel tax on oil produced or entered into the United States (see the tax provision at 26 U.S.C. § 4611). The barrel tax increases to 9 cents for one year beginning on January 1, 2017. The tax expires at the end of 2017. Other revenue streams include oil pollution-related penalties under 33 U.S.C. § 1319 and § 1321, interest earned through Treasury investments, and recoveries from liable responsible parties under OPA. The current OSLTF balance is approximately $1.6 billion. There is no cap on the fund balance but there are limits on its use per oil pollution incident. The maximum amount that may be paid from the OSLTF for any one incident is $1 billion. Of that amount, no more than $500 million may be paid for natural resource damages. 26 U.S.C. § 9509(c)(2).

OPA further provides that the OSLTF is available to the President for certain purposes (33 U.S.C. § 2712(a)). These include:

> Payment of **federal removal costs** consistent with the NCP. This use is subject to further appropriation, except the President may make available up to $50 million annually to carry out 33 U.S.C. § 1321(c) (federal response authority) and to initiate the assessment of natural resource damages. This so-called "emergency fund" amount is available until expended. If funding in the emergency fund is deemed insufficient to fund federal response efforts, an additional $100 million may be advanced, one time, from the OSLTF subject to notification of Congress no later than 30 days after the advance. See 33 U.S.C. § 2752(b). Additional amounts from the OSLTF for Federal removal are subject to further appropriation.
>
> Payment of **claims for uncompensated removal costs and damages**. Payments are not subject to further appropriation from the OSLTF. 33 U.S.C. § 2752(b).
>
> Payment of federal administrative, operating and personnel costs to implement and enforce the broad range of oil pollution prevention, response and compensation provisions addressed by the OPA. This use is subject to further appropriation to various responsible federal agencies.

National Pollution Funds Center (NPFC) Funding and Cost Recovery

The NPFC is a Coast Guard unit that manages use of the emergency fund for federal removal and trustee costs to initiate natural resource damage assessment. The NPFC also pays qualifying claims against the OSLTF that are not compensated by the responsible party. Damages include real and personal property damages, natural resource damages, loss of subsistence use of natural resources, lost profits and earnings of businesses and individuals, lost government revenues, and net costs of increased or additional public services that may be recovered by a State or political subdivision of a state.

In a typical scenario, the FOSC, Coast Guard or EPA accesses the emergency fund to carry out 33 U.S.C. § 1321(c), i.e., to remove an oil discharge or prevent or mitigate a substantial threat of discharge of oil to navigable waters, the adjoining shoreline or the EEZ. Costs are documented and provided to NPFC for reconciliation and eventual cost recovery against liable responsible parties. Federal trustees may request funds to initiate an assessment of natural resource damages and the NPFC will provide those funds from the emergency fund as well.

OPA provides that all claims for removal costs or damages shall be presented first to the responsible party. Any person or government may be a claimant. If the responsible party denies liability for the claim, or the claim is not settled within 90 days after it is presented, a claimant may elect to commence an action in court against the responsible party or to present the claim to the NPFC for payment from the OSLTF. OPA provides an express exception to this order of presentment in respect to State removal cost claims. Such claims are not required to be presented first to the responsible party and may be presented direct to the NPFC for payment from the OSLTF. These and other general claims provisions are delineated in 33 U.S.C. § 2713 and the implementing regulations for claims against the OSLTF in 33 CFR Part 136. NPFC maintains information to assist claimants on its website at www.uscg.mil/npfc.

NPFC pursues cost recovery for all OSLTF expenses for removal costs and damages against liable responsible parties pursuant to federal claims collection law

including the Debt Collection Act, implementing regulations at 31 CFR parts 901–904 and DHS regulations in 6 CFR part 11.

Aggressive collection efforts are consistent with the "polluter pays" public policy underlying the OPA. Nevertheless, the OSLTF is intended to pay even when a responsible party does not pay.

OSLTF and the Deepwater Horizon

On May 12th, the Administration proposed a legislative package that will: enable the Deepwater Horizon Oil Spill response to continue expeditiously; speed assistance to people affected by this spill; and strengthen and update the oil spill liability system to better address catastrophic events. The bill would permit the Coast Guard to obtain one or more advances—up to $100 million each—from the Principal Fund within the Oil Spill Liability Trust Fund to underwrite federal response activities taken in connection with the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon. To deal more generally with the harms created by oil spills as well as to toughen and update these laws, the bill would, for any single incident, raise the statutory expenditure limitation for the Oil Spill Liability Trust Fund from $1 billion to $1.5 billion and the cap on natural resource damage assessments and claims from $500 million to $750 million.

In order to help those impacted by the oil spill get claims and benefits quickly, the legislative package proposes Workforce Investment Act provisions which would assist states in providing one-stop services for those affected by the oil spill, including filing claims with BP, filing unemployment insurance/Oil Spill Unemployment assistance claims, accessing job placement, training and workforce services, accessing SNAP, child care, or other social service benefits, and applying for SBA Disaster Loans.

The emergency fund has been accessed by the FOSC for $68 million as of May 23, 2010. BP, a responsible party, is conducting and paying for most response activities. The Coast Guard requested and received an advance of $100 million from the OSLTF Principal Fund to the emergency fund as authorized by 33 U.S.C. § 2752(b), because the balance remaining in the emergency fund was not adequate to fund anticipated federal removal costs. BP and Transocean have been notified of their responsibility to advertise to the public the process by which claims may be presented. As of May 24th, 23,960 claims have been opened with BP, and nearly $28 million has been disbursed; though Transocean has also already been designated as a responsible party, all claims are being processed centrally through BP.

CONCLUSION

Through the National Incident Command, we are ensuring all capabilities and resources—government, private, and commercial—are being leveraged to protect the environment and facilitate a rapid, robust cleanup effort. Every effort is being made to secure the source of the oil, remove the oil offshore, protect the coastline, include and inform the local communities in support of response operations, and mitigate any impacts of the discharge.

Thank you for the opportunity to testify today. I look forward to your questions.

The CHAIRMAN. Dr. Lubchenco, welcome once again to our Committee.

STATEMENT OF DR. JANE LUBCHENCO, UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE AND NOAA ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Dr. LUBCHENCO. Thank you, Chairman Rahall and members of the Committee. Thank you so much for the opportunity to testify this morning about the Department of Commerce's National Oceanic and Atmospheric Administration's role in the BP Deepwater Horizon spill.

I wish to begin by letting the families of the 11 people who lost their lives in the explosion and sinking of the Deepwater Horizon know that we think about them every day. The 12,800 employees of NOAA, both those who are actively working in the Gulf as well

as those around the country, extend our deepest condolences to them.

Because you already have my written testimony, what I would like to do today is just summarize briefly NOAA's overall responsibilities in this effort, and then give you a brief update of where we are with some more recent happenings. NOAA's mission is to understand and predict changes in the earth's environment to conserve and manage coastal and marine resources to meet our nation's economic, social, and environmental needs. NOAA is also a natural resource trustee and is one of the Federal agencies responsible for protecting and restoring the public's coastal natural resources when they are affected by oil spills.

As such, the entire agency is deeply concerned about the immediate and long-term environmental, economic, and social impacts to the Gulf Coast and the Nation as a whole in response to this oil spill. NOAA is the nation's scientific resource for the unified command, and it is responsible for coordinated scientific weather and biological response services.

Our experts have been assisting with the response from the very outset. Offices throughout the agency have been mobilized, and hundreds of NOAA personnel are dedicating themselves to assist. Over the past few weeks, NOAA has provided 24/7 scientific support to the U.S. Coast Guard in its role as Federal on-scene coordinator, both on the scene and through our Seattle operation center. This NOAA-wide support includes twice daily trajectories of the spilled oil, information management, overflight observations and mapping, weather and river flow forecasts, shoreline and resource risk assessment, and oceanographic modeling support.

Now for a few updates on seven activities for which NOAA has responsibility. Number one, NOAA oceanographers continue to release updated oil trajectory maps showing the predicted trajectory of oil slick. These maps help inform shoreline operations, placement of boom, and oil recovery efforts at the surface. NOAA's current forecasts show relatively light and variable winds should persist throughout much of the week. Yesterday's overflights continued to observe significant amounts of oil associated with convergent zones around the Mississippi Delta and Breton Sound. However, with light winds and weakening westward currents, oil is not expected to move significantly further westward during NOAA's current forecast period of 72 hours.

Number two, on the loop current, we continue to track the small amount of oil that was entrained in the loop current late last week. Most of that surface oil is now caught in a counterclockwise eddy on the northern side of the loop current. And because the top of the loop current has now pinched off, any oil that was in the loop current will most likely be retained in the Gulf and not routed to the Florida strait or the Gulf current.

Three, flow rate. NOAA scientists are part of the national incident command's flow rate technical group, which is designed to support the response and inform the public by providing scientifically validated information about the amount of oil flowing from the leaking well while ensuring vital efforts to cap the leak are not impeded. The official rough estimate of at least 5,000 barrels per day was based upon the best available information at the time.

Only a few days ago did we receive from BP videos of sufficient quality to make credible estimates of flow. The technical team has been hard at work. Their work is undergoing rapid peer review, and we expect to have results available very soon.

Four, fishery disaster declaration. On Monday, Commerce Secretary Gary Locke determined that there had been a fishery disaster in the Gulf of Mexico due to the economic impact on commercial and recreational fisheries from the ongoing Deepwater Horizon oil spill. The affected area includes the states of Louisiana, Mississippi, and Alabama. Secretary Locke made the determination under section 312[a] of the Magnuson-Stevens Act, and this declaration was made in response to requests from Louisiana and Mississippi based on loss of access to many commercial fisheries, and existing and anticipated environmental damage from this unprecedented event.

Five, fishery closures and seafood safety. Yesterday, NOAA's National Marine Fisheries Service modified the boundaries of the fishery closed area based on the latest oil spill trajectories. The modified area increased the closed area to 5,096 square miles. This represents 22.4 percent of the Gulf of Mexico exclusive economic zone. NOAA is actively sampling seafood inside and outside the closed areas, and working with FDA to ensure that seafood is not contaminated, and to guide decisions about where closed areas can be reopened.

Six, NRDA. NOAA is coordinating the Natural Resource Damage Assessment effort with the Department of the Interior as a Federal co-trustee, as well as the co-trustees in five states and representatives for at least one responsible party, BP. The focus currently is to assemble existing data on resources and their habitats, and to collect baseline or pre-spill impact data. Data on old resources and habitats are also being collected.

And finally, scientific and environmental impact. NOAA is aggressively working with other agencies and non-Federal scientists to understand where the oil is on the surface and below the surface, and to evaluate the environmental impacts of both the spill and any associated mitigation efforts.

To close, I would like to simply assure you that we will not relent in our efforts to protect the livelihoods of Gulf Coast residents and mitigate the environmental impacts of the spill. Thank you, and I am happy to answer any questions.

[The prepared statement of Dr. Lubchenco follows:]

Statement of Jane Lubchenco, Ph.D., Under Secretary of Commerce for Oceans and Atmosphere, and NOAA Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

Thank you, Chairman Rahall and Members of the Committee, for the opportunity to testify on the Department of Commerce National Oceanic and Atmospheric Administration's (NOAA's) role in the response to the Deepwater Horizon oil spill. My name is Dr. Jane Lubchenco and I am the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of NOAA. I appreciate the opportunity to discuss the critical roles NOAA serves during oil spills and the importance of maximizing our contributions to protect and restore the resources, communities, and economies affected by this tragic event. Before I move to discuss NOAA's efforts, I would first like to express my condolences to the families of the 11 people who lost their lives in the explosion and sinking of the Deepwater Horizon.

NOAA's mission is to understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic,

social, and environmental needs. NOAA is also a natural resource trustee and is one of the federal agencies responsible for protecting and restoring the public's coastal natural resources when they are impacted by oil spills, hazardous substance releases, and impacts from vessel groundings on corals and seagrass beds. As such, the entire agency is deeply concerned about the immediate and long-term environmental, economic, and social impacts to the Gulf Coast and the Nation as a whole from the Deepwater Horizon oil spill. NOAA is fully mobilized and working tirelessly 24/7 to lessen impacts on the Gulf Coast and will continue to do so until the spill is controlled, the oil is cleaned up, the natural resource damages are assessed, and the restoration is complete.

My testimony today will discuss NOAA's role in the Deepwater Horizon response, natural resource damage assessment, and restoration; NOAA's assets, data, and tools on-scene; the importance of preparedness; and necessary future actions.

NOAA'S ROLES DURING OIL SPILLS

NOAA has three critical roles mandated by the Oil Pollution Act of 1990 and the National Contingency Plan:

1. Serves as a conduit for scientific information to the Federal On-Scene Coordinator to provide trajectory predictions for spilled oil, overflight observations of oil on water, identification of environmental areas that are highly valued or sensitive, and shoreline surveys of oil to determine clean-up priorities.
2. Conduct a joint natural resource damage assessment with other trustees with the goal of restoring any ocean and coastal resources harmed by the spill. This includes fulfilling the role of Natural Resource Trustee for impacted marine resources.
3. Represent Department of Commerce interests in spill response decision making activities through the Regional Response Team.

The U.S. Coast Guard (USCG) has the primary responsibility for managing coastal oil spill response and clean-up activities in the coastal zone. During an oil spill, NOAA's Scientific Support Coordinator delivers expert scientific support to the USCG in its role as Federal On-Scene Coordinator. NOAA's Scientific Support Coordinators are located around the country in USCG Districts, ready to respond around the clock to any emergencies involving the release of oil or hazardous materials into the oceans or atmosphere.

Using experience, expertise, and state-of-the-art technology, NOAA forecasts the movement and behavior of spilled oil, evaluates the risk to resources, conducts overflight observations and shoreline surveys, and recommends protection priorities and appropriate clean-up actions. NOAA also provides spot weather forecasts, emergency coastal survey and charting capabilities, aerial and satellite imagery, and real-time coastal ocean observation data to assist response efforts. Federal, state, and local entities look to NOAA for assistance, experience, local perspective, and scientific knowledge.

NOAA serves the Nation by providing expertise and a suite of products and services critical for making science-based response decisions that prevent further harm, restore natural resources, and promote effective planning for future spills. Federal, state, and local agencies across the country called upon NOAA's Office of Response and Restoration (OR&R) for scientific support 200 times in 2009.

NOAA'S RESPONSE EFFORTS FOR DEEPWATER HORIZON OIL SPILL

NOAA's experts have been assisting with the response from the beginning, providing coordinated scientific weather and biological response services when and where they are needed most.

At 2:24 a.m. (central time) on April 21, 2010, NOAA's OR&R was notified by the USCG of an explosion and fire on the Mobile Operating Drilling Unit (MODU) Deepwater Horizon, approximately 50 miles southeast of the Mississippi Delta. The explosion occurred at approximately 10:00pm on April 20, 2010. Two hours, 17 minutes after notification by the USCG, NOAA provided our first spill forecast predictions to the Unified Command in Robert, Louisiana. NOAA's National Weather Service Weather Forecast Office in Slidell, LA received the first request for weather support information from the USCG at 9:10am on April, 21, 2010 via telephone. The first graphical weather forecast was sent at 10:59am to the USCG District Eight Command Center in New Orleans. Support has not stopped since that first request for information by the USCG. Over the past few weeks, NOAA has provided 24/7 scientific support, both on-scene and through our Seattle Operation Center. This NOAA-wide support includes twice daily trajectories of the spilled oil, information management, overflight observations and mapping, weather and river flow forecasts, shoreline and resource risk assessment, and oceanographic modeling support. NOAA has also been supporting the Unified Command in planning for open water and

shoreline remediation and analyses of various techniques for handling the spill, including open water burning and surface and deepwater application of dispersants. Hundreds of miles of coastal shoreline were surveyed to support clean-up activities.

Offices throughout the agency have been mobilized and hundreds of NOAA personnel are dedicating themselves to assist. In addition to these activities, I would like to highlight several of NOAA's assets that are assisting with the overall oil spill response and assessment efforts.

- NOAA's National Weather Service is providing critical 24/7 weather support dedicated to the spill, as well as on-site weather support at multiple command centers. Special aviation marine wind and wave forecasts are being prepared to support response activities. A marine meteorologist was deployed to the Joint Operations Center in Houma, LA on April, 27, 2010. Beginning on April 28, 2010, hourly localized 'spot' forecasts were requested by USCG and NOAA OR&R in support of oil burns and eventually chemical dispersion techniques. Longer range forecasts are a critical component to plan containment and response actions. NOAA's National Data Buoy Center data is also being incorporated into oil trajectory forecasts.
- NOAA's National Ocean Service is providing: custom navigation products and updated charts to help keep mariners out of oil areas; updates from NOAA's extensive network of water-level, meteorological, and near-shore current meters throughout the Gulf; in-situ observations data; economic assessment expertise; aerial photo surveys to assess pre-and post landfall assessments; and pre- and post- oil contamination assessments of oysters at Mussel Watch sites.
- NOAA's Office of Oceanic and Atmospheric Research (OAR) dispatched the R/V Pelican ship along with National Institute for Undersea Science and Technology cooperative scientists to collect samples as soon as possible. OAR is advising on airborne and oceanic dispersion modeling. NOAA and university scientists are also flying NOAA's P3 hurricane hunter aircraft to drop expendable probes to map the ocean current, salinity, and thermal structure from 1000 m depth to the surface that will refine and calibrate loop current modeling. These deployments will be critical for helping to track where the oil might be headed and whether other areas of the United States will be impacted by the Deepwater Horizon oil spill. In addition, NOAA-funded Sea Grant programs in Louisiana and other Gulf Coast states will be awarding grants for rapid response projects to monitor the effects of the oil spill on Louisiana's coastal marshes and fishery species.
- NOAA's National Marine Fisheries Service (NMFS) is addressing issues related to marine mammals, sea turtles, seafood safety, and fishery resources. On May 2, 2010, NMFS closed commercial and recreational fishing in oil-affected portions of federal waters in the Gulf for ten days. NOAA scientists are on the ground in the spill area taking water and seafood samples to ensure the safety of seafood and fishing activities. On May 7, NMFS made effective an amendment to the emergency closure rule which adjusted the shape of the closed area to be more consistent with the actual spill location. On May 11, 2010, NMFS filed an emergency rule to establish a protocol to more quickly and effectively revise the closing and opening of areas affected by the oil spill. Due to the shifting currents and winds, rapid changes in the location and extent of the spill are occurring, which requires NMFS to update the dimensions of the closed area, as necessary, to ensure fisher and consumer safety without needlessly restricting productive fisheries in areas that are not affected by the spill. In addition, NOAA's Marine Animal Health and Stranding Response Program is assisting the Wildlife Operations Branch of the Unified Command to provide expertise and support for the response efforts to the Deepwater Horizon oil spill. Established protocols and procedures for treating marine wildlife impacted by oil have been developed by NOAA and its partners and are being adapted to address the particular needs of this event.
- NOAA's National Environmental Satellite, Data, and Information Service is providing satellite imagery from NOAA's Geostationary Operational Environmental Satellites and Polar Operational Environmental Satellites, and is leveraging data from the National Aeronautics and Space Administration and international satellites to develop experimental and customized products to assist weather forecasters and oil spill response efforts. NOAA's National Data Centers are also providing data from its archives that are being used to help provide mapping services for the impacted areas, and temperature, salinity, current, and surface elevation (tides) with forecasts up to 72 hours out from the Navy Global Ocean Coastal Model.
- NOAA's Office of Marine and Aviation Operations has 3 aircraft providing support for overflights that are being conducted on a near daily basis.

- The NOAA General Counsel's Office is working closely with state and federal co-trustee agencies to undertake a natural resource damage assessment and other steps to prepare claims for response costs and damages for natural resource injuries associated with the oil spill. The Office is also addressing a wide range of legal questions that arise in conjunction with the spill.
- The NOAA Communications office has provided two to three communications specialists to assist in the Joint Incident Center with press and all communications efforts. Within NOAA, the staff has been facilitating scientist interviews with media and working with the Office of Response and Restoration to update daily a dedicated NOAA Deepwater Horizon response web site with the latest information and easy-to-use fact sheets on topics ranging from oil and coral reefs to an explanation of the booms being used.

NOAA'S ROLE IN DAMAGE ASSESSMENT AND RESTORATION

Oil spills affect our natural resources in a variety of ways. They can directly impact our natural resources, such as the oiling of marine mammals. They can diminish the ecological services provided by coastal and marine ecosystems, such as the loss of critical nursery habitat for shrimp, fish, and other wildlife that may result from oiled marshes. Oil spills may also diminish how we use these resources, by affecting fishing, boating, beach going, and wildlife viewing opportunities.

Stewardship of the Nation's natural resources is shared among several federal agencies, states, and tribal trustees. NOAA, acting on behalf of the Secretary of Commerce, is the lead federal trustee for many of the nation's coastal and marine resources, and is authorized pursuant to the Oil Pollution Act of 1990 (OPA) to recover damages on behalf of the public for injuries to trust resources resulting from an oil spill. OPA encourages compensation in the form of restoration and this is accomplished through the Natural Resource Damage Assessment (NRDA) process by assessing injury and service loss, then developing a restoration plan that appropriately compensates the public for the injured resources. NOAA scientists and economists provide the technical information for natural resource damage assessments and work with other trustees and responsible parties to restore resources injured by oil spills. To accomplish this effort, NOAA experts collect data, conduct studies, and perform analyses needed to determine whether and to what degree coastal and marine resources have sustained injury from oil spills. They determine how best to restore injured resources and develop the most appropriate restoration projects to compensate the public for associated lost services. Over the past 20 years, NOAA and other natural resource trustees have recovered over $500 million worth of restoration projects from responsible parties for the restoration of the public's wetlands, coral reefs, oyster reefs, and other important habitats.

The successful recovery of injured natural resources depends upon integrated spill response and restoration approaches. The initial goals of a response include containment and recovery of floating oil because recovery rates for floating oil can be quite high under certain conditions. As the oil reaches the shoreline, clean-up efforts become more intrusive and oil recovery rates decline. At this point, it becomes important to recognize that certain spill response activities can cause additional harm to natural resources and actually slow recovery rates. Such decision points need to be understood so that cost effective and successful restoration can take place. NOAA brings to bear over 20 years of experience and expertise to these issues. Continued research on clean-up and restoration techniques and the recovery of environmental and human services after oil spills may improve such decision-making.

NOAA'S DAMAGE ASSESSMENT AND RESTORATION EFFORTS FOR THE DEEPWATER HORIZON OIL SPILL

At the onset of this oil spill, NOAA quickly mobilized staff from its Damage Assessment Remediation and Restoration Program to begin coordinating with federal and state co-trustees and the responsible parties, to begin collecting a variety of data that are critical to help inform the NRDA. NOAA is coordinating the NRDA effort with the Department of the Interior as a federal co-trustee, as well as co-trustees in five states and representatives for at least one responsible party (BP).

Although the concept of assessing injuries may sound relatively straightforward, understanding complex ecosystems, the services these ecosystems provide, and the injuries caused by oil and hazardous substances takes time—often years. The time of year the resource was injured, the type of oil or hazardous substance, the amount and duration of the release, and the nature and extent of clean-up are among the factors that affect how quickly resources are assessed and restoration and recovery occurs. The rigorous scientific studies that are necessary to prove injury to resources and services may also take years to implement and complete. The NRDA process

described above ensures an objective and cost-effective assessment of injuries —and that harm to the public's resources is fully addressed.

While it is still too early in the process to know what the full scope of the damage assessment will be, NOAA is concerned about the potential impacts to fish, shellfish, marine mammals, sea turtles, birds, and other sensitive resources, as well as their habitats, including wetlands, beaches, bottom sediments, and the water column. This may include national estuarine research reserves and national marine sanctuaries. The natural resources co-trustees may also evaluate any lost value related to the use of these resources, for example, as a result of fishery and beach closures.

VALUE OF READINESS

This event is a grave reminder that spills of national significance can occur despite the many safeguards and improvements that have been put in place since the passage of the OPA. Although the best remedy is to prevent oil spills, oil spills remain a concern given the offshore and onshore oil infrastructure, pipes and vessels that move huge volumes of oil through our waterways.

To mitigate environmental effects of future spills, responders must be equipped with sufficient capacity and capabilities to address the challenge. Response training and exercises are essential to maintaining capabilities. Continuous training, improvement of our capabilities, maintenance of our capacity, and investments in high priority, response-related research and development efforts will ensure that the nation's response to these events remains effective. Training and coordination with other federal, state and local agencies that might have response and restoration responsibilities is critical to success in mitigating effects of future spills.

Just two months ago, NOAA participated in an oil spill exercise that focused on a hypothetical spill of national significance. This type of exercise is held every three years to sharpen the Nation's ability to respond to major oil spills at all levels of government. Led by the USCG, this exercise included more than one thousand people from twenty state and federal agencies as well as industry. This year's exercise centered on a simulated tanker collision off the coast of Portland, ME resulting in a major oil spill causing environmental and economic impacts from Maine to Massachusetts. Lessons learned from this and similar drills have improved our readiness to respond to oil spills. One tool that was successfully incorporated into this recent exercise is called the Environmental Response and Management Application (ERMA). This tool was developed by NOAA to streamline the integration and sharing of data and information, and certain components of this tool are now being used in the Deepwater Horizon response effort. ERMA is a web-based Geographic Information System tool designed to assist both emergency responders and environmental resource managers who deal with events that may adversely impact the environment. In the recent drill, ERMA allowed for the integration of current science, information technology, and real-time observational data into response decision-making. It allowed the latest information that was collected from a variety of efforts related to spills of national significance to be integrated, displayed on a map and shared for use across the Incident Command structure. Although not fully functional in the Gulf of Mexico, ERMA is providing benefits for the Deepwater Horizon response, many of which were first tested during the recent oil spill exercise. This recent drill also incorporated the damage assessment efforts of the trustees, which resulted in improved communications and leveraging of resources and information.

ACTIVITIES TO IMPROVE FUTURE RESPONSE EFFORTS

Activities that would benefit the Nation by improving our ability to quickly respond to and mitigate damages from future spills include:

- **Response capacity—**NOAA's Office of Response and Restoration is fully engaged in responding to the Deepwater Horizon spill. Although unlikely, if another large spill was to occur simultaneously in another location across the United States, NOAA would have difficulty responding to its complete ability. Additional expertise in analytical chemistry, environmental chemistry, biology, oceanography, natural resource damage assessment, administrative functions, and information management would help plan and prepare activities between spills including training, development of area plans and response protocols, drafting and reviewing response job aids, and coordinating with regional responders.
- **Response effectiveness—**The use of simulated drills and the continued development of tools and strategies can only increase the effectiveness of oil spill response. Specific activities that would increase response effectiveness include:
  - ***Environmental Sensitivity Index Maps***—Environmental Sensitivity Index (ESI) maps provide information that helps reduce the environmental, economic, and social impacts from oil and chemical spills. Spill responders are

utilizing NOAA's ESI maps to identify priority areas to protect from spreading oil, develop cleanup strategies to minimize impacts to the environment and coastal communities, and reduce overall cleanup costs.

- ***Data Management Tools for Decision Making***—The key to effective emergency response is efficiently integrating current science, information technology, and real-time observational data into response decision-making. NOAA has developed the ERMA, which integrates real-time observations (e.g., NOAA National Buoy Data Center data, weather data, shoreline data, vessel traffic information, etc.) with archived data sources (e.g., NOAA's National Oceanographic Data Center's historical data) to aid in evaluating resources at risk, visualizing oil trajectories, and for planning rapid tactical response operations, injury assessment and habitat restoration. Having access to retrospective data is critical to bring value to real-time observational data being collected. For the Deepwater Horizon oil spill, certain components of the Gulf of Mexico ERMA are functional and being used on an *ad hoc* basis. The only fully functional ERMA are in the U.S. Caribbean and New England.
- ***Use of Relevant Technologies***—Better use of remote-sensing technologies, unmanned aerial vehicles, and an improved ability to access and use real-time observation systems would optimize clean-up operations. For example, when oil spreads across the water it does not do so in a uniform manner. Oil slicks can be quite patchy and vary in thickness. The effectiveness of response options—the booms, skimmers, and dispersants—depends on whether they are applied in the areas of the heaviest oil. NOAA's trajectory modeling and visual observations obtained through overflights are helping direct the application of spill technologies, but remote sensing technology could be used to more effectively detect oil, determine areas of heaviest amounts of oil, and then this information could be used to direct oil skimming operations and increase the recovery of spilled oil. Traditional methods of visual observation can be difficult at night or in low visibility conditions, as is the case with Deepwater Horizon. In such situations, enhanced remote sensing technology would allow NOAA to improve the trajectory models it produces for the Unified Command.
- ***Real-time Observation Systems—***Real-time data on currents, tides, and winds are important in driving the models that inform us on the likely trajectory of the spilled oil. As the Integrated Ocean Observing System generates more data from technological advances like high frequency radar, the prediction of oil location can be improved by pulling these observations into trajectory models in real-time.

- **Research and development—**Research and development is critical to ensure the latest science informs response efforts. Priority areas for future research and development include:
  - ***Fate and Behavior of Oil Released at Deep Depths***—A better understanding is needed of how oil behaves and disperses within the water column when released at deep depths, such as happened with the Deepwater Horizon oil spill. This is also true regarding the use of dispersants in deep water. This information is critical to develop oil spill trajectory models and improve our understanding of the potential short- and long-term effects of dispersants on the environment.
  - ***Long-Term Affects of Oil***— Spilled oil can remain on the shoreline and in wetlands and other environments for years. More than twenty years later, there is still oil in Prince William Sound from the Exxon Valdez spill. Research is needed to improve our understanding of the long-term effects of oil on sensitive and economically important species. This understanding will improve decision making during a response and allow us to determine the best approach to clean up.
  - ***Arctic***—Continued acceleration of sea-ice decline in the Arctic Ocean as a consequence of global warming may lead to increased Arctic maritime transportation and energy exploration that in turn may increase the potential of oil spills in the Arctic. Recent studies, such as the Arctic Monitoring and Assessment Programme's Oil and Gas Assessment, indicate that we currently lack the information to determine how oil will behave in icy environments or when it sinks below the surface. We also lack a basic understanding of the current environmental conditions, which is important for conducting injury assessments and developing restoration strategies.
  - ***Mapping Oil Extent***—Current use of NOAA-generated experimental products suggest that data from space-based synthetic aperture radar could assist us in detecting and refining the areal extent of oil and provide information in the decisions about where resources could be deployed.

- ***Oil Detection in Water Column and Seafloor***—In addition to depth data, modern multibeam echo sounders record acoustic returns from the water column and acoustic backscatter amplitude returns from the seafloor. In limited research applications, these systems have been able to detect oil in the water column and on the seafloor. Sensors on autonomous vehicles that detect the presence of oil and gas in the water column are another detection technology. If these technologies could be used to provide highly accurate information on where oil is, and where it isn't, such information would be of significant benefit to a spill response such as Deepwater Horizon, where timely and precise placement of limited resources are critical to mitigate spill impacts. This developmental effort could provide very useful data for later response and restoration efforts.
- ***Human Dimensions***—Research on how to incorporate impacted communities into the preparedness and response processes could help to address the human dimensions of spills, including social issues, community effects, risk communication methods, and valuation of natural resources.

CONCLUSION

NOAA will continue to provide scientific support to the Unified Command. NRDA efforts in coordination with our federal and state co-trustees have begun. I would like to assure you that we will not relent in our efforts to protect the livelihoods of Gulf Coast residents and mitigate the environmental impacts of this spill. Thank you for allowing me to testify on NOAA's response efforts. I am happy to answer any questions you may have.

The CHAIRMAN. Ms. Birnbaum.

STATEMENT OF S. ELIZABETH BIRNBAUM, DIRECTOR, MINERALS MANAGEMENT SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Ms. BIRNBAUM. Thank you, Chairman Rahall and members of the Committee, for the opportunity to discuss the Minerals Management Service's ongoing response to the explosion of the Deepwater Horizon drilling rig. Before I begin my testimony, I want to express how saddened I and all MMS staff are over the tragedy that began with the loss of life on April 20 onboard the Deepwater Horizon, and continues as we speak with the oil spill in the Gulf.

Many MMS staff have worked their entire careers to prevent this kind of thing from happening, and we will not rest until we determine the causes so that we can do everything possible to reduce the risk of its happening again.

Secretary Salazar spoke earlier about the Department's role in the unified command structure, so I would like to focus on MMS's role in the response effort. MMS has chiefly been involved in overseeing efforts to stop the flow of oil permanently, in establishing new safety measures for oil and gas drilling, and in investigating the root causes of the accident. MMS response to this incident began immediately. MMS staff were onsite at the BP and Transocean incident command post in Houston on the morning of April 21st.

The same day, MMS established an emergency operations center at our Gulf of Mexico regional office in New Orleans. By Friday, April 23rd, we had posted additional personnel at the incident command center in Houston, the MMS emergency operations center, the unified command in Robert, Louisiana, and the Coast Guard area command in New Orleans.

On April 23rd, MMS staff began overseeing BP's effort to develop an acceptable exploration plan for the two relief wells that can permanently seek the leaking well. MMS reviewed and approved all

elements in the drilling application, and required additional testing measures to increase the safety of the relief wells, which will go as deep as the original well and reach the same oil and gas reservoir. Drilling of the first relief well began on May 2nd. MMS also continues to oversee BP's efforts to close off the flow of oil at the wellhead. BP is currently attempting a top-kill procedure. As we speak, they are beginning to push drilling mud into the well at a rate that will cataract the pressure of the oil and gas, and then if the procedure is successful, seal the wellhead with cement. All of these measures have been taken with the immediate oversight of MMS, and at our urging, BP is consulting the broadest possible array of drilling engineers.

In addition to intervention at the wellhead, MMS also continues to oversee efforts to contain the oil flowing from the broken rise lying along the sea floor. The riser insertion tube tool has brought more than 20,000 barrels of oil directly to the surface and into a production vessel rather than polluting the ocean.

Another priority for MMS is to determine the root cause of these events. MMS has begun a joint investigation with the Coast Guard under the formal Marine Board procedures. In addition, Secretary Salazar has established an OCS safety oversight board at the Department to conduct a full review of offshore drilling safety and technology issues. Also, later this week, the Secretary will deliver a report to the President on interim measures that can be taken to improve the safety of OCS operations. These efforts will all support the special Presidential commission announced last week.

In addition, at the direction of the Secretary, MMS has taken several steps to increase offshore safety immediately. We issued a safety alert reminding all operators of the urgency of conducting all operations within the requirements of MMS regulations and with the highest standards of safety in mind. Our offshore inspectors made an immediate sweep of all deepwater drilling rigs, and have now moved on to a thorough inspection of all deepwater production platforms.

We have placed a temporary moratorium on the issuance of any permits for drilling new wells pending the completion of the Secretary's interim safety report to the President. This tragedy has made the importance and urgency of the Secretary's broader reform agenda for MMS ever more clear. The secretarial order signed last week will reorganize MMS into three separate entities: the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue. Over the next month, the Department will develop a schedule for implementing the reorganization in consultation with this and other jurisdictional committees.

Mr. Chairman, from the night of April 20th, MMS's highest priority has been to shut off the source of oil. I assure you that MMS staff across the Nation are fully engaged in response efforts to this tragic incident as we strive to respond to the immediate effects of the blowout and ensure greater safety for drilling operations in the future.

That concludes my prepared statement. I would be happy to answer any questions.

[The prepared statement of Ms. Birnbaum follows:]

Statement of S. Elizabeth Birnbaum, Director, Minerals Management Service, U.S. Department of the Interior

Thank you, Chairman Rahall, Ranking Member Hastings, and Members of the Committee, for the opportunity to discuss current activities at the Department of the Interior related to oil and gas exploration on the Outer Continental Shelf, and in particular, the Minerals Management Service's (MMS) participation in the ongoing response to the explosion of the Deepwater Horizon drilling rig.

Before I begin my testimony, I want to express how saddened I and all MMS staff are over the tragedy that began with the loss of life on April 20, on board the Deepwater Horizon, and continues as we speak with the oil spill in the Gulf. Many MMS staff have worked their entire careers in an effort to prevent this kind of thing from happening, and we will not rest until we determine the root causes so that we do everything possible to reduce the risk of its happening again.

The Deepwater Horizon oil spill has been declared a "spill of national significance" by the Department of Homeland Security and is of grave concern to the Minerals Management Service and the Department of the Interior. The Obama Administration and the Department are dedicating every available resource to ensure that BP and other responsible parties meet their responsibilities to stop the flow of oil and clean up the pollution, and to comprehensively and thoroughly investigate these events.

At the President's direction, his entire team is dedicated to making sure the oil spill is stopped, the cleanup is completed, and the people, the communities, and the affected environment are made whole. We are fighting the battle on many fronts. MMS has chiefly been involved in overseeing efforts to stop the flow of oil permanently, in investigating the root causes of the explosion and subsequent oil spill, and in establishing new safety measures for oil and gas drilling.

Secretary Salazar spoke before this Committee earlier about the Department's role in the Unified Command structure, so I would like to focus my testimony today on MMS's roles and activities in the response effort. At present, approximately 170 MMS employees are stationed at various locations and command stations throughout the Gulf region responding to this crisis. From the night of April 20, MMS's highest priority has been to shut off the source of oil. Permanent closure of the well will take several weeks yet as BP finishes drilling a relief well to stop the flow of oil from the damaged well at its source. In addition to authorizing the drilling of two relief wells, we also have a team stationed at BP headquarters in Houston, overseeing efforts to engineer a solution that can stop the flow of oil at the wellhead. That effort has been joined by industry experts, scientists from the Department of Energy's National Labs, and Dr. Marcia McNutt, the director of the U.S. Geological Survey, all focusing their expertise on strategies to kill the well.

MMS's response to this Deepwater Horizon event began immediately upon notification of the explosion.

Staff were dispatched to the BP and Transocean Incident Command Posts in Houston and they were on site the morning of April 21. The same day, MMS established an Emergency Operations Center at our Gulf of Mexico Regional Office in New Orleans. By Friday, April 23, we had posted additional personnel at the Incident Command Centers for BP and Transocean in Houston, and at the MMS Emergency Operations Center, the Joint Information Center (JIC), the Unified Command and the U.S. Coast Guard Area (USGC) Command in New Orleans.

On April 23, MMS staff began working closely with BP to develop an acceptable exploration plan for the two relief wells that can permanently seal the leaking well. (Only one relief well is necessary; the second is being drilled as a precautionary back-up.) By April 26, Applications for Permit to Drill (APDs) for both relief wells were submitted by BP and underwent review by MMS engineers and management. Before approving the APDs, MMS had to review and approve all elements required in the APD. Some of these elements include the safety equipment such as the blow out preventers and diverters; well design; casing, cementing and drilling fluids programs; and many others. Additional testing measures were proposed by BP and required by MMS to increase the safety of the relief wells, which will go as deep as the original well and reach the same oil and gas reservoir.

Concurrently, the drilling rigs *Development Driller III* and *Development Driller II* were being moved to the site of the Deepwater Horizon oil spill. Drilling commenced on the first relief well on May 2. MMS is actively overseeing all drilling and support operations for the relief wells, 24 hours a day—7 days a week, with MMS personnel located on the *Development Driller III* (drilling relief well #1), *Development Driller II* (drilling relief well #2), and the *Q4000* (a deepwater intervention vessel assisting in the relief well activities).

Even before the relief well plans were submitted, MMS was also overseeing BP's efforts to close off the flow of oil at the wellhead. MMS oversight of this BP effort continues to this day. Initial attempts to close the blow-out preventer (BOP) using the approved secondary mechanism of a "hot stab" from a remote operating vehicle (ROV) did not succeed. Since then, efforts to re-engineer the BOP stack while it sits on the wellhead have had varying degrees of success. BP is currently attempting a "top kill" procedure to close off the flow at the wellhead. As we speak, final preparations are being made to push drilling mud into the well at a rate that will counteract the pressure of the oil and gas, and then, if the procedure is successful, seal the wellhead with cement. Again, all of these measures have been taken with the continuous oversight of MMS, and with BP, at our urging, consulting the broadest possible array of drilling engineers.

In addition to these intervention efforts at the wellhead, MMS also has overseen the effort to engineer containment of the flow of oil from the broken riser lying along the sea floor. BP has seen some success with the riser insertion tube tool, or RITT, which has brought some oil and gas directly to the surface and into a production vessel, reducing the amount of oil that is polluting the ocean. MMS personnel are on the vessel *Enterprise* monitoring the flow of liquid as it is brought onto the ship for containment and storage.

Currently, MMS's response is varied in both technical and geographic scope. MMS engineers in Houston continue to review and provide input for various source control procedures and updates and recommendations to the MMS managers and engineers in the Unified Command in Robert, LA, prior to MMS approval of proposed activities. At the Unified Command, MMS regional managers actively participate in meetings, review and approve procedures, and provide support for ongoing Unified Command activities. MMS's regional engineers continue to provide information for the other command centers, MMS Headquarters and other Federal bodies, at the same time that they review procedures, and compile and send operation updates.

As I noted, another priority for MMS is to determine the root causes of these events. Under an agreement signed by Secretary Salazar and Secretary Napolitano, we have begun a joint investigation between the Coast Guard and MMS under the Coast Guard's formal Marine Board procedures to discover the root causes of the explosion and the resulting oil spill. That investigation will take several months. One major factor affecting this timeline is that investigators will need access to the BOP stack that must remain on the seabed until the well is permanently sealed. In addition, Secretary Salazar has established an Outer Continental Shelf Safety Oversight Board to conduct a full review of offshore drilling safety and technology issues. Also, later this week, the Secretary will deliver a report to the President on interim measures that can be taken to improve the safety of Outer Continental Shelf operations. And, at the request of the Secretary, the National Academy of Engineering, a highly regarded organization affiliated with the National Academy of Sciences, will conduct an independent, science-based analysis of the root causes of the Deepwater Horizon oil spill so that corrective steps can be taken to address any engineering or mechanical shortcomings that may be uncovered. These efforts will all support the larger investigation the President has announced, which will be conducted by a special Presidential commission.

In addition to shutting down this well and investigating the root causes of the events, the MMS has taken several steps to increase offshore safety at the direction of the Secretary. We issued a safety alert to all operators reminding them of the urgency of conducting all operations within the requirements of MMS regulations and with the highest standards of safety in mind. Our offshore inspectors made an immediate sweep of inspections of all deepwater (water depth of 1000 feet or greater) rigs, and have now moved on to a thorough inspection tour of all deepwater production platforms. In accordance with the Secretary's direction, we also have placed a temporary moratorium on issuance of any permits for drilling new wells, pending the completion of the Secretary's report to the President regarding interim measures to increase drilling safety.

Broader reforms at MMS are also in the works. This tragedy and the massive spill for which BP and others bear responsibility have made the importance and urgency of the Secretary's reform agenda ever more clear. The Minerals Management Service has three distinct and conflicting missions—enforcement, energy development, and revenue collection—that must be divided. The Secretarial Order that Secretary Salazar signed last week will establish three separate entities as follows:

- The ***Bureau of Ocean Energy Management*** will be a new bureau under the supervision of the Assistant Secretary for Land and Minerals Management that will be responsible for the sustainable development of the Outer Continental Shelf's conventional and renewable energy and mineral resources, including resource evaluation, planning, and other activities related to leasing.

- The ***Bureau of Safety and Environmental Enforcement*** will be a new bureau under the supervision of the Assistant Secretary for Land and Minerals Management that will be responsible for ensuring comprehensive oversight, safety, and environmental protection in all offshore energy activities.
- The ***Office of Natural Resources Revenue*** will be a new office under the supervision of the Assistant Secretary for Policy, Management, and Budget that will be responsible for the royalty and revenue management function including the collection and distribution of revenue, auditing and compliance, and asset management.

Over the next month, the Department will develop a schedule for implementing the reorganization in consultation with this and other jurisdictional Congressional committees. This reorganization will strengthen oversight of offshore energy operations, improve the structure for revenue and royalty collections on behalf of the American people, and help our nation build the clean energy future we need.

I assure you that MMS staff across the nation are fully engaged in response efforts to this tragedy, supporting our team members in the Gulf of Mexico Region, the Department and the Unified Command by providing information and personnel to support any necessary decisions and activities as we strive to respond to the immediate effects of this tragedy and ensure greater safety for drilling operations in the future.

Mr. Chairman, that concludes my prepared statement. I would be happy to respond to questions you or Members of the Committee have.

The CHAIRMAN. Thank you. The Chair does wish to thank all of you for your service, and we know that this tragedy has put particular pressures upon each of your agencies and yourselves as well, and we do appreciate the sacrifices you have been making.

Let me ask my first question of Admiral Watson. As was made clear at last week's Transportation Committee hearing, the Coast Guard does not directly review the oil spill response plans that are filed with MMS. I think that needs to be changed. We should not just assume that these plans are consistent with Coast Guard procedures.

I also believe we are going to need more response planning for each new well, not just relying on a regional plan. My question would be, would the Coast Guard have the resources necessary to review all of these plans if Congress mandated it? In other words, what I would like to see here is a better communication between MMS and the Coast Guard. I believe you should be talking with each other about reviewing these plans, and not just relying upon assurances from the oil companies that if a bust were to occur, that all is going to be OK, we can handle it. That seems to be what is happened in this particular case, and it would appear that if there had been better communication beforehand between you and MMS, perhaps we would have had a better response plan.

Admiral WATSON. Yes, sir. I think I agree with you that we would need more resources for that kind of a program. We do review plans for all tank vessels and all non-tank vessels and put a Coast Guard stamp of approval on those plans. And when they are reviewed, the review is integrated with our knowledge of our own response capabilities, as well as those of the response industry that is out there that the companies who submit these plans are referring to in their plans.

And then in addition to that, we have local area committees, as well as regional response teams and their regional plans, to know specifically what the requirements might be were a certain quantity of oil to be spilled in a certain location.

So I think there could be some improvement for the mobile offshore drilling rigs if we were to collaborate a little bit better with MMS on the review and approval of those plants. It is hard for me to estimate the amount of extra manpower we would need to do that at this time.

The CHAIRMAN. Ms. Birnbaum, do you wish to comment on that?

Ms. BIRNBAUM. Yes. MMS is given the primary responsibility for reviewing offshore drilling oil spill response plans under the executive order dividing up the responsibilities under the OPA. We have made those plans available to the Coast Guard to review, as well as doing our own review. But I think that we are all learning from this incident that we would probably do well to coordinate more closely on the review of those plans.

The CHAIRMAN. While many people may criticize the response to the Deepwater Horizon disaster, it occurred in the Gulf, which has a long history of oil and gas development, and as such has an infrastructure in place to respond to incidents. I do not believe such an infrastructure is in place in the Atlantic Coast, however, where oil and gas leasing is being contemplated, particularly off the coast of Virginia.

Does the area contingency plan around Virginia envision responding to an event like what we are grappling with in the Gulf of Mexico?

Admiral WATSON. Sir, I have not reviewed the area contingency plan for Virginia specifically, but I have a lot of experience in different parts of the country, including Savannah, Georgia—I was there—Miami, Florida, San Diego, California. And in general, there is not an assumption that there is going to be an open well that is emitting oil continuously for over a month in any of those plans. And so even in the Gulf of Mexico, that was not, I do not think, an assumption that was built into the area contingency plans.

The CHAIRMAN. Let me ask NOAA and MMS. It has been alleged that MMS repeatedly approved lease sales, exploration permits, and plans, and development plans in the Gulf of Mexico without conducting the necessary consultations required to protect endangered species and marine mammals. Is this true?

Ms. BIRNBAUM. Under the Endangered Species Act, we have consulted with the Fish and Wildlife Service. We have one biological opinion for sperm whales that governs our activities in the Gulf of Mexico. And we conducted an informal consultation indicating that there were no other species for which they believed their biological opinion was to be necessary.

With respect to NOAA, NOAA has the lead on whether MMPA consultations are necessary, and I will let Director Lubchenco speak to that.

Dr. LUBCHENCO. Mr. Chairman, we have provided general comments to MMS on five-year plans, on their NEPA analyses, and associated biological opinions in the Gulf of Mexico. And I think it is fair to say that in our comments, we have expressed concern about possible consequences of oil spilled on species at risk, but we have not independently evaluated or calculated the risk of oil spills. And we have taken MMS's calculations about the estimated likelihood of a spill. And I think it is appropriate to review the processes that are used in doing that.

The CHAIRMAN. So do you feel your recommendations, NOAA's recommendations, are taken into account by MMS? Or are they just put on a shelf?

Dr. LUBCHENCO. Mr. Chairman, we submit comments as part of a formal process when they are invited. There is no formal mechanism on a routine basis for MMS replying back to us.

The CHAIRMAN. When invited. You are not required to submit such?

Dr. LUBCHENCO. We are required. So MMS prepares a five-year plan, for example. We provide comments on that five-year plan. And in many cases, those comments may be incorporated into a decision or not. We do not have any authority in this manner. We simply are in a position of providing comments. And MMS can use those comments as they choose. In some cases, it is pretty clear that comments have influenced a decision and changed things. In many cases, they have not.

The CHAIRMAN. Nice diplomatic answer. Thank you. The gentleman from Louisiana.

Mr. CASSIDY. First, I will make a comment, probably addressed to all three. But it is fairly clear to me that there was no gaming out of a deepwater spill. And so fairly clear about that.

Second, I am very frustrated, Dr. Lubchenco. I am sorry. I am from Louisiana, and we have been putting all this money into the Minerals Management Services. Here I see your testimony, in which you say, well, future research and development, the fate and behavior of oil released at deep depths. Then I look at my 2003 National Research Council book, Oil and the Fate of Oil in the Sea, and it says, "MMS, Coast Guard, and NOAA should come together to study the fate of oil released into the sea."

Now, this is 2003. The only thing we are going to add here is the adjective "deep." But I gather despite these recommendations—and granted, this is before your beat. I will be fair, although I gather that nothing has happened in the last year and a half, as far as I can tell. And I am sorry if I am letting my frustration bubble out. I would like your comments on that. Why are we still talking about seven years later something that in 2003 was recommended, and now we do not know how that deepwater plume is going? We do not know what its long-term effect is going to be. We do not know what those dispersants are going to do. I am sorry. Any comments, Dr. Lubchenco?

Dr. LUBCHENCO. Yes, Congressman. I share your frustration that we have not as much information about the transport and impact of oil in the Gulf as we should.

Mr. CASSIDY. And so it really seems as if our spills of national significance have ignored the fact that as we go to the OCS, it changes the dynamic. And so that is why when I hear that there is a whole crowd of people out in the Gulf of Mexico with a great response, I am thinking, you would not need that crowd if we had had better planning. No offense. But it takes more people to clean up a mess than it does if the mess does not occur. And so if we had actually planned in the deepwater spill, I have a sense that we would not need this huge number of people, and we would have a better effect. That is just an editorial comment.

I looked on your NOAA ship tracker. Now as best as I can tell, the Gordon Gunter arrived I guess in the last three days. The Pisces went to port roughly around Biloxi and has not been out. And then the Thomas Jefferson is out there now, but was not out there before. It seems like the NOAA research ships have been fairly late to the game. Why weren't they deployed right after—if we are looking at the plume, why weren't they deployed right after the spill?

Dr. LUBCHENCO. Congressman, each of those ships was involved in a particular activity, and we have repurposed those ships, turned them around, refitted the equipment that they need to do these particular jobs as rapidly as was possible. The Thomas Jefferson, for example——

Mr. CASSIDY. So I understand that, and I accept that. So why not contract with a private entity?

Dr. LUBCHENCO. We have in fact done that. We have reached out to our academic partners and utilized the vessels that they have, and we have also been contracting with fishing vessels to help acquire additional information.

Mr. CASSIDY. Now, I am told that for deepwater, those are typically limited, that things like gliders or ROVs would be of help. Woods Hole has an ROV. Has that been deployed? Or are we depending entirely upon industries ROVs for the deepwater analysis?

Dr. LUBCHENCO. We have had good communications with the research institutions that have ROV capabilities, have remobilized some of them to the Gulf. They have been——

Mr. CASSIDY. So there are research ROVs in the Gulf right now?

Dr. LUBCHENCO. Yes, sir, there are. There is one from the Monterey Bay Aquarium Research Institute that is in the Gulf. It has been in the Gulf waiting. It was our hope that it could be taking data in the vicinity of the plume and help us get better information on the flow rates, but that has not been the highest priority, and there was concern that I believe is legitimate concern about possibly interfering with the efforts to stop the flow of oil. And so that and other ROVs are being considered to do other tasks in the area, not simply getting better information about the flow rate.

Mr. CASSIDY. OK. Ms. Birnbaum, the advanced drilling permit. BP has released information, and as I have discussed this with folks, one of the things it shows is, as we know, there seems to be a pressure leak. It may have been a seal; it may have been the shoe. Their concern is now that the mud—when they laid the cement at the end, just before the explosion, they evacuated all of the mud, and it was only seawater providing downward pressure upon the bubbling gas. That is as it was explained to me by people who know far more than me.

I guess my question is, did MMS have to sign off on that, or is that something that is within the flexibility of the decision to allow a drilling project?

Ms. BIRNBAUM. First, I cannot speculate on what happened with this particular well while the investigation is going on. I have heard a lot of reports about things that might have happened, and we have seen BP's account of it. But again, that is from one of the interested parties. We have a joint investigation going on. And the particular——

Mr. CASSIDY. Now, the only reason I say that is because the E&C Committee has released the BP document in which they show the diagrams.

Ms. BIRNBAUM. I agree. BP has given their version of the story. However, I will speak to the general question, which is that the replacement of drilling mud with seawater is a normal part of the course of completing a well. In order to keep the drilling mud from polluting the ocean, we require that it be brought back up into the drilling rig. It is not supposed to be done until the well is sealed and under control. If that was a contributing factor, then obviously that was not done in accordance with our regulations.

Mr. CASSIDY. So the ADP—I do not know. I am not challenging you; I am just asking for clarify. So the ADP would have said, keep the mud in there until you have sealed it. And if it turns out the hypothetical is true, that they removed the mud before they finished sealing the cement, that would have been in contradiction to your normal operating procedures.

Ms. BIRNBAUM. To our regulations, correct.

Mr. CASSIDY. OK. Let us see. Paper, paper everywhere, and I cannot find my questions now. I will yield back, and I will come back. Thank you.

The CHAIRMAN. The gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. Admiral, I am bit confused, and this seems to fall in the jurisdiction of Coast Guard and EPA about the dispersant issue. It was an order, it seems to me, was sent to BP, saying, we want you to use—to limit or eliminate the use of Corexit because it is highly ineffective and highly toxic. If you look at the schedule of the 18 approved substances, it is one of the least effective and one of the most toxic. And substitute something else. BP essentially ignored that order and has continued to use Corexit. The EPA has said they are disappointed in the response. I mean, at what point can we just order them to do something in this case?

Admiral WATSON. Sir, we can order them at any point. That is the role of the Federal on-scene coordinator when it becomes necessary. The challenge I think that we were having as a unified command there is the primary mission—and we hope it will be satisfied today through the process—is to shut this well in. And the sub-sea dispersant, the sub-sea use of that Corexit was not only dispersing the oil, but it was also knocking down the volatile organic compounds that come up from that well right into the area where all of these vessels are working on the surface to cap that well.

And so we were convinced that we needed to continue with those dispersant applications sub-sea.

Mr. DEFAZIO. But I guess the question is they do have 100,000 gallons of an alternative on-hand, something called Sea Brat No. 4, which can potentially degrade, one very small fragment of it, to a potential endocrine disruptor. But there are a whole lot of other things going on with Corexit that we know are very toxic to the marine environment, living things generally. And the question is, if we had concerns about the toxicity—and also, Sea Brat is considered to be much more effective as a dispersant—why wouldn't we order them to use that, and then place orders for other things from

the list which are even less toxic than Sea Brat and even more effective, because their excuse is, well, we did not order them, and it would take them 10 to 14 days to get it to us.

Now if they fail today, we are now a week down the road where they haven't placed an order for something less toxic and more effective that we might need over the next two months if they are not done today. So why wouldn't we have had them substitute at least the less toxic one in the interim since we expressed concern with that 100,000 gallons, which seems would have taken them through this operation today? And why don't we have in place an order saying, OK, we are concerned about the gas reaching the surface and that. Use what you have, but we want you to place an order for one of these others, or this one, however you want to do it, that is much less toxic and much effective. And as soon as you have an adequate supply, substitute it.

It seems to me we are just not looking for—we are going to let them coast another few days. This stuff is horrendous so far as I can tell looking at the EPA chart. It is the second most toxic of the 18.

Admiral WATSON. Yes, sir. I cannot answer your question about relative toxicity. I can answer——

Mr. DEFAZIO. Well, I am just going from the EPA chart. And I am puzzled that the EPA administrator, who unfortunately is not here, says, well, we want to do our own tests. Well, you have already done tests. You already have the results. You have already got a handy-dandy grid. But we are going to do more tests and let them keep using Corexit, which is at the really bottom of the barrel here, so to speak? And Exxon-Mobile and BP happen to be involved with the company that makes Corexit, strangely enough.

Admiral WATSON. Right. The reason I think that they use Corexit—it has been used by far more than any other dispersant over the history of using dispersants.

Mr. DEFAZIO. Sure. And it has been banned in Britain, and it is 20 years out of—you know, it is more than a 20-, 25-year old chemical. There are new compounds out there. I understand. But the question is, so you do not—let me perhaps turn to Dr. Lubchenco then. Are you concerned about the toxicity of this stuff and what it is going to do to the food chain and/or also about this subsurface dispersing of the oil and what that means in the water column?

Dr. LUBCHENCO. Congressman, I am concerned. And I think the real concern is the total volume of dispersants that have been used. I think we do not have any idea what the full consequences of that is. I think that we need to—it is probably time to take a good hard look at the dispersants that are on that list and what the protocols are for using them. I do not think that it was ever envisioned that they would be used subsurface or in this particular volume. And those raise some totally new questions.

I think it is important to take into account that dispersants in general are less toxic than the oil. And so this is a situation where there is no really good outcome here. We are starting with a really bad situation, and the question is, can you make it better. And we only have partial information to make that decision.

Mr. DEFAZIO. But if after today they are not successful in their top shot, it would seem to me that we would want to move with

some more dispatch to determining what is the best alternative in terms of dispersants for the next two months until they can intercept this well. And I would hope that the Coast Guard would agree with that. And I certainly will be in touch with the EPA because we can just keep kicking this can down the road. They have an interest in Corexit; they can get an infinite supply of it from their company in which they have an interest. But we know it is pretty bad stuff. It may be effective. It may have been used a lot. But it has been banned in Britain. There are other alternatives that have been rated both for their dispersal capabilities in certain conditions with certain oils, and there are many things on the list which seem to be much preferable to what is being used.

So, Admiral, do you have something?

Admiral WATSON. Yes, sir. I just wanted to say that that requirement has been placed onto BP. They are under an order that has been coordinated between the Coast Guard and EPA to evaluate all the dispersants on the list. There are various problems of delivery of——

Mr. DEFAZIO. I have their——

Admiral WATSON. Yes, sir. That is it. And they are going through that list, and we are going to continue to press them for another dispersant.

Mr. DEFAZIO. Well, I have been contacted by one of the manufacturers. It is something that is rated as much less toxic and much more effective, and that BP said, well, we would consider using yours if you will give Exxon all the proprietary information about your chemical. Exxon happens to be a competitor in this.

So somehow we do not have the proprietary information about Corexit, and we cannot provide it to the public, and we do not know what to look for in the fish and the shellfish and everything else in terms of toxic chemicals that are going to be in the food chain. But someone who wants to compete with them with something that is rated much less toxic has to provide them with all the proprietary information.

I do not think this is a straight-up game, and I do not think the response—you know, this was a non-response really, you know. And I would be insulted if I had ordered them to honestly evaluate alternatives, and I got this letter. And I would hope that the Coast Guard and the EPA feel insulted, more so than the rather bizarre and benign response I have seen in the press so far. And I understand if the total focus was on today's top shot, and you want to keep putting junk in there to try and keep the stuff from welling up to the surface, endangering the people who are working there. But I think if that does not work after today, you really have to get serious about this in terms of what the alternatives are not let them play games with you on it.

Admiral WATSON. Yes, sir. I agree. And those same sentiments were expressed in the meeting with BP following the receipt of that letter.

Mr. DEFAZIO. OK. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. The gentlelady from Wyoming, Ms. Lummis.

Ms. LUMMIS. Thank you, Mr. Chairman. Questions for Rear Admiral Watson. There is Congressional Research Service report that was conducted after the 2004 spill of national significance exercise

that indicated that oil spill response personnel did not appear to have even a basic knowledge of the equipment required to support salvage or spill cleanup operations.

There was a shortage of personnel with experience to fill key positions. Many middle-level spill management staff had never worked a large spill, and some had never been involved in an exercise. As a result, some issues and complex processes unique to spill response were not effectively addressed, which is exactly what you want to learn during an exercise. That is the whole point of an exercise.

So my question is, what steps have been taken since the 2004 exercise to address the concerns discussed in the CRS report and then the after-action report?

Admiral WATSON. I think that the report was making reference to the fact that we have fewer people in the Coast Guard and in the response community that have actually been involved with large oil spills.

Ms. LUMMIS. Yes.

Admiral WATSON. The number of large oil spills has dramatically decreased since OPA '90, and therefore, you do not have those people that have experienced the real thing. Now, that is changing very quickly right now as we cycle people through and are getting the experience with the Deepwater Horizon spill.

But at that time, I think that was an accurate statement. Our exercise program has been consistent. It is mandated by law and by regulation. And I am not aware that there has been any specific change to the regulations. In order for us to have an oil spill exercise that is meaningful, it has to involve all of the involved parties, which is state, local, Federal, and a responsible party. We rotate the responsible party role through the oil companies, the waterfront facilities that store oil, and any other entity that has large quantities of oil and has a spill contingency plan.

So what we have tried to do since that report is to ensure that those exercises are distributed equally around the country so that if CRS goes to a place, they will at least find that there is a certain level of readiness and competency.

Ms. LUMMIS. Yes. I appreciate your response because the good news is there have been fewer oil spills. The bad news is there is very little expertise out there as a consequence of that that knows how to react and act accordingly. So it has created, I think, a situation where we have this massive oil spill of perhaps a lack of preparedness simply because of the lack of experience.

What changes when a spill of national significance declaration is made?

Admiral WATSON. We identify—well, it is really the commandant's responsibility to identify who the national incident commander shall be. In this case, he selected to keep it at his level. He could have delegated it, but it basically is a plan that moves some of the authorities of the Federal on-scene coordinator up to another level so that big policy decisions and certain decisions that probably would be beyond a district commander in our case, who is the predesignated Federal on-scene coordinator, who can manage things within a district, but not at the national level.

So a spill of national significance is really for the purpose of having a decision-making authority that can handle national implications, and decision-making that goes on during an oil spill.

Ms. LUMMIS. OK. Ultimately, who is in charge of this oil spill and this cleanup, ultimately? Is it the President? Is it a Cabinet Secretary? Who is the top person who is calling the shots on this oil spill?

Admiral WATSON. Well, certainly everyone involved listens to the President, and he is in charge. The role of being in command of the oil spill operation is the national incident commander. And then at the ground level, in Louisiana, Mississippi, Alabama, that is Admiral Landry right now, and she is fully empowered with the authority to make most of those tactical decisions, and she does on a daily basis.

We have certainly given a lot of orders to the responsible party. We have also made decisions that involve the state and the locals and other Federal agencies.

Ms. LUMMIS. Does the admiral contact the President on a regular basis? Do they speak regularly? Do they speak daily?

Admiral WATSON. Admiral Allen is in regular contact with the President, yes.

Ms. LUMMIS. And then does she have coordinating authority over the Secretary of Homeland Security, the Security of the Interior? How do they interface with the admiral?

Admiral WATSON. The Secretary of Homeland Security is on daily phone calls. She gets a daily report, I think twice a day. She has been into the area. She gets her information on a regular basis from Admiral Allen, and is usually involved every time there is communication to the President. At the area command level, where I am involved with Admiral Landry, we are constantly feeding information up to the national incident commander. He has a staff here in Washington, and they distribute that to all of the involved departments and agencies of the Federal government.

Ms. LUMMIS. Including the Secretary of the Interior?

Admiral WATSON. Yes, ma'am.

Ms. LUMMIS. OK. So the Secretary of the Interior, if you were to put together an organizational chart on the response team, what would it look like?

Admiral WATSON. Well, the individual secretaries and agency heads are still independent of the response organization. They are getting a constant feed of information. There is a national response team that is a preorganized body to help facilitate that, and they are being used every day in a teleconference to ensure that that information is flowing. But we have seen all of the involved administrators and secretaries participating on teleconferences almost daily, and also visits to the site.

As far as the actual response organization, it starts with Admiral Allen as the national incident commander who has a staff, as I said, to manage these national decisions. But he refrains from directing the oil spill at the regional and local levels. At the regional level, that is where the area command operates, Admiral Landry, and her area of responsibility in her normal assignment is the Eighth Coast Guard District. Most of this impact is in the Eighth

Coast Guard District, and she is very familiar with the impacted area and the resources available there.

And then the next level down is the incident command level, which generally aligns with our sector organizations. These are the captains who work for the admiral, and we have incident commanders in Houma and in Mobile, and then we have another incident command in Florida that is at a much lower scale right now because there really has not been any direct impact on Florida.

Ms. LUMMIS. And you have been gracious, Mr. Chairman. May I ask one more question? And that is how the Governors interface with this discussion.

Admiral WATSON. At the incident command level and at the area command level, there is a unified command. So there is going to be a Federal on-scene coordinator, a state on-scene coordinator, and a representative of the responsible party with decision-making authority. Those three people at each of those two levels are in continuous contact. They are co-located physically, and they move together, and they make decisions together. And if you are wondering how they make a decision if they disagree, the Coast Guard Federal on-scene coordinator has the 51 percent vote.

Ms. LUMMIS. OK. Mr. Chairman, thank you for indulging my creative timekeeping.

The CHAIRMAN. The gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you very much. And now I will be quick, knowing the Chairman will not extend the graciousness to me, but that is OK. Director Birnbaum, every environmental compliance document that is currently in place for every offshore energy project in U.S. waters is based on at least in part the effectiveness of blowout preventors. Now we have some information. Blowout preventors are capable of huge failures, proven in this case. The agency that is responsible and tasked with inspecting these pieces has been in independent reviews seen as far too cozy with industry, and it raises serious doubts about the due diligence regarding the inspection of these pieces.

So my question is, so is it not clear that every single environmental compliance document currently in place for an offshore project needs to be re-done from scratch if we have based it on a premise and there are some questions about the effectiveness of the agency itself?

Ms. BIRNBAUM. Congressman Grijalva, we have been reviewing every aspect of our safety regulations as a result of what we have learned from this incident and the potential causes of it. As the Secretary said, we are going to be providing an interim safety measures report to the President. He will be providing that to the President tomorrow, I believe. That is not the end of our review of our regulatory structure. We will be going forward to determine whether there are additional regulatory requirements we should include, additional inspects we should include, and so on, throughout every aspect of our safety regulation in the offshore.

That will include review of environmental documents. I cannot speak to that at this point, though.

Mr. GRIJALVA. OK. Just a follow-up, Director. Last October, MMS sent a letter to an environmental group, the Food and Water Watch, explaining that MMS regulations do not require a company

to have a complete and accurate set of as-built drawings for their sea floor components. They only need to have as-built documents. They do not have to be complete or accurate. Does this particular regulation make any sense, and shouldn't we care about the accuracy of those?

Ms. BIRNBAUM. I actually think that is a little bit of a mischaracterization of what the letter said. I believe that what we said was that they are required to have those documents. We do not in the normal course review every document with respect to every platform for its accuracy. You and several other members have now sent us a letter asking that we make that review for the Atlantis platform owned by BP. We have been conducting that review. I am actually glad you asked about this because we had promised you a report on that by the end of May. Unfortunately, the team that was doing the audit of the Atlantis documents in Houston at BP headquarters had to pause for awhile after this incident because the facility was being used for the response to Deepwater Horizon.

We have now made arrangements to continue our audit of all of the as-built drawings for the Atlantic platform, and we are continuing that, but we will not be able to get you the response as quickly as we hoped. It is going to be delayed a couple of weeks.

In addition, however, I will assure you on an interim basis we have at this point found nothing that indicates that there is a problem with the as-built drawings, and we have conducted many safety surveys of the Atlantic platform in addition to regular inspections of that Atlantis platform since it has been in service. And so we have found anything that would suggest that it needs to be shut in, as Food and Water Watch has suggested.

Mr. GRIJALVA. For the NOAA Director, with the existing technology that is out there, is there any way to deal with a similar blowout that could occur, or should one occur in the Arctic region? With technology at hand, could we deal with a blowout there?

Dr. LUBCHENCO. That is not really NOAA's area of responsibility or expertise. We do not deal with those blowouts. Our responsibilities come into play if there is a spill. Then we help guide attempts to contain and mitigate the oil. So I would defer to one of my colleagues for a response to that.

Mr. GRIJALVA. Admiral?

Admiral WATSON. That is something that we clearly are concerned about. If this sort of situation were to occur in the Arctic, have the plans and the equipment and the training been pre-established so we do not have to invent it after it occurs. And I do not think it has.

Mr. GRIJALVA. Thank you. And, Director Birnbaum, the last point. In the Clean Water Act—and Congressman Markey spoke to another part of it—there is a civil fine beyond the $75 million cap on compensation and economic damages. The act allows the government to seek civil penalties in court for every barrel into U.S. waters. That would end up—I think the fine is $4,300 per barrel. Where is that decision—or anybody. Where is that decision to pursue a civil recourse to get additional economic damages above the cap? Where does that decision rest? Who makes it?

Ms. BIRNBAUM. I believe the Department of Justice is reviewing all avenues for civil and criminal penalties in this incident, but they will not make a determination on that until there has been further investigation of the causes. But that would be a question best directed to the Department of Justice.

Mr. GRIJALVA. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman. Let me ask a question first regarding the Coast Guard. Within the first seven days after the explosion, Admiral, how many Coast Guard vessels were directed to that area in the Gulf?

Admiral WATSON. I think there were three, sir. There was the initial search and rescue in which there was at least two, and mostly we were searching——

Mr. GOHMERT. Were those helicopters or——

Admiral WATSON.—with helicopters. Yes, sir. We could reach that location from shore, from Mobile and from Air Station New Orleans.

Mr. GOHMERT. OK. How many ships were directed to that area?

Admiral WATSON. There were I believe two patrol boats. And then shortly after that, within those seven days, there was a 270-foot medium endurance cutter.

Mr. GOHMERT. OK. Now, 37 days later, how many Coast Guard vessels have been directed to that area?

Admiral WATSON. Sir, we have a class of 225-foot buoy tender, which was built in the early '90s following OPA '90, which is equipped with skimmers.

Mr. GOHMERT. OK. But just how many vessels. My time is so short.

Admiral WATSON. And there has been a total of four different vessels of that class operating at different times, no less than two at any given time.

Mr. GOHMERT. Well, having been in the Army, I know you cannot question an order by the commander-in-chief, but let me ask it. Was it your recommendation that the Administration, as it is now put forward, cut the Coast Guard by $75 million, which would mean nearly 1,000 personnel less, five cutters less, and several less aircraft? Was that part of your proposal?

Admiral WATSON. Sir, that is in the 2000——

Mr. GOHMERT. Oh, I know it is. I am asking if that was your proposal.

Admiral WATSON. I am not the budget officer of the Coast Guard right now. I am the Director of Operations.

Mr. GOHMERT. But you think that is a good idea?

Admiral WATSON. I have no comment on the budget, sir.

Mr. GOHMERT. Let me go over to the MMS. Was the blowout preventor on this well tested within two weeks of it actually blowing out and malfunctioning?

Ms. BIRNBAUM. We believe that it was.

Mr. GOHMERT. You believe that it was? Do you have the authority to check with people at the MMS to find out whether or not they tested this blowout preventor?

Ms. BIRNBAUM. The blowout preventors are tested by the operator, not by MMS. MMS reviews blowout preventor tests, some-

times observes them, but they are conducted by the operator and maintained in the operator's documents. We have——

Mr. GOHMERT. So if BP says we have tested it, take our word for it, it is great, then that is what you do.

Ms. BIRNBAUM. We have obtained documentation from the operator, but we observe some tests. We do not observe them all.

Mr. GOHMERT. But you take their word for it that they test it——

Ms. BIRNBAUM. They are required to maintain documentation of numerous testing requirements on drilling rigs. Since we are not there every day, we do not observe every test. If they were to lie to us, they would be subject to criminal penalties.

Mr. GOHMERT. Right. That wasn't my question. Yes, there are a lot of criminal penalties that may go around here by the time we are finished with this operation. That is not the issue. The issue is what did whom do and when did they do it, or not do it. And so I am wanting to know is it true that BP was given a waiver of the mitigation plan for this kind of blowout by MMS?

Ms. BIRNBAUM. No, that is not correct.

Mr. GOHMERT. OK. So they had to——

Ms. BIRNBAUM. EPA has an oil spill response plan for the Gulf region which covers this kind of incident. And when this exploration plan was approved, it was approved with the knowledge that the blowout scenario within that oil spill response plan was sufficient to cover this particular——

Mr. GOHMERT. OK. So you were satisfied with the blowout response plan that was provided by BP. I get it.

Ms. BIRNBAUM. We approved it. I will say that we are now reviewing what the standards are for blowout response plans and whether they ought to be revised along with all of our other regulatory——

Mr. GOHMERT. Oh, really? You think it might have been inadequate?

Ms. BIRNBAUM. We are reviewing all of our regulatory standards as a result of this incident.

Mr. GOHMERT. Well, now the New York Times, in their article about MMS said, quote, that it was an agency, quote, "widely recognized as one of the most dysfunctional in government." And some of us that have been in the Army or done different things for the government, we know—like for the last two nights, I have not gotten more than two hours sleep either, not because I had a lot to do to prepare, but as I understand it, the MMS is the only unionized group within the Department of the Interior.

I am wondering, does the union have restrictions on how much travel these inspectors can do, how many hours a day they might can work?

Ms. BIRNBAUM. I have no idea whether MMS has the only union within the Department of the Interior. I sincerely doubt that that is correct, and I actually do not know what the union rules might be. But MMS has rules for how much inspectors work and how much they travel.

Mr. GOHMERT. So you do not know if there is a limit on how much you are allowed to make them work or inspect within a given time?

Ms. BIRNBAUM. They are subject to civil service regulations, sir.

Mr. GOHMERT. Right. And as I understand it, the proposal is to divide your agency, and basically we will get twice the government for twice the price. Is that what you understand?

Ms. BIRNBAUM. I believe that Secretary Salazar has identified what is an inherent conflict in the Outer Continental Shelf Lands Act, which requires MMS both to promote the orderly development of offshore oil and gas resources and guarantee environmental and human safety. What he has suggested is that the existing structure be divided so that actually there will be three entities. The royalty management system, which is already separate within MMS, would move into the Assistant Secretary for Policy Management and Budget. The offshore safety requirements would move into a new Bureau of Safety and Environmental Enforcement, which would comprise some of the current employees of MMS, and a separate bureau also under the Assistant Secretary for Land and Minerals Management with the Bureau of Ocean Energy Management, which would comprise another group of the employees within MMS.

That is an effort to separate those that deal with that inherent tension and separate those roles.

Mr. GOHMERT. You mentioned that before already, and I appreciate your answers. And I say apparently our solution when something does not work is divide it into three and make it bigger. So thank you.

The CHAIRMAN. The gentlelady from Guam, Ms. Bordallo.

Ms. BORDALLO. Thank you, Mr. Chairman. I have a question for Ms. Birnbaum. This morning, Mr. Miller raised the important point that more than 40 years after the Santa Barbara oil spill, we are today still using basically the same methods and technologies to respond to oil spills. Now, I find this rather surprising and certainly unfortunate.

The Minerals Management Service has had in place for over 25 years a technology assessment and research program established in part to improve our knowledge and technology to detect, contain, and clean up oil spills. So I would like to know the following. If it appears clear that no new innovations in response technologies have been developed for more than 40 years, what has this research program been doing for more than 25 years?

Ms. BIRNBAUM. Congresswoman Bordallo, I would be happy to give you a list of all of the studies that have been conducted by our oil spill research program over the last 25 years. They have been extensive. They have looked at oil spill travel. They have looked at fate effects. They have also looked at technologies. We also operate in the Leonardo, New Jersey an oil spill test facility that serves to train responders as well as testing new equipment, and more recently has been moved also into testing renewable energy devices, which also it turns out can be tested very well in that tank.

Ms. BORDALLO. Well, I understand that. But in all of those years, you have never found something that would have attracted your attention to improving on the technology?

Ms. BIRNBAUM. Again, I can supply you with the full list of all the studies we have conducted. There have been some upgrades in equipment. However, I have to say, I agree with Congressman Mil-

ler. We have not found something that will ensure that we can remove oil from water.

Ms. BORDALLO. Well, thank you. Admiral Watson, do you think that cleanup technology and capabilities that equals the risk should be a requirement of exploration and drilling plans?

Admiral WATSON. Yes, ma'am.

Ms. BORDALLO. All right. And I have another question for you and Dr. Lubchenco. A 2003 report by the National Research Council predicted that the oil in a deepwater blowout could break into fine droplets, forming subsurface plumes of oil. Now, given that this was a known outcome of a deepwater spill, was the need to respond to these plumes accounted for in the area contingency plan?

Admiral WATSON. I am not aware that the area contingency plan includes a response to that plume, ma'am.

Ms. BORDALLO. Do you have anything to add to that, Doctor?

Dr. LUBCHENCO. I do not believe that it is in there.

Ms. BORDALLO. I see. Then I have another question for you, Dr. Lubchenco. The Coast Guard and EPA get annual appropriations from the oil spill liability trust fund to prepare for potential oil spills, but NOAA does not. Should NOAA have access to this fund to improve their response and recovery capabilities in advance of a spill?

Dr. LUBCHENCO. You are correct that we do not have direct appropriations from that fund on an annual basis. If we did, we could utilize those funds for a number of purposes that would be immediately obviously relevant to this particular case, including additional research to understand fate and transport, to enhance our capacity to respond in circumstances like this, and a number of other areas that I would be happy to detail should you be interested in that.

Ms. BORDALLO. Have you asked for these funds? Have you requested funds?

Dr. LUBCHENCO. It is not part—that is not the way it is structured. It is not something that you ask for. My understanding is that that was a decision that was made, that there would be annual appropriations from that to certain agencies and not to others.

Ms. BORDALLO. I have another question, Doctor. Do we have any idea how repeated natural resource damages are assessed? For example, if an oiled habitat is restored, and then a hurricane moves oil back onto that same habitat, will further damages be assessed and recovered?

Dr. LUBCHENCO. Part of the natural resources damages assessment process involves evaluating the state of public resources prior to an event, and then evaluating what impact has happened as a result of the event, and then determining the types of remediation or restoration that would be appropriate, and then making that happen.

Should there be a situation where there are multiple stressors on marshes, for example, or other critical habitats, we would make every attempt to evaluate the state of the system prior to a particular impact. When this oil spill—when the explosion happened, the NOAA scientists immediately mobilized to get as much data as possible with respect to the state of many of the coastal habitats,

the marine species, especially protected species, marine mammals, turtles, our fisheries, as well as take water and chemical samples for contaminants so that we would have the most up-to-date from which to evaluate possible impacts of the oil.

So that is part of what the NOAA team has been spending a huge amount of their time and energy doing, is getting good baseline information. We have that. It is current now because it is within just the last couple of weeks. Should there be multiple stressors to those systems, that would be I think taken into account in the assessment.

Ms. BORDALLO. I have one last question for you, Doctor. The Gulf of Mexico is home to several national estuarine research reserves and two national marine sanctuaries, which generally function as sentinel sites to monitor and assess the health and the productivity of the Gulf of Mexico. What is NOAA doing to utilize these sites to track and assess the impact of the oil spill over time, and why did the Administration not specifically request additional funding to support greater observation and monitoring activities at these sites in its request for supplemental appropriations?

Dr. LUBCHENCO. We have made a special attempt to conduct the surveys that are needed to get good baseline data for those NERRs as well as for the sanctuaries, and have some ongoing monitoring in all of those to evaluate impacts of the oil. They are critically important sentinel sites. You are absolutely correct. They will be very, very valuable in helping us understand the impacts of this tragic event.

The additional resources to do that evaluation and do surveys would certainly be—would be welcome, and would be appropriate.

Ms. BORDALLO. Thank you. Thank you, Mr. Chairman, for being so gracious with the time.

The CHAIRMAN. Mr. Cassidy, you have already asked on this first round. I am sorry. Let me recognize those who have not asked on the first round. Dr. Christensen, Virgin Islands.

Ms. CHRISTENSEN. Thank you, Mr. Chairman. So there will be more rounds for questioning? Do you anticipate having a second round?

The CHAIRMAN. It looks that way.

Ms. CHRISTENSEN. OK. Well, thank you. I would like to welcome the witnesses. Dr. Lubchenco, I want to follow up on a question that the Chairman asked. The draft proposed Outer Continental Shelf oil and gas leasing program for 2010 to 2015 stated that if an oil spill occurred, habitat recovery would occur within several years, that no substantive reductions in fin fish or shellfish populations would result, and no permanent change in the population of marine mammals was expected.

Your comment letter to MMS criticized the draft plan, saying, quote, "The analysis of risks and impacts of accidental spills and chronic impacts are understated and generally not supported," end of quote. But there is another quote. And you also said, "The frequency of spills is understated in the plan." Those concerns seem particularly prophetic today. Did MMS respond to these comments in writing?

Dr. LUBCHENCO. No, they did not. But they would not routinely do so in the normal course of business. We would normally submit

our comments, and they would take them into account as they deemed most appropriate.

Ms. CHRISTENSEN. Well, did they change the draft plan to address the concerns?

Dr. LUBCHENCO. For the five-year plan, for the 2010-2015, there were some significant changes in the plan that we infer were a result of our comments because they were consistent with them, but not across the board. There were some things that were changed, and other things that were not.

Ms. CHRISTENSEN. Ms. Birnbaum, would you care to respond?

Ms. BIRNBAUM. There actually has not been a subsequent document after that draft proposed program, which was produced at the beginning of 2009. We received the comments from NOAA. What we indicated is the areas that we will continue to consider in the draft EIS, which will then produce a draft program. That draft EIS has not yet been produced and the draft program has not yet been produced. We would anticipate that in preparing those documents, we would certainly take into account NOAA's concerns and actually further consultation with NOAA's staff.

Ms. CHRISTENSEN. Thank you. I also wanted to ask Dr. Lubchenco, do you have any additional concerns or plan in place with hurricane season starting next week, on the trajectory of the spill?

Dr. LUBCHENCO. We are entering hurricane season. It does typically start June 1st. Every season is a time for preparedness on the part of anyone who is in the path of a hurricane. This year, there are particular concerns because of the spill.

Ms. CHRISTENSEN. Yes. And I am specifically asking about concerns regarding the spill.

Dr. LUBCHENCO. We do not know what impact a hurricane would have on the spill in terms of the nature of the interactions between the two. Typically, a hurricane in the Gulf would be much larger in size than the area that is represented by the spill to date, but that does not mean that there may not be interactions and consequences. We just do not have enough information to evaluate that completely.

Ms. CHRISTENSEN. And we do not know where the hurricane might be, whether it is going to be north, south of the spill.

Dr. LUBCHENCO. Exactly.

Ms. CHRISTENSEN. But I hope we are planning. And do you anticipate that the closures in this fishery in the Gulf will have any impact on the annual catch limits that we are mandated to set in the other regions by the end of the year?

Dr. LUBCHENCO. Are you asking whether—so we are closing areas of the Gulf where there is oil present, and in a buffer area around that, taking into account where we expect the oil to be going in the next few days. It is not yet clear how——

Ms. CHRISTENSEN. But, for example, if—I guess they have red snapper in the Gulf, and we have to deal with our red snapper. Is that going to impact—the closing there, could it have an impact on what the Caribbean region catch limits might be for the same fish?

Dr. LUBCHENCO. We are watching closely where the oil is and where it goes, and we are sort of staying on top of this on a day to day basis, and are looking closely at that. I think it is too early

to know for sure what kind of interactions there may be and what consequence might happen.

Ms. CHRISTENSEN. OK. Rear Admiral Watson, these questions have to do with the conditions that have to be met for deepwater oil rigs. On the—what is it—MODU certificate of compliance—and your testimonies speak to the conditions that were met with Deepwater Horizon. They had a valid COC, but it was based on the third compliance standard that you listed. I would like to know, is that the highest or the lowest standard. And standard two says that they must meet the standard of the country of origin of the company, and that would be U.K. in BP's case. And U.K., I understand, has a higher standard than the United States.

So why was it only reviewed at standard three and not at a higher standard? And are you anticipating that you will require standards at the 5,000-foot depth going forward? It just seems to me that that was a lower standard that they received their certificate at. And maybe I am incorrect.

Admiral WATSON. I think that may be a misinterpretation. There is one standard for a certificate of compliance that is based on the international maritime standard for a vessel that is operating internationally. You know, we have a——

Ms. CHRISTENSEN. Because one of three conditions must be met, and so that was number three.

Admiral WATSON. Well, I am sorry. I will have to get back to you with a more correct answer then, ma'am.

Ms. CHRISTENSEN. Well, go ahead and give your answer.

Admiral WATSON. Well, there is a domestic standard for a U.S.-flagged MODU that would be slightly different. If it was not issued an international certificate, then it would only have to meet the domestic standard. And there are some differences. It depends on the specific area that is being regulated. For example, the area of electrical or stability or structural or fire protection. There are all of those different sub-elements of a mobile offshore drilling unit. And the standards are pretty closely aligned. and then there would be deepwater rigs, and then there would be shallow water rigs.

Ms. BORDALLO [presiding]. The gentlelady's time has expired.

Ms. CHRISTENSEN. I will come back on the next round, Madame.

Ms. BORDALLO. Thank you. I would now like to recognize the gentlelady from California, Ms. Capps.

Ms. CHRISTENSEN. Everybody has used more time than I did.

Ms. CAPPS. Thank you, Madame Chair, for this long hearing, this long day. And I want to thank our panel, the third panel, both for your testimony, but also for your service at the site. You know, as the world has been riveted on the events involving Deepwater Horizon over the past several weeks, it is clear that BP has not been developing the technology equal to the technology that they developed to get to the bottom of the ocean that deep, and all of the complexities of drilling.

At the same time, the technology infrastructure to deal with disasters was sorely lacking. In fact, it appears that there has been a disregard for any responsibility by this oil company to develop any kind of contingency plan for their workforce, safety, or for any kind of disaster mitigation.

Transocean has documents stating that the recovery rate of oil from an imploding boom rarely exceeds 15 percent. Those are the same figures that they used—and I know this has been referenced. I represent the Santa Barbara Channel, and I was there in 1969, and those were the figures that were used then. And when I saw the boom let out, which was the same technique that we had for those 40 years ago, my heart sank because I realized how limited this response was going to be, given the resources at hand.

So it seems to me that the role of recovery technology is one that the Federal government must take on, clearly with the financial burden being borne by the oil industry. But clearly, the Federal government now has to rely solely on the deepwater technology which BP in this case has developed, which in itself proves to be a barrier for stopping the leak.

So my question to you, Director Birnbaum, is about the Department and any plans that you might have to expand existing programs or to create a new national center that would consolidate scientific and engineering expertise in oil cleanup technologies to prepare for and to respond to such disasters.

Ms. BIRNBAUM. Thank you. As I discussed earlier, we do have an oil spill technology program already. It is fairly small. It conducts research on an annual basis on a variety of issues. But I think that the idea of devoting a significant government focus on improved oil spill technology—oil spill cleanup technology in particular—is definitely worth considering.

Ms. CAPPS. Thank you. Well, I for one pledge to want to work with you to support those kind of efforts, and I know there are many research institutions with a lot of scientific expertise where we could tap into those resources. It is absolutely shocking to me that a multibillion dollar industry has not been able to come up—or not found it in their interest to come up with more effective strategies. So clearly, this proposal that you are considering is something that I wholeheartedly support and would like to work with you in doing that.

Now, Dr. Lubchenco, as BP works to contain the spill, response efforts are underway which require access to all information pertinent to the spill. Earlier this week, BP released live video feed from the accident site. This will allow scientists to estimate how much oil and gas are leaking from the pipe. While this is a critical step toward transparency, BP must release more information to allow scientists to track the transport and fate of the oil as well as the environmental effects of the oil both onshore and in the ocean. They have been reluctant to do this, it seems. I have sent a letter to BP asking for them to make available to Federal agencies, scientists, and the public all data, records, and physical samples pertaining to the chemical composition of the reservoir fluids.

One of the scientists, Dr. Valentine, from my institution, UC Santa Barbara, has indicated an interest by his colleagues and himself that this would be really valuable information for scientists to have. Would this data on oil composition from BP be useful to your response efforts, now or in the future?

Dr. LUBCHENCO. Congresswoman, I appreciate very much your focus on the importance of transparency and sharing information in a timely fashion. And thank you for your leadership on that. It

is true that the video that received from BP early on was of insufficient quality and length to do credible scientific assessments, and it is only in the last couple of days that we have gotten video that was high enough resolution, long enough length, and fast enough shutter speed to really do credible calculations.

So too is it important that they share in timely fashion all information that is available to assist in our efforts. We did request and received early on samples of the actual oil from this particular oil, and so we do know the composition of that and have been using that to fingerprint various, for examples, tar balls that have washed to shore to evaluate whether they are from this spill or from another spill. And, for example, the tar balls that washed ashore in Key West were determined to not be from this spill. And it is that fingerprinting that we were able to do.

So we do know the composition of the oil, but we do not have all of the other information that would in fact be useful to do a much more comprehensive understanding to which you are alluding.

Ms. CAPPS. I look forward to more exchange along this line as we proceed, and together with MMS and NOAA.

Ms. BORDALLO. Yes. Your time has expired, and I thank the gentlelady from California. Now I would like to recognize Mr. Costa, the gentleman from California.

Mr. COSTA. Thank you very much, Madame Chairwoman. Ms. Birnbaum, there have been some press reports, and realizing that there is a lot of focus, not all of them have been accurate, but on how Minerals Management Service relies on the American Petroleum Institute to draft its operations and safety regulations. What I am trying to do is to ascertain what you believe the facts are in terms of how you develop your operations and safety regulations. Does the American Petroleum Institute in fact—do you incorporate their manuals by reference, or do you actually promulgate your own regulations?

Ms. BIRNBAUM. Thank you, Chairman Costa. The Minerals Management Service does formulate its own regulations with respect to offshore drilling operations and safety. We have within those regulations incorporated standards from eight different standard-setting organizations, including the American Petroleum Institute, but also the American Concrete Institute, the American Steel Institute, and others.

We do not incorporate those as a substitute for writing our own regulations. For example, we have five pages of regulations governing what a blowout preventor is supposed to look like. Those five pages do have a couple of references to one API standard in them, but they are largely developed by MMS. At times, we develop regulations that go beyond the API standards. For example, we recently put out a regulation on safety seals which went beyond API standards for high pressure, high temperature seals.

Mr. COSTA. OK. So when we are talking about these standards—and I do not know if you are able to comment, but say the safety seals as an examples. Is it your sense that Minerals and Management Services in the promulgation of these regulations attempt to set the highest standards in the world when you have comparative analysis to what you have off the coast of Norway or other offshore regulatory regimes with different countries?

Ms. BIRNBAUM. We attempt to set very high safety standards, and it is very hard to actually compare them to other regulatory systems which are set up differently. I will say that all of our regulations, in addition to the fact that we review them independently, are put out for public comment, and we get public comment on what would provide the greatest safety. However, we regularly reject comments from industry that suggest that we should go back to just an API standard or whatever.

Mr. COSTA. Well, that is good, and I am glad that you clarified it. Before my time runs out, I want to get into the weeds on a couple of other related issues to that.

Ms. BIRNBAUM. OK.

Mr. COSTA. By the way, do you ever meet around the world with other regulatory agencies and compare notes, at conferences?

Ms. BIRNBAUM. We have existing MOUs with several other countries on offshore safety regulation. We also do meet with the international body. We always send representatives.

Mr. COSTA. I might want to send some follow-up questions on that.

Ms. BIRNBAUM. OK.

Mr. COSTA. As it relates to this specific well where this tragedy took place—and hopefully we will be successful today. But there has been a comment that the British Petroleum design was inherently unsafe. There was a graphic in the Times Picayune that says a linear hanger was not placed between casings eight and nine. Drilling engineers say that it is highly unusual. There were other quotes in other papers that quoted deepwater engineers saying the company would not use BP's design, and that an additional liner would make things safer by a factor of tenfold.

Do you care to comment on any—I have a lot of graphs here, but on these various comments by engineers?

Ms. BIRNBAUM. Again, I cannot comment on anything specific about this well or this BOP stack pending the outcome of the investigation. But I will say that we are reviewing our regulations with respect to well-cementing procedures, casing procedures, seals, as well as BOP stacks. And as I said, some of that will come forward in the Secretary's interim safety recommendations to the President. And beyond that, we will continue to review.

Mr. COSTA. That is tomorrow?

Ms. BIRNBAUM. Yes.

Mr. COSTA. OK. And so we will have those under the heading of lessons to be learned?

Ms. BIRNBAUM. Yes, sir.

Mr. COSTA. And what about the displacement? Maybe this is another question you at this time cannot answer. But when was MMS informed that BP was going to displace several thousand feet of mud below the blowout preventor with the lighter weight seawater?

Ms. BIRNBAUM. Again, that is a question that I cannot answer pending the investigation. The displacement of mud with seawater is actually a regular procedure because it prevents the mud from polluting the ocean. We require it to be drawn back up into the vessel. It is supposed to take place after the well is sealed and controlled. And so if it was done before that, then it would not be consistent with our regulations.

Mr. COSTA. Under these conditions, would it be normal to seek an application permit to modify under these circumstances?

Ms. BIRNBAUM. I do not believe so, but I would have to check on that.

Mr. COSTA. Could you check on that for us?

Ms. BIRNBAUM. Yes. I would have to get back.

Mr. COSTA. In terms of whether or not the permitting process was followed in the procedures that took place leading up to this tragedy.

Ms. BIRNBAUM. I will check.

Mr. COSTA. And that would be helpful to the Committee. My time has expired, and, Madame Chairwoman, I will submit the balance of the questions in written form.

Ms. BORDALLO. Thank you very much.

Mr. COSTA. Thank you.

Ms. BORDALLO. I would like now to recognize the gentleman from Texas, the Acting Ranking Member, Mr. Gohmert.

Mr. GOHMERT. I appreciate it so much, the Acting Chair. Let me go back, Ms. Birnbaum. Apparently I have gotten the correct information. The only unionized branch of MMS is the offshore inspectors, apparently, is what I have been——

Ms. BIRNBAUM. I have to say, I am not even sure that that is true. It may be. I am not sure.

Mr. GOHMERT. OK. In negotiations with what workers—what offshore inspectors will be doing, as Director of MMS, do you get involved in any of those negotiations?

Ms. BIRNBAUM. I do not.

Mr. GOHMERT. Who does that?

Ms. BIRNBAUM. That is done by the people who supervise them, the regional directors.

Mr. GOHMERT. OK. As the MMS is made into three new branches, will the union agreements be reconsidered, or will the entire new Bureau of Safety and Environmental Enforcement be unionized?

Ms. BIRNBAUM. The Bureau of Safety and Environmental Enforcement will likely consist of more than just the inspectors to begin with.

Mr. GOHMERT. Right, right. That is why I am wondering if——

Ms. BIRNBAUM. So I would not anticipate that, as not all of the people who would move there are currently unionized, I would not expect it to be entirely unionized. The question of how the creation of the new bureau would affect union contracts is a matter for lawyers that has certainly not been addressed since we still have not sorted out the full division. It is certainly an issue that will have to be addressed in the reorganization. But again, there is a time line on reorganization due to the Secretary in mid-June, and that will only set out the parameters by which we can begin to address that question.

Mr. GOHMERT. Yes. Are you getting any input in suggesting what should or should not be done to avoid some of the current problems with the new three entities?

Ms. BIRNBAUM. I have supplied input to the senior representatives who are putting this plan together. I will say that I have not been asked——

Mr. GOHMERT. The senior representatives of whom?

Ms. BIRNBAUM. Of the Secretary. The Assistant Secretary of Policy Management and Budget——

Mr. GOHMERT. So these are DOI's three designated representatives that are putting together the three new entities. And as Director who would have seen things that were done right, things that were done wrong, you just got to make your suggestions to the three representatives.

Ms. BIRNBAUM. I actually think it is important that I not be one of the people who is devising the reorganization of MMS because I think it needs to be done by fresh eyes. They have interviewed not just me, but virtually all of MMS's senior managers. They are going to be interviewing people in the regional offices. They are trying to collect all of the information possible. And I actually think——

Mr. GOHMERT. And I understand that, and I appreciate all the Secretary's representatives are doing. But I can tell you what. If I had somebody I trusted that were running an agency of mine, I would doggone sure want their input on how to avoid the current problems. Well, let me ask you this and see if you know about how this systems works. But when the offshore inspectors go out and inspect these rigs, you said they do not actually test; they just observe. But they require testing. Don't they require testing to be done in their presence?

Ms. BIRNBAUM. There is some testing that is done in the presence of MMS inspectors, but we require testing on a regular basis, on a weekly basis, on a daily basis, on a monthly basis——

Mr. GOHMERT. Do they have the authority to require testing be done in their presence?

Ms. BIRNBAUM. Not all of that is done in MMS—yes, they do.

Mr. GOHMERT. OK. And is there some kind of system among the offshore inspectors that provides them the ability to review what other offshore inspectors have done just to make sure that someone has not missed something—the term you used—so that someone with fresh eyes can see what other offshore inspectors have done to make sure they are doing the right things?

Ms. BIRNBAUM. The first thing is that in general MMS inspectors go out in teams of two, not alone, so that we do have more than one set of eyes looking at things. Beyond that, we do rotate inspectors. It is not always the same inspector inspecting the same rig or the same platform. They always have access to the previous inspector's reports as well.

Mr. GOHMERT. So the duplicity of having two offshore inspectors at the same time go out and inspect a rig helps provide that check and balance?

Ms. BIRNBAUM. It is one of the things that does, yes.

Mr. GOHMERT. OK. Then did you think it was a good idea at what is now being revealed from the Coast Guard-MMS joint investigation that the last two inspectors of this Deepwater Horizon were a father and son pair? I know they are union members, but did you think that was a good idea, that father and son are working and watching each other, checking each other's back?

Ms. BIRNBAUM. Again, I cannot speak with anything with respect to the investigation of the Deepwater Horizon incident itself.

Mr. GOHMERT. Well, let us talk hypothetically. Hypothetically, would you think it is a good idea to have a father and son be the ones that are double checking and being the fresh eyes on the other inspector?

Ms. BIRNBAUM. I would say it gives rise to questions.

Mr. GOHMERT. OK. Thank you very much.

Ms. BORDALLO. I thank the gentleman from Texas. And now we are on our second round. I would like to recognize the gentlelady from the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. Thank you, Madame Chair. Just a few, I think, brief questions. Rear Admiral, I guess this question would go to you, even though it is about health. There are reports of very severe health impacts in the workers on the Exxon Valdez, although what exactly it is, is sealed, so we do not know for sure. But there have been other reports of long-term health effects from workers in other spills. Have we learned from those responses, and what can you tell me to give me some kind of assurance that we are not going to be seeing long-term health effects in these workers?

Admiral WATSON. Well, we certainly have become aware of the long-term health effects of dealing with oil, not just during oil spills, but people that are involved in the industry. And so safety is our number one concern. Every morning, every evening, we get a report from our incident commanders and the people that are actually directly involved with those workers as to, you know, have there been any safety incidents on scene.

The monitoring is much better. We have a lot of EPA air monitors and water monitoring. The personal protective equipment is much more readily available. The challenge sometimes is to make sure those people wear that equipment.

Ms. CHRISTENSEN. But someone is overseeing them——

Admiral WATSON. Yes, ma'am.

Ms. CHRISTENSEN.—that knows what equipment they must use.

Admiral WATSON. Right. And so all of those things are in place. Can I guarantee anything?

Ms. CHRISTENSEN. I understand.

Admiral WATSON. No. No, ma'am, I cannot. But I can tell you that it is a number one priority for our response organization. And I did figure out——

Ms. CHRISTENSEN. Why I was asking that question.

Admiral WATSON. Yes, ma'am. The numbers are not meant to be any kind of ranking of priority. Maybe one thing that I should note is that the Deepwater Horizon is not a U.K. flag vessel; it is a Marshall Islands flag vessel, even though it is owned by BP.

Ms. CHRISTENSEN. I did hear that.

Admiral WATSON. It is flagged in the Marshall Islands. And so number one and number two do not apply. They have no standard other than the international standard.

Ms. CHRISTENSEN. I got it. Thank you. But the question to Ms. Birnbaum is similar because there are other countries that have higher standards than the United States that have to be met for deep oil well drilling, like Norway and the U.K. Is that not true?

Ms. BIRNBAUM. I am not familiar with that actually. They do have different systems from ours. One thing that has been reported

several times in the press that we have determined is simply inaccurate is that they require acoustic triggers as backup systems for BOP stacks. We actually called the regulators because we had not understood that their systems require that.

Ms. CHRISTENSEN. I am getting it from media.

Ms. BIRNBAUM. Yes. And they confirmed to us that they do not require them. They allow them as an option, which we also allow.

Ms. CHRISTENSEN. I see. And since you are overseeing the drilling of the relief wells, have you added any additional requirements in light of what happened?

Ms. BIRNBAUM. We have added additional requirements. BP volunteered some of them, and some of them we imposed on them. Testing the BOP stacks on the rig at the pressures used by the ROVs, they are tested on the rig normally before they are placed on the sea floor. But it is different testing to make sure that the ROVs can trigger them, testing them using the ROVs on the sea floor as well. And also, they did test the auto sheer device—actually the deadman device at the top of the stack, which is a slightly risky test. We would like to be able to develop a protocol for testing those devices that doesn't place the rig at risk because it has some potential impacts. But they did all of that additional testing, and are continuing to do additional testing as they drill the relief wells.

Ms. CHRISTENSEN. Thanks. One last question. You said that you had been inspecting deepwater rigs in the Gulf at least, and maybe elsewhere. Have you shut any down since the 20th of April?

Ms. BIRNBAUM. We have not had any shutting orders that I know of since the deepwater rig and platform survey was begun. I do know over the last year we issued something around 100 shutting orders from various inspections, but we conduct 2,500 inspections a year or so.

Ms. CHRISTENSEN. Thank you, Madame Chair.

Ms. BORDALLO. I thank the gentlelady from the Virgin Islands. And now I would like to recognize the Acting Ranking Member, Mr. Cassidy, from Louisiana.

Mr. CASSIDY. A series of actors. Dr. Lubchenco, can you say for the record for those commercial fishermen who are still producing in the Gulf that the fish that is coming to market currently is safe for human consumption?

Dr. LUBCHENCO. Congressman, we have a program in place for testing seafood from the Gulf that has been approved by the FDA, and we are in the process of aggressively sampling inside the areas and outside the areas, with the goal of doing the appropriate testing so that FDA can make the determination about seafood safety.

Mr. CASSIDY. So if it is on the market, it has passed those tests, and it is safe to eat?

Dr. LUBCHENCO. Everything that is on the market already should have been not affected by the spill.

Mr. CASSIDY. OK.

Dr. LUBCHENCO. One of the reasons that we are doing the fishery closures is to proactively prevent seafood from getting into the markets that might be tainted.

Mr. CASSIDY. No. I appreciate that. And there are just some people who do have good product which is not being bought because of perception. Director Birnbaum, there was an issue earlier with

the Inspector General, and her ethics violations, she could not draw a correlation between that and the frequency or severity of citations issued. And she said, frankly, ask you. Can you give us statistics on over the last several years, including the period, but also currently, the number of citations and the average severity of them?

Ms. BIRNBAUM. We can do that. I don't know, but we will look at the Lake Charles District and the relative number of violations found as well as shutting orders and give you some information.

Mr. CASSIDY. Dr. Lubchenco, you mentioned that you speak of what NOAA has done in terms of it, but then you also say that your research boats were deployed elsewhere and had to finish assignments, and were not moved to the affected area until relatively recently. Was this with internal capacity that you were doing these studies of baseline, et cetera, or did you contract out, may I ask?

Dr. LUBCHENCO. Congressman, we mobilized all of our existing assets in the Gulf pretty much immediately to be available to do the different types of sampling needed. I myself was personally out on one of our vessels that was getting baseline seafood samples to get good contaminant, good other levels, to do the safety testing that we were just speaking of.

We also have contracted with a number of academic institutions, both in the Gulf and elsewhere, to redeploy assets there, and are working with other agencies to do exactly that.

Mr. CASSIDY. Now as a state that is in the bulls-eye of this spill, there is, as you might guess, a certain amount of suspicion of both the Federal government response as well as industry response. It turns out my university, LSU, which in the interests of disclosure I still see patients through their hospital, they chaired the book that I quoted earlier that made recommendations that we are again making. When I spoke to their coastal environmental folks, who apparently have thick résumés of publications regarding oil in the marshes, they tell me they haven't been contacted by NOAA. And yet here is an expertise that has great credibility with the people of the state which is being maximally affected. Any idea why not, why they haven't been contacted?

Dr. LUBCHENCO. I do know that we have been in communication with many of the scientists at LSU. They are actively doing much of the testing of oil. We routinely send samples there. We routinely communicate with many of the scientists. I would be happy——

Mr. CASSIDY. I met with them Saturday, and they do have contract work they are getting. They also tell me, by the way, that when they independently go down to the marshes, that their name is taken, and that they are informed that their results will be subpoenaed. They imply that was industry, but that individual research is going to be difficult to do if people are intimidated by the thought of having their records subpoenaed. One of the fellows had worked with Exxon Valdez. He said he is still not able to publish his research from Exxon Valdez because it is under a court order not to be released.

So I want to add a concern again that the people I am speaking to, in contradistinction of what you are saying, are telling me, no, we haven't been called by NOAA except for contract work we had preexisting. When we go on our own, on our own check, we are in-

timidated, so to speak, by the threat of our stuff being impounded. It doesn't seem a good environment for independent research. Any thoughts?

Dr. LUBCHENCO. Congressman, this issue came to our attention in conversations with some of the academics who had preexisting contracts with BP, and they articulated pretty much what you have just described. We have been working with BP and have told them that we think it is appropriate for all of the academics that are working on this to be able to freely publish and share their information, and that is exactly what we are proceeding with.

Mr. CASSIDY. Thank you for that. Now I will also say that the fact that—again, if LSU is the one that is publishing all of this—and again, they are chairing the committee that writes the book that now is the basis for recommendations that are being reissued today—and they haven't been called—and they tell me they haven't been called—frankly, my paranoia starts to stir up—I have learned in Washington it never hurts to be a little paranoid—that maybe they are not being called deliberately. Maybe there is a concern that the people who are in the state being most effective will draw conclusions which are inconvenient to different parties who are involved.

That may be paranoia, but can you assure me that that is not the case?

Dr. LUBCHENCO. Congressman, I would be delighted to find out the individuals that you think we should be in communication with. I can tell you that we are working with LSU folks to convene a scientific summit that they are hosting for academics and other research institutions from the region and elsewhere to meet next week, to have a big science summit to understand what the science needs are, what is actually happening already because there is a lot of work that is underway, what isn't happening, what is needed, what the priorities are, and they have been intimately involved in this.

And so I know that we have good interactions and communications with some of the experts at LSU. It sounds like we don't have all of them, and I would be happy to know who those are so that we can set—we can correct them.

Mr. CASSIDY. I promise the Acting Chairwoman that this is my last question. Ms. Bordallo brought up the fact that the plumes—well, people have recommended we study the plumes, but no one is studying the plumes. And I have understood from others that deepwater and ultra-deep is a different animal, so to speak, and that we expect different behavior from the oil in the water. And yet you ask, have you studied the plumes, and everybody said no. And it begs the question, why not?

Dr. LUBCHENCO. I didn't respond no to that. And I would actually respond that we are studying that very aggressively.

Mr. CASSIDY. But that is currently or previous? Is that since this happened, or is that from, no; we understand it is an issue, so we are going to bring it back up, and we are going to address this proactively?

Dr. LUBCHENCO. I am not aware of any studies before this spill to follow-up on those plumes. But I can tell you that at present,

we have ships out on the water that are actively trying to characterize——

Mr. CASSIDY. So I guess my question—my question was why wasn't it done since a couple of rookies in this business understand that it is a concern? And I can read from 2003, it is a concern. And the Norwegians apparently release gas to see what would happen, but not at depths quite so deep. So I know the scientific—and yet, the recommendations that U.S. Coast Guard, NOAA, and MMS do this in 2003 by the National Research Council of the National Academies has not been acted upon.

Again, as a state which is being terribly affected by this—and I presume that information will be helpful—I am just asking why wasn't it. That may be somebody else's beat, by the way.

Dr. LUBCHENCO. No. I think there is a lot of research that should be done. I think the reality is that there have not been resources to do all of the research that would be appropriate to do in this. I know that from NOAA's standpoint, our Office of Response and Restoration has its hands full responding to the some 200 oil spills that we respond to a year, have not had the resources to do the kind of additional research that would be appropriate to get at the very questions that you are answering. Those are important questions.

Mr. CASSIDY. Director Birnbaum, your thoughts on that?

Ms. BIRNBAUM. I think that having appropriate research on the fates and effects of oil at all levels in the water is appropriate. We have conducted some studies, and we have also worked with Norway to learn what they have learned from their studies. Additional research is always useful. There is a challenge finding something that will behave like oil in water without actually releasing oil in water.

Mr. CASSIDY. OK. Thank you.

Ms. BORDALLO. I thank the gentleman. And at this time, I wish to thank the witnesses for the time and for their patience today. This hearing has been going on since 10 o'clock this morning. I know you have many important tasks before you right now, and we appreciate you being here. And I am sure that we will have some questions for you, and the record will be held open for 10 days, if we have questions or you have something you would like to submit for the record.

Again, I want to thank the members that were here earlier, and to thank our witnesses for the many hours that they spent in this hearing room.

If there are no further comments before this Committee, the hearing of the Committee on Natural Resources is now adjourned.

[Whereupon, at 4:25 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

[The prepared statement of Mr. Grijalva follows:]

Statement of The Honorable Raúl M. Grijalva, a Representative in Congress from the State of Arizona

Thank you, Mr. Chairman.

The catastrophe at the BP Horizon Platform—which claimed 11 lives and continues to spew thousands of gallons of oil into the Gulf of Mexico every day—serves

as a tragic wake-up call for the regulators who oversee drilling activities and the lawmakers who dictate our national energy policy.

What is happening in the Gulf is our worst nightmare. It IS what environmental advocates—who sought a sound and balanced energy policy and a moratorium on offshore drilling—warned us would happen if we didn't address our relentless appetite for oil. Sadly, I don't think even they could have imagined the scale of devastation that we are witnessing in the Gulf. Let's be clear: as of right now, there is NO end in sight.

As we sit here today, the oil continues to gush with no real, legitimate way to stop it. BP, Transocean and Halliburton continue to shirk their responsibilities and childishly point fingers instead of find solutions. In the meantime, herons and brown pelicans lie dying in coastal marshes, suffocating in oily muck. "Rivers" of oil and dispersants flow through the waters of the Gulf as boats deploy booms in a feeble attempt to contain the massive spill. And the people and communities of the Gulf stand by helplessly as the oil continues its assault on their fisheries, their precious coastlines, their communities and their livelihoods.

I think the American people must feel that same helplessness.

So, at the very least, Mr. Chairman—at the very least—this should force us to step back, take a much needed time-out on drilling permits, and revisit this mad rush to drill deeper, faster, and wider in the Outer Continental Shelf. We must revisit the flawed policies and processes that brought us here today—as we bear witness to, and oversee, one of the worst environmental disasters in our history.

Our national impulse to drill first and ask questions later was never a sustainable energy policy. And now the bill for that negligent regulatory culture has come due.

But we still don't seem to really get it. We don't seem to get that the lack of oversight by MMS over the oil industry, combined with drill-at-all-costs policies, led us to an oil spill so huge that it is uncontainable. This spill is so complex that our best engineering minds cannot figure out a way to stop it. The scope and magnitude of the destruction is still unfathomable.

This is the obvious, unfortunate and heartbreaking result of the irresponsible and calculated calls of "Drill, Baby, Drill."

But what's even more disturbing to me today is that despite the billions of dollars it will take to clean up the Deepwater Horizon spill, and despite the untold economic and environmental damage, we are continuing to allow unfettered offshore drilling in deep water. We haven't learned our lesson! Even as we stand completely powerless to stop the havoc in the Gulf.

Right now, up in Alaska, with its rough seas, unpredictable weather and hard-to-reach oil deposits, new permits for drilling are being authorized with minimal oversight. From what I have seen of the MMS, including the new Inspector General report, it is an agency that serves only as a cheerleader—and apparently a party planner—for big oil, no matter what the risks and no matter how flawed the plan.

Over the last decade, the increasingly cozy and lax relationship MMS had with the oil industry led to record profits for a few big companies who used increasingly unsafe and irresponsible drilling practices. That HAS to change. Big oil needs a watchdog, not a wing-man.

The recent proposal to divide MMS into several new offices is simply not an adequate response to such an urgent situation. Nothing will change at this agency if we do not demand that rigorous enforcement and oversight become the norm at MMS rather than simply wielding a rubber stamp.

MMS failed to do its job. It failed the public and this country. And the people and wildlife of the Gulf States are paying a very heavy price. This is simply not acceptable. I call on Secretary Salazar to put forth serious solutions for these serious times.

As we consider a timeout on drilling permits, we need to call for a timeout on categorical exclusions too. Even if MMS were to put the responsibility for environmental oversight in the proper hands, the regular use of CEs to exempt drilling plans from environmental review gives me little reason to believe that a "new" MMS will make drilling safer.

We all know now that BP's plan for this sort of "worst case scenario" was not to have a plan. They simply, arrogantly, asserted that something like this would never happen to the Deepwater Horizon...and MMS took them at their word. And then gave them a permit to drill. Tragically, they all were wrong. That simply cannot be the "M-O" of the MMS. The MMS culture doesn't just need reform...it needs a complete overhaul.

I also call upon Secretary Salazar to ensure that we take all precautions to ensure that other rigs in the Gulf are operating safely. In February, eighteen other Members of Congress joined me in asking the Secretary to investigate whistleblower allegations that the BP Atlantis was operating without required documentation in a

way that could lead to "catastrophic operator errors." To date, there has been no investigation. As the news today shows images of more and more oil washing up on the shores of the Gulf, and wildlife soaked in oil, do we really need any more evidence to support taking action NOW?! So I ask you again, Secretary Salazar, to investigate these allegations or shut BP Atlantis down.

BP should be held responsible for the FULL economic damages to those affected by this ongoing disaster. Plain and simple. BP claimed in the beginning they would pay. They need to follow through. We learned from the Exxon Valdez that these oil companies will do everything in their power to avoid responsibility for their actions. This is why I just introduced legislation to completely remove the unnecessary cap on liability that currently limits economic damages in these types of disasters to $75 million—a cap that only serves the interests of the responsible parties. I call on my colleagues to support this legislation.

I look forward to hearing from our witnesses today as we examine the causes of this disaster, the status of our offshore oil drilling policies, and the response of BP and the government to the Deepwater Horizon catastrophe. Thank you, Mr. Chairman.

* * *

OVERSIGHT HEARING ON THE "OUTER CONTINENTAL SHELF OIL AND GAS STRATEGY AND IMPLICATIONS OF THE DEEPWATER HORIZON RIG EXPLOSION"

Thursday, May 27, 2010
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:04 a.m. in Room 1324, Longworth House Office Building, Hon. Nick J. Rahall, II [Chairman of the Committee] presiding.

Present: Representatives Rahall, Kildee, Pallone, Napolitano, Holt, Grijalva, Bordallo, Costa, Heinrich, Lujan, Miller, Markey, DeFazio, Christensen, DeGette, Kind, Capps, Inslee, Baca, Herseth Sandlin, Sarbanes, Shea-Porter, Tsongas, Kratovil, Hastings, Duncan, Flake, Gohmert, Lamborn, Wittman, Broun, Fleming, Coffman, Lummis, McClintock, and Cassidy.

STATEMENT OF HON. NICK J. RAHALL, II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

The CHAIRMAN. The Committee on Natural Resources will come to order, please. We are now some 20 hours into Operation Top Kill and anxiously awaiting the results, hopefully later today. In the meantime, we will continue our oversight hearings on the Outer Continental Shelf Oil and Gas Strategy and Implications of the Deepwater Horizon Rig Explosion. Pursuant to Committee Rule 4[g], opening remarks will be limited to the Chairman and Ranking Member during today's hearing.

In my view, the Obama Administration has been and is doing everything humanly and technically possible to contain and stem the well, which is still the first priority of all of us, of course.

The President is in charge, not BP, and his Administration, primarily through Coast Guard Commandant Thad Allen, is directing the emergency response.

While it is frustrating and heartbreaking to watch the continued hemorrhaging of oil into the Gulf, I think it is important to state, counter to what some people have alleged, that it is in no one's interest, certainly not the Obama Administration and not BP, to allow this oil to continue gushing into the Gulf of Mexico.

I take Secretary Salazar at his word when he testified yesterday that he would be relentless in assuring that the well is tapped and

that the environment will be cleaned up after this horrible incident.

Since he has taken over at Interior, Secretary Salazar has imposed new ethics requirements, abolished the scandal ridden Royalty-In-Kind program, and generally set a new tone that we believe is affecting the performance and management at the Department of the Interior, but while commendable, that is not enough.

We will continue our oversight responsibility. We have been rigorous from the beginning, and we will continue to be rigorous in our oversight responsibilities and trying to help those many others to find the answers of what happened here.

So, with that, I recognize the Ranking Member, Doc Hastings.

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Mr. Chairman. First, I would like to start by offering my condolences to those who lost family, friends, and coworkers in this terrible accident. The loss of eleven hard-working men cannot be forgotten in this tragedy, and serves as a stark reminder of why you must work to ensure that something like this never happens again.

Yesterday we heard from Secretary Salazar and other Administration officials as this Committee seeks to find answers to the decisions and actions that led to the explosion and the sinking of the Deepwater Horizon and the ongoing oil spill.

Today we will hear from the companies directly responsible for this rig and well. We all hope to learn more about what is being done to stop the leak and the cleanup of the spill.

Yesterday, as I stated, both BP and the Obama Administration have a joint and shared responsibility to do everything they can to stop the flow of oil.

I want to make it abundantly clear that there is not just bipartisan agreement but a bipartisan command and commitment that the responsible parties pay the full cost of the cleanup and all the damages caused by this spill.

I would like to briefly discuss something that will happen later on, and that is the President's press conference scheduled for later this afternoon. This morning's news reports are full of stories quoting a top Administration source on the announcement that the President will make at his press conference.

The President is announcing that offshore leases and drilling scheduled for months and years from now are being delayed. Administration officials say that the President's eyes have been opened and that is why he is acting.

There may be some real merit in taking a pause in some of these areas, but the fact still remains oil has been spilling now for over a month in the Gulf. There are an untold number of gallons of oil that are floating in the Gulf.

The Governor of Louisiana, Governor Bobby Jindal, reports that oil is washing ashore on 100 miles of his beaches in his state, and Federal law explicitly states that the President is responsible for overseeing the cleanup of oil spills in Federal waters.

So, rather than focusing on things not scheduled to happen for months and years for now, the President, I believe, needs to get focused on the actual crisis at hand.

The public expects the President and this Administration to carry out their duty under the law and get focus on stopping the spill and cleaning it up. The economic toll of this spill is still climbing, but it is important that the actions of the Federal Government don't impose further economic harm by hastily acting without all of the facts.

If decisions are being made that could put people out of work, then there must be solid information justifying these actions and it must be publicly disclosed.

Having seen the impact of $4.00 gasoline on our economy that we experienced two years ago and on their family's pocketbooks, the American people understand the need for more American-made energy.

The American people know that American-made energy means jobs and a stronger national economy and stronger national security. The leak must be stopped, the oil cleaned up the minute we can get to the bottom of exactly what happened so that informed, educated and permanent reforms can be put in place to ensure that the American drilling industry is the safest in the world and a spill like this won't happen in the future.

Thank you, Mr. Chairman. I yield back my time.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Ranking Member, Committee on Natural Resources

I would like to start by first offering my condolences to those who lost friends, family and coworkers in this terrible accident. The loss of eleven hard working men cannot be forgotten in this tragedy and serves as a stark reminder of why we must work to ensure that something like this never happens again.

Yesterday, we heard from Secretary Salazar and other Administration officials as this Committee seeks to unwind the decisions and actions that led up to the explosion and sinking of the Deepwater Horizon and ongoing oil spill.

Today, we will hear from the companies directly responsible for this rig and well. We all hope to learn more about what is being done to stop the leak and cleanup the spill.

As I stated yesterday, both BP and the Obama Administration have a joint and shared responsibility to do everything they can to stop the flow of oil.

I want to make it abundantly clear that there is not just bipartisan agreement, but a bipartisan demand and commitment, that the responsible parties pay the full cost of the cleanup and all damages caused by this spill.

The American people should not and will not be on the hook for a single dime to pay for this disaster.

I'd like to briefly discuss the President's press conference scheduled for this afternoon.

This morning's news reports are full of stories quoting a top Administration source on the announcements that the President will make at the press conference.

The President is announcing that offshore leases and drilling scheduled for months and years from now are being delayed. Administration officials say the President's "eyes have been opened" and that's why he is acting. There may well real merit in taking a pause in some areas . . . but oil has been spilling for over a month.

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If decisions are being made that could put people out of work, then there must be solid information justifying these actions and it must be publicly disclosed.

Having seen the impact of $4 gasoline on our economy and family's pocketbooks, the American people understand the need for more American-made energy.

The American people know that American-made energy means jobs and stronger national security. The leak must be stopped, ... the oil cleaned up, ... and then we must get to the bottom of exactly what happened ... so that informed, educated and permanent reforms can be put in place to ensure American drilling is the safest in the world ... and that a spill like this never happens again.

The CHAIRMAN. We will now hear from our first panel representative, John Garamendi, California 10th District, our colleague and Member of Congress.

Welcome, John.

STATEMENT OF HON. JOHN GARAMENDI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GARAMENDI. Mr. Chairman and Members of the Committee, thank you very much for this extraordinary privilege of addressing you at this moment when we are in the midst of a crisis on the Gulf Coast.

The purpose of my attendance here and participation in this is to say Murphy was right with his law: what can go wrong will go wrong. We have seen plenty of that in the past in the Gulf over the last 15 to 20 years. We have seen some 38 blowouts.

In California—and this brings me to my point—we saw a massive blowout in 1969 in the Santa Barbara channel that led to a moratorium on the West Coast in the state waters for the last 43 years.

As Lieutenant Governor in the State of California last year, I led the fight to stop new oil leasing in California waters. In my previous work as the Deputy Secretary at the Department of the Interior in the 1990s, we made a major effort to stop new leases off the West Coast and persuaded with very little trouble President Clinton to continue the Presidential moratorium on the West Coast.

We need a law, and as you ponder and listen to the reports from the oil companies as to what is happening today and what did happen and caused the blowout, I would like you to keep in mind that stuff happens. Really bad stuff happens, and we have seen that on the Gulf Coast.

It will happen again. Despite every effort, accidents do occur. When those accidents occur, should it be from a drilling platform on the West Coast and a blowout occurs, we are talking about a major, major problem, environmental to be sure and economic.

In California, it is calculated that the coastal environment of California provides the state with $22 billion in annual economic activity and employs 369,000 people. In Oregon, it is $17 billion annually and some 17,000 people are employed. In Washington State, 150,000 people and over $8 billion.

We value that economic activity as much as we value the precious coastline, the fishing, and the other opportunities that it presents to us. No more oil.

We could "Drill, Baby, Drill," but we can also count on "Spills, Baby, Spills." And that has happened. Not just this one incident as horrible as it is in the Gulf Coast, but it has happened over and over throughout the world. A huge blowout on the West Coast of Australia last year that took months to contain, and here we are once again.

It is time for a permanent law. That is why my bill, H.R. 5213, the West Coast Ocean Protection Act deserves your attention and deserves your pondering as you listen to the testimony of the oil industry today.

I would ask you to consider the other legislation that has been proposed by our colleagues here in the House. A permanent protection on the East Coast in law not just depending upon the President but rather depending upon the laws of this nation, and also an expansion of protections on the West Coast of Florida. These are important.

In addition to all of the economic activity, it is time for this Nation to end its addiction to oil. As long as we drill, as long as we open our coastlines to drilling, we will continue our addiction just as surely as a junkie on the street will find the next pusher.

It is time for us to say enough and to spend those vast amounts of money that are employed in the drilling industry, to spend that money on the renewable energies of all kinds—solar, wind, geothermal, nuclear. All of those things must be our future.

It is our opportunity today to push the junky aside and end our addiction. The legislation that I am proposing and my colleagues are proposing set us on that course.

Mr. Chairman, I thank you. I look forward to working with this Committee. I thank you for the work of the members of the Committee and what you have managed to do. I join you in attentive listening to the next witnesses.

[The prepared statement of Mr. Garamendi follows:]

Statement of The Honorable John Garamendi, a Representative in Congress from the State of California

Chairman Rahall, Ranking Member Hastings, and members of the committee, thank you for allowing me the honor of testifying before this esteemed committee. We're here today to talk about the past, present, and future of offshore oil drilling.

For almost two decades I have helped shape policy on offshore oil drilling at both the state and federal level. During the Clinton Administration, I served as Deputy Secretary at the Department of Interior where I advised President Clinton to extend the presidential moratorium, a move I'm proud to say he ultimately made. As the Lieutenant Governor of California, I testified before Secretary Salazar on the dangers of the Administration allowing offshore oil drilling off the coast of California. I stood up to Governor Schwarzenegger as head of the State Lands Commission, the independent state agency in charge of granting oil leases, and cast the deciding vote against his proposal to expand new drilling leases at the PXP platform off the coast of Santa Barbara. Now in Congress, I am proud to work with my colleagues to ensure that offshore oil drilling is a practice relegated to the pages of history textbooks.

My home state of California is all too familiar with the dire consequences of offshore oil drilling. In fact, the 1969 Santa Barbara spill, from its causes to outcome, foreshadows the events now taking place in the Gulf of Mexico.

On the afternoon of January 29, 1969, a Union Oil Co. (now Unocal) platform stationed six miles off the coast of Summerland, CA suffered a blowout. Workers had

drilled a well 3,500 feet below the ocean floor and were in the process of retrieving the pipe in order to replace a drill bit when the "mud" used to maintain pressure became dangerously low. As the pressure built up and started to strain the casing on the upper part of the well, an emergency attempt was made to cap it, but this action only succeeded in further increasing the pressure inside the well. Under this extreme pressure a burst of natural gas blew out all of the drilling mud, created five breaks in an east-west fault on the ocean floor, releasing oil and gas from deep beneath the earth.

Union Oil had been granted a waiver by the United States Geological Survey that allowed them to use a shorter casing on the pipe than federal standards prescribed (a casing is a reinforcing element of the well that is supposed to prevent blowouts). Even though the well itself was capped, the fragmentation of the wellhead produced a disaster. Oil and natural gas broiled to the ocean surface in the vicinity of the oil platform for eleven days while increasingly desperate attempts were made to contain and stop the spill. On the eleventh day, chemical mud was successfully used to seal the cracks in the seafloor, but only after approximately three million gallons of oil escaped. The wind, ocean currents, tides and waves dispersed the spilled oil into the biologically diverse waters of the Santa Barbara channel and coated the pristine California beaches with oil and sludge from Rincon Point to Goleta, marring 35 miles of coastline and killing thousands of aquatic species.

The aftermath of this spill and the resulting public outcry led to the Santa Barbara County establishing the first Earth Day and is often cited as a key moment in the modern environmental movement. In 1969, as in 2010, the technology of the day failed to prevent or address the spill and for eleven days, oil workers struggled to cap the rupture.

Tragically, we have not learned the lessons of Santa Barbara and other similar events that have occurred in years since. This time, 11 workers lost their lives and scores of others were injured. The spill in the Gulf shows that our reach has exceeded our grasp, our ability to extract has exceeded our ability to anticipate and prevent disaster. Although we can dig wells miles below the ocean bottom, we still lack the means to avoid or combat oil spills of the magnitude or at the depth of the Deepwater Horizon well. As in 1969, this is not the oil industry or even BP's first accident.

According to the Minerals Management Service (MMS), there were 38 blowouts in the Gulf of Mexico between 1992 and 2006. BP's own safety record in recent years paints a portrait of a corporation that seemingly places profit over safety or environmental concerns. After a Texas City, Texas refinery blew up in 2005, killing 15 workers, the company vowed to address the safety shortfalls that caused the blast. Then in 2006 an accident spilled 200,000 gallons of oil over the North Slope of Alaska. After agreeing to pay $370 million in fines and settling criminal charges, resulting from the Texas City blast, BP once again pledged to clean up its act. Now in 2010 we are faced with yet another environmental crisis, this time resulting from the Deepwater Horizon spill. The spill is potentially unprecedented in its destructive scope and BP is unable to cap the well or clean up the spill. Given recent significant lapses by BP, perhaps its corporate motto should be "Bleeding Petroleum" rather than "Beyond Petroleum."

If a spill the equivalent to the Gulf spill were to happen off the coast of Santa Barbara it would devastate the ocean environment off California and the region. If the coastal economies of California, Oregon and Washington were to suffer a catastrophic oil spill the results to the three states economies would be devastating. According to the National Ocean Economics Program the coastal based economy of California employs 369, 444 individuals and generates $22 billion in GDP. Oregon's coastal economy employs 16,909 and generates $1.2 billion in GDP. Washington's coastal economy employs 149,741and generates $8.3 billion in GDP. Combined the three states provide nearly $32 billion in revenue and employ nearly 600,000 people.

Gulf Coast communities, like the Santa Barbara area in 1969, are learning the hard lessons that come in the wake of a catastrophic oil spill. In the Gulf of Mexico nearly $350 million dollars has been spent to clean up the spill and experts estimate billions more will be spent before the cleanup is complete. The true final cost to the Gulf Coast communities of having their way of life shattered by BP's negligence remains unquantifiable.

One-third of the fish consumed in the U.S. comes from the Gulf Coast and market prices are already beginning to rise based on fears that supply will soon be greatly outpaced by demand. Even our best scientists cannot determine how long it will be before the numerous fragile ecosystems in the Gulf truly recover from the poisons now seeping through wetlands and estuaries along the Gulf of Mexico. Add to that the unknown effects of the highly toxic dispersants sprayed liberally by BP to

"disperse" the spill, and we are long away from waking up from the nightmare that is the Deepwater Horizon spill.

That's why Congress must act now to reinstate the ban on offshore oil drilling of the West Coast. For more than 20 years, from 1988 to 2008, through both Republican and Democratic control of Congress and the White House, a moratorium was in place that protected those federal waters from offshore oil drilling. Before "Drill Baby Drill" was all the rage at the Republican National Convention, President George H.W. Bush, himself a Texas oil man, established an executive moratorium on new OCS oil and gas leasing and drilling [where?] until 2002, which President Clinton extended until 2012. Until 2008, when President George W. Bush lifted the executive moratorium, there was consensus among the both parties during their time in the White House that our precious oceanic and coastal resources had to be protected from the scourge of offshore oil drilling. Even though President Obama has wisely reinstated a temporary moratorium on offshore oil drilling, Congressional action is needed to codify the will of the people's representatives.

That is why I introduced H.R. 5213, the West Coast Ocean Protection Act of 2010, which will protect the U.S. mainland, from the Canadian to Mexican border, from new offshore oil drilling. A few weeks after my bill was introduced, six Senators, representing California, Oregon and Washington introduced companion legislation in the Senate. So far 35 of my colleagues from the House, representing 6 six states and a territory; Arizona, California, Maryland, New Jersey, Northern Marianas Islands, Oregon and Washington have agreed to join the bill as cosponsors.

Our nation ultimately faces a decision. Climate change and global economic competition require us to green our economy. Clean, renewable sources of energy are our inevitable future, and the longer we drag our feet in setting up our country as the base for the research, manufacturing, installation, and maintenance of new and better green technologies, we allow our economy to drift further away from our competitors. We can drill and spill our economy into decline, or we can invest in the wind, solar, and other renewable energy sources that will determine the victors of 21st century economic development.

Chairman Rahall and Ranking Member Hastings, thank you again for allowing me to testify on this important national issue. I look forward to working with you in the future.

The CHAIRMAN. Thank you, John, for your testimony. Do any of my colleagues wish to question John from Louisiana?

Mr. CASSIDY. I am sorry. Are we making a law against tankers or are we making a law against drilling?

Mr. GARAMENDI. My bill would prohibit permanently new drilling leases in the Federal waters off the West Coast.

Mr. CASSIDY. So there are more spills with tankers than there are with drilling, but we are going to outlaw the drilling even though there are more spills in terms of volume from tankers. What is the rationale?

Mr. GARAMENDI. My esteemed colleague, it is the oil that is the problem. As long as we——

Mr. CASSIDY. So presuming that we will still need oil for, you know, the next 30 years——

Mr. GARAMENDI. Yes.

Mr. CASSIDY.—I mean, unless you are going to raise prices to $10.00 a gallon, we are going to need oil for the next 30 years.

Mr. GARAMENDI. Well, the prices are likely to be raised by our friendly people that have the oil in the Gulf states, in Venezuela and Nigeria, and by the oil companies.

Mr. CASSIDY. Of course, they will be more able to do that if they control the market, so the more dependent we make ourselves on foreign supplies of oil, according to the military, the more vulnerable we are.

So I am thinking I am hearing from you we need to shut down what we do locally so that we can import more from which we

know that there are more spills, it increases our dependence, and raises cost. Again, I am not seeing the rationale.

Mr. GARAMENDI. I beg to differ with you——

Mr. MILLER. Will the gentleman yield?

Mr. GARAMENDI.—on your economic theory.

Mr. CASSIDY. I will yield. I would love to see your facts then. I will yield.

Mr. MILLER. I think the gentleman's statement was that he is seeking to replace that oil and additional oil in those tankers by changing the energy policy in this country.

Mr. CASSIDY. If I may reclaim——

Mr. MILLER. We all recognize that that takes——

Mr. CASSIDY.—If I may reclaim my time, I think it is about one percent that solar now provides a——

Mr. MILLER. I understand all that. We all know that.

Mr. CASSIDY. So if we are going to do that, it is not going to be in the near term. It is going to be at least three decade off. So for the next three decades, do we increase our environmental hazard by importing more, make ourselves more vulnerable to foreign governments, all because this is an emotional response?

I think what is incumbent upon us is to be very factual here.

Mr. MILLER. The fact is it is a very——

Mr. GARAMENDI. If I might, sir.

Mr. MILLER.—hard economic response for our state.

Mr. CASSIDY. Yes, because——

Mr. GARAMENDI. You might look——

Mr. CASSIDY.—you are feeling the cost of one of the highest in the nation.

Mr. GARAMENDI.—sir, you might look to your own state——

Mr. CASSIDY. Oh.

Mr. GARAMENDI.—and check out the emotional and the economic response along your own——

Mr. CASSIDY. You do not have to tell me about that. You do not absolutely have to tell me about that. On the other hand, my own state understands completely that the more we import, the more tanker accidents there are in New Jersey, the more tanker accidents there are around the coast—that is statistically.

That is not just rhetorical. Statistically, tankers are more likely to spill than are oil rigs.

I yield my time.

Mr. COFFMAN. Thank you. Just a question. In your legislation, is there anything to move forward on nuclear—I think you mentioned nuclear power as a renewable source, and certainly there are certain groups that oppose that.

What in your legislation would, in fact, incentivize nuclear power in the United States?

Mr. GARAMENDI. My legislation speaks specifically to the issue of the new drilling leases off the West Coast of the west American States. It does not speak to nuclear.

I would be delighted to work with you on programs, policies, funding to move the nuclear issues along including those advanced nuclear systems normally called stage four that would over time allow us to consume the present nuclear waste coming from the Stage Threes. I think we have to move in that direction.

Although this is a new policy, 30 years ago I was not there. I now understand that we have to move in that direction.

Mr. COFFMAN. You speak to renewables such as wind and solar, and those technologies today require natural gas when the wind isn't blowing and the sun isn't shining. Does your legislation speak to that?

Mr. GARAMENDI. It does not, however, the COMPETES legislation, which was stalled on the Floor by a recommit, did speak to it, and certainly I voted for it in the Science and Technology Committee and will vote for it again because it provides the research to fill in the gaps.

Certainly, we will see natural gas, which is a better alternative in the medium term for me than oil, but we need to do the research on storage capabilities, both mechanical and battery storage, chemical storage, and nuclear—as we just discussed.

Certainly we need to see an expansion of the other green technologies from biofuels of all kinds, advanced biofuels, solar, wind, geothermal. All of these things have to be in our future.

We simply cannot continue to depend only on oil, and that is the fundamental argument that I am making here. We have to move away from it——

Mr. CASSIDY. Reclaiming my time.

Mr. GARAMENDI.—while protecting our coasts.

Mr. CASSIDY. Reclaiming my time—I would——

The CHAIRMAN. The gentleman's time from Louisiana has expired. The Chairman did not mean to open up a hornet's nest here among ourselves, and we are not going to have a hornet's nest among ourselves.

But I will since I recognized one member on this side, I will recognize another member on our side, and then only one more on each side. I believe I saw the other gentleman from Louisiana with his hand over here, and I saw the gentlelady from California, Ms. Capps' hand over here.

But before that, I will recognize the gentleman from New Mexico, Mr. Heinrich, and then the two I just mentioned will be recognized. And that will be it.

The gentleman from New Mexico.

Mr. HEINRICH. Thank you Mr. Chairman. I want to thank our colleague from California for being here today. I think we need to have these discussions.

You know, judging by some of the statements that we heard in this Committee yesterday, many of our colleagues have discovered their oversight role in all of this.

But frankly for the last year sitting on this Committee, most of what I heard could be characterized as boosterism, and I want to read some of the statements that we have heard over the last year and a half in this Committee.

From our friend Mr. Cassidy of Louisiana: Indeed, offshore drilling is much safer than, say, the cars we are driving around and dropping oil on the street, which then runs off into the bay.

Our friend Mr. Brown of South Carolina: Despite the heated rhetoric, the OCS program has an outstanding environmental record. It is our nation's safest energy extraction program.

And Representative Rohrabacher of California: Decades ago, there were a few well-published accidents that led to oil spills. 1969 was a long time ago.

We shouldn't be basing our judgments on what is important for our people or what is good for the environment based on what was done with technology that was put to use in 1969. That was probably technology that was developed long before 1969.

The fact is that we can have underwater well heads that have almost no chance of spilling even in the middle of a hurricane and even in the middle of the Gulf.

I hope that as we move forward we can balance our boosterism with a little more healthy oversight.

Thank you, Mr. Chairman.

Mr. CASSIDY. Will the gentlemen yield?

Mr. HEINRICH. Actually, I would yield to Ms. Capps of California.

Mr. CASSIDY. She has her own chance to speak.

The CHAIRMAN. Will you yield so the gentleman from California can talk?

Mr. HEINRICH. Yes, I would.

Mr. BACA. John, thank you very much for bringing this legislation to us. I have a simple question that, you know, as we were talking about the tankers and accidents that are there that there are more that have been there.

Isn't it a lot easier to clean up the oil from a tanker and it is not as costly to us, and when we have the drilling it costs us a lot more? Isn't that so?

Mr. GARAMENDI. I really don't know the relative costs. I suspect it would depend upon the nature of the spill, and the amount spilled, and where it is spilled.

Certainly tankers present a major problem, and that is one of the reasons——

Mr. BACA. But it doesn't continue to leak. It doesn't continue with the problem that we have right now because right now the leak that we have we haven't been able to stop it.

A tanker was able to clean that up because it isn't leaking. It is a tank that basically has spilled, right?

Mr. GARAMENDI. Well, certainly in the case of the Gulf not 5,000 feet down. In all cases, oil cases is a very serious environmental hazard whether it is—and we just heard some quotes here.

It is a very serious problem. It demands the utmost safety precautions, and in this hearing you will undoubtedly get into that issue. We certainly have seen in the past with the Exxon Valdez what happens when you use a single-hold tanker and a captain that isn't exactly on the top of his game.

So we need to have those protections at every level. But the major point here is that the West Coast of America is a very difficult place to drill for oil certainly north of Vandenberg Air Force Base.

You have a completely different environment than you do in the Gulf with the exception of hurricane season. When that occurs, you have a very rich ecological system both marine as well as terrestrial and an economy that has been built upon those extraordinary values.

My point here with regard to the legislation is let us protect it and, in doing so, literally force ourselves to move away from our dependence on oil. As long as we can get the drug, we are going to get it. So get the junkie off the street.

Move away from oil. Don't give ourselves more opportunity to continue doing what we know is risky, harmful in many, many ways. If I wanted to open up another hornet's nest, I would mention the climate change issue.

But nonetheless, these are real issues out there, and as long as we continue to make it possible, to go for the drug, we will. It is time to move away from that and, in doing so, protecting extraordinary economy, a fishing economy, a tourist economy.

That is my point here, and my colleagues that are concerned about the East Coast have similar views. I don't know if they are on the Committee. If they are—and perhaps they will add to the hornet's nest, Mr. Chairman. Thank you.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana, Mr. Fleming.

Mr. FLEMING. Yes, thank you Mr. Chairman, and I thank my friend for coming before us today to talk about this.

Look, we spent a good part of yesterday hearing from Secretary Salazar talking about how this was Bush's fault. We heard all about how it was BP's fault, and certainly there is fault there—no question about it—but how it wasn't the President's fault or any of the President's Administration.

Then today it seems to me that we are hearing pretty much the same from Rahm Emanuel, which is "Let no disaster go to waste where we are politicizing this terrible event."

I am from Louisiana, as my friend Bill Cassidy is, and there is no state affected in this process more than the two of us in this Committee. So I am disappointed that we are using this to advance a political agenda, quite frankly.

I thank my friend, but honestly I would much rather see us focus on the problem at hand. I don't think that this is a forum in which we should be advancing cap and trade and all of these other things.

Also, I am a little disappointed Mr. Heinrich quoted my friend, Mr. Cassidy, and then wouldn't yield to him to respond. So with that, I am going to yield to my friend Mr. Cassidy and let him respond to those points that were made.

Mr. CASSIDY. Thank you. Thank you for yielding. It is actually disappointing that what is called boosterism is facts. The National Research Council—and I can bring it to you—oil in the sea, international or national kind of conference, said that 60 percent of what is in the ocean is seepage. It is natural seepage.

About 20 percent is runoff. I may be a little bit fuzzy on my exact details, but about 20 percent is runoff. About five to ten—less than five percent is related to what is happening with transportation or with the drilling. It turns out that is not boosterism. That is facts. Unfortunately, facts are sometimes seen as boosterism.

As regards natural gas, offshore drilling is giving us most of our new finds of natural gas. So as we go to our green fuel which I absolutely accept as a nice way to transition, most of that green fuel is going to come from offshore or from fracking.

Now fracking has also found its opponents, and so it may be that we are just going to pretend that energy happens. Sure, one percent of our energy comes from solar and wind, but it is just going to happen and we don't have to worry about anything or anything, that we are just going to send more overseas and pretend that tankers don't spill like the Exxon Valdez.

Mr. HEINRICH. Would the gentleman yield?

Mr. CASSIDY. Not yet.

Mr. HEINRICH. OK.

Mr. CASSIDY. Mr. Baca, I think that the people in Alaska would say that the Exxon Valdez with its heavy crude was indeed quite an accident and it was not something which they would say is any less than what is happening to the Gulf Coast.

Last, we cannot account for negligence. There may have been negligence in this thing. But negligence is not inherent. Negligence is something which can be prevented, and I think what is responsible here is for—and believe me, no one outside of Louisiana cares more about this issue than someone from Louisiana—if there was negligence, we wish to have that isolated, identified, and prevented in the future.

On the other hand, energy does not just happen. Many of the prescriptions you see for a better future will come from offshore drilling.

Mr. HEINRICH. Would the gentleman yield?

Mr. FLEMING. I just want to reiterate some of the statements that Dr. Cassidy made again, and that is we know the majority of oil that is in the ocean is through natural seepage and not through spills.

This is a very unfortunate event. It would be lovely if we could turn our energy over to solar and to windmills. Someone said the other day in the Committee meeting here that they felt turbines are the up-and-coming technology while oil and gas is diminishing.

Well, I would suggest that we have had windmills for 400 years, so I don't see it that way at all. If you look at windmills and the technology behind them, it is not there. It is not overtaking other forms of energy. It is less than one percent.

I do agree with moving forward on nuclear energy, but we don't have an infrastructure to build that. We are going to have to put that back together after all these years.

So again, I would like to focus on what is going on here today rather than advancing political agendas, and with that, I yield back, Chairman; and I am putting my stinger back in my pocket too, sir.

The CHAIRMAN. The gentleman yields back the balance of his time, and under the Chair's prior dictum, I mean announcement, the gentlelady from California will be the last one to be recognized.

Ms. CAPPS. Thank you, Mr. Chairman, and I want to reference our first witness and thank our colleague for talking about the West Coast, and his legislation, and our history.

You referenced the big spill, the blowout of platform A in 1969 during which time I was living in that community of Santa Barbara which I am honored to represent today.

I just would call attention to the fact that that platform is drilling today. It has been drilling ever since and along with 20 other

platforms offshore of my district in Central Coastal and Southern California. So the truth is that offshore drilling is occurring and will occur probably for the next three decades.

The comparison with tankers is interesting too because I have introduced legislation. We have a lot of tankers going up and down the Santa Barbara channel, and I have introduced legislation to require double hulls. That would take us a long way toward safer tankering which we will also be doing for a good length of time.

The topic of this hearing today is Outer Continental Shelf oil and gas strategy, and I just want to thank the President for a statement I believe he is going to make today which will call a moratorium on new leasing.

We are talking this legislation that was brought up by Mr. Garamendi is about new leasing. The process of leasing takes years in many place, and we are talking about leases that will expect to drill far beyond the three decades.

I applaud the decision to call a pause or a moratorium on the leasing of the new kind of technology that existed on the Deepwater Horizon rig which then exploded.

So with that, I can yield to my colleague Diana DeGette and also to Mr.——

Ms. DEGETTE. I thank the lady for yielding, and I also want to thank Congressman Garamendi for coming.

I want to ask you, Congressman Garamendi, if you are aware of this recent MMS study. The good news is it showed that in general the way these wells are installed has been safe but the problem is there have still been failures.

We had some hearings in the Energy and Commerce Committee—part of the concern many of us have is, while in general these deep deepwater wells can be safe, if there is a problem and our friends on the other side admit there can be problems like obviously happened here, systemic failures, the downside of that failure is catastrophic as we are seeing right now in Louisiana.

So I would think you would agree, and I would certainly hope our friends on the other side of the aisle would agree, that if we are going to install wells that we have to have appropriate oversight by MMS and other agencies.

We have to have appropriate safeguards put in place by the companies doing that because even though failures are rare, the catastrophe to the ecosystems either in California or on the East Coast and the Gulf can be devastating to those economies.

I am wondering if you could comment very briefly on that, Congressman?

Mr. GARAMENDI. I can comment both with emotion as well as some history having served as the Deputy Secretary of the Department of the Interior in the mid-'90s. We were very concerned about the Minerals Management Service and took certain steps to try to change the culture of that organization.

The Chairman pointed out in his opening remarks the efforts that Mr. Salazar, Secretary Salazar, has made to straighten out what is an agency that is in desperate need of restructuring.

The restructuring, the division of responsibility is underway and apparently it will be a piece of legislation or at least an appropriation issue. That has to happen.

Also, a few heads have to roll. The new director of that agency has a great reputation. Unfortunately she is only been there for I think about four months, hasn't really had the time to straighten things away.

But Minerals Management Service has to be a regulator not a hand maiden to the industry, and it is incumbent upon us to make sure that that happens.

The CHAIRMAN. The gentlelady from California.

Ms. CAPPS. Mr. Inslee asked for some time, but I am not sure how much is left.

The CHAIRMAN. Thirty seconds.

Ms. CAPPS. Thirty seconds.

Mr. INSLEE. I just want to point out Mr. Cassidy has suggested that it is possible to prevent oil spills. The one point I want to make is we are going to have the President of American Operations of British Petroleum up here in a few minutes and he is going to admit something that is very true which is that every single oil well in the world today creates an invisible oil spill because it creates carbon dioxide when we burn the oil.

That goes into the atmosphere. It goes into the oceans and creates carbonic acid, and the oceans are 30 percent more acidic than they are today. We have invisible oil spills from every single oil well ever drilled in human history, and we are going to have to figure out a way over time in the next few decades to wean ourselves into new forms of non-carbon sources of fuel.

Mr. Garamendi, I just appreciate your legislation because it is not inconsistent with the bill we passed which unfortunately all our colleagues voted against which will do advanced nuclear, which will do coal-sequestered coal, which will do solar and wind. I appreciate your work.

Thank you, Mr. Chairman.

The CHAIRMAN. We now move to the purpose of today's hearings, and our second panel composed of Mr. Lamar McKay, Chairman and President, BP America, Incorporated, and Mr. Steven L. Newman, President and CEO, Transocean Limited.

Gentlemen, we welcome your familiar faces to Capital Hill again, and we do have your prepared testimonies.

Mr. McKay, you may begin in whatever manner you wish.

STATEMENT OF LAMAR McKAY, CHAIRMAN AND PRESIDENT, BP AMERICA, INC.

Mr. MCKAY. Thank you, Chairman. Chairman Rahall, Ranking Member Hastings, Members of the Committee, my name is Lamar McKay, and I am Chairman and President of BP America.

We have experienced a tragic series of events. This horrendous accident which killed 11 workers and injured 17 others has profoundly touched all of us.

There has been tremendous shock that such an event, such an accident, could have happened, and there has been great sorrow for the lives lost and injuries sustained.

I have seen the response first hand on the Gulf Coast, and I have talked with the men and women on the front line. There is a deep and steadfast resolve to do all we humanly can to stop this leak, contain the spill, and to minimize the damage.

We will meet our obligations under the Oil Pollution Act of 1990 to mitigate the environmental and economic impacts of this incident. Our response efforts are part of a unified command. It provides a structure for our work with the Departments of Homeland Security, the Departments of the Interior, and other Federal agencies as well as state and local government's.

We are committed to working with President Obama, members of his cabinet, the Governors, congressional members, state agencies, and local communities across Mississippi, Alabama, Louisiana, Florida, and Texas.

I want to underscore that the global resources of BP are engaged and have not been spared. Before I describe our response efforts, I want to reiterate our commitment to finding out what happened.

The question we all want answered is what caused this tragic accident. A full answer to this and other questions will have to await the outcome of multiple investigations which are underway.

These include a joint investigation by the Departments of Homeland Security and Interior which is the Marine Board. It includes the President's National Commission, includes congressional investigations, and an internal investigation that BP itself is conducting.

This week, representatives from the BP investigation team briefed the Department of the Interior and other U.S. government officials on their initial perspectives based on the data and the witnesses available to them so far as well as areas of focus for further inquiry.

There is a lot more work to do including more interviews and analysis as well as full forensic examinations of the blowout preventer, the well head, and the rig itself, all of which are currently on the sea bed.

But the investigation team's work so far shows that this is a complex accident involving the failure of a number of processes, systems, and equipment. Put simply, there seems to have been an unprecedented combination of failures.

Now let me turn to our response efforts. In the sub sea, our subsea efforts to stop the flow of oil and secure the well are advancing on silver fronts.

Our primary focus has been on what is known as a top kill which we began yesterday afternoon. This is a proven technique for capping wells though it has never been done in 5,000 feet of water.

This technique injects heavy drilling fluids into the blowout preventer and the wellbore in an attempt to kill the well which would then be capped with cement. We do not know how long it will take for the operation to prove successful or otherwise. BP will continue to report on the progress.

If necessary, we are also preparing a junk shot which is a technique to clog the BOP and stop the flow. It involves injecting fibrous material into the blowout preventer followed by drilling mud to kill the well.

Now in parallel with the top kill, we have the development of a lower marine riser package cap or a containment option. This is designed to capture most of the oil and gas flowing from the well and transport it to the surface. We are also drilling two relief wells to intercept and seal the original well. This will take an estimated three months.

Now on the open water, a fleet of more than 1,200 response vessels has been mobilized under unified command. With the Coast Guard's approval, we continue to attack the spill area both on the surface and sub sea with biodegradable dispersants from EPA's approved list.

To protect the shoreline, we are implementing what the Coast Guard has called the most massive shoreline protection effort ever mounted. Almost 3 million feet of boom are now deployed with another 1.3 million feet available and 1.1 million feet on order. Eighteen staging areas across the Gulf Coast are now in place, and thousands of volunteers have come forward.

To ensure the rapid implementation of state contingency plans, we have made available $25 million each in block grants to Louisiana, Mississippi, Alabama, and Florida.

On Monday, we said we would make available up to $500 million to fund an open research program studying the impact of the Deepwater Horizon incident and its associated response on the Gulf of Mexico.

Now, beyond the environmental impacts, there are also economic impacts. BP will pay all necessary cleanup costs and is committed to paying all legitimate claims for other loss and damages caused by the spill.

We are expediting interim payments to individuals and small business owners whose livelihood has been directly impacted. To date we have paid out over 13,500 claims mostly in the form of lost-income payments, and those have totaled over $37 million.

We have an on-line claims filing system. Our call centers are open 24 hours a day, seven days a week, and we have 24 walk-in claim's offices and over 400 adjustors working on this. Our intent is to be efficient, fair and responsive.

We are taking guidance from the established regulations and other information provided by the U.S. Coast Guard, which handles and resolves these types of claims. We are also making available $70 million to Florida, Alabama, Louisiana, and Mississippi to help promote tourism.

Tragic as this accident was, we must not lose sight of why BP and other energy companies are operating in the offshore, including the Gulf of Mexico. The Gulf provides one in four barrels of oils produced in the United States, a resource our nation requires. BP and the entire energy industry are under no illusions about the challenge we face. We know that we will be judged by our response to this crisis. No resource available to this company will be spared. I can assure you that we and the entire industry will learn from this terrible event. We will emerge from it stronger, smarter, and safer.

Thank you for the opportunity to appear before you today, and I will be happy to answer any of your questions.

[The prepared statement of Mr. McKay follows:]

Statement of Lamar McKay, Chairman & President, BP America

Chairman Rahall, Ranking Member Hastings, members of the committee, I am Lamar McKay, Chairman and President of BP America.

We have all experienced a tragic series of events.

I want to be clear from the outset that we will not rest until the well is under control. As a responsible party under the Oil Pollution Act of 1990, we will carry

out our responsibilities to mitigate the environmental and economic impacts of this incident.

We—and, indeed, the entire energy sector—are determined to understand what happened, why it happened, take the learnings from this incident, and make the changes necessary to make our company and our industry stronger and safer. We understand that the world is watching and that we will be judged by how we respond to these events.

Five weeks ago, eleven people were lost in an explosion and fire aboard the Transocean Deepwater Horizon drilling rig, and seventeen others were injured. My deepest sympathies go out to the families and friends who have suffered such a terrible loss and to those in Gulf Coast communities whose lives and livelihoods are being impacted.

This was a horrendous accident. We are all devastated by this. It has profoundly touched our employees, their families, our partners, customers, those in the surrounding areas and those in government with whom we are working. There has been tremendous shock that such an accident could have happened, and great sorrow for the lives lost and the injuries sustained. The safety of our employees and our contractors and the protection of the environment are always our first priorities.

Even as we absorb the human dimensions of this tragedy, I want to underscore our intense determination to do everything humanly possible to minimize the environmental and economic impacts of the resulting oil spill on the Gulf Coast.

From the outset, the global resources of BP have been engaged. Nothing is being spared. We are fully committed to the response. And from the beginning, we have never been alone. On the night of the accident, the Coast Guard helped rescue the 115 survivors from the rig. The list of casualties could easily have been longer without the professionalism and dedication of the Coast Guard.

Even before the Transocean Deepwater Horizon sank on the morning of April 22, a Unified Command structure was established. Currently led by the National Incident Commander, Admiral Thad Allen, the Unified Command provides a structure for BP's work with the Coast Guard, the Minerals Management Service and Transocean, among others.

Immediately following the explosion, in coordination with the Coast Guard and in accordance with our spill response plan, BP began mobilizing oil spill response resources including skimmers, storage barges, tugs, aircraft, dispersant, and open-water and near-shore boom.

Working together with federal and state governments under the umbrella of the Unified Command, BP's team of operational and technical experts is coordinating with many agencies, organizations and companies. These include the Departments of the Interior, Homeland Security, Energy, and Defense, the National Oceanic and Atmospheric Administration (NOAA), U.S. Fish & Wildlife Service (USFW), National Marine Fisheries Service (NMFS), EPA, OSHA, Gulf Coast state environmental and wildlife agencies, the Marine Spill Response Corporation (an oil spill response consortium), as well as numerous state, city, parish and county agencies.

"BP has been relentless and we've been relentless in our oversight because we all understand the stakes here," said Adm. Allen on May 14. "This has never been done before. This is an anomalous, unprecedented event."

The industry as a whole has responded in full support. Among the resources that have been made available:

- Drilling and technical experts who are helping determine solutions to stopping the spill and mitigating its impact, including specialists in the areas of subsea wells, environmental science and emergency response;
- Technical advice on blowout preventers, dispersant application, well construction and containment options;
- Additional facilities to serve as staging areas for equipment and responders, more remotely operated vehicles (ROVs) for deep underwater work, barges, support vessels and additional aircraft, as well as training and working space for the Unified Command.

The actions we're taking

As Chairman and President of BP America, I am part of an executive team that reports directly to our Global CEO, Tony Hayward. I am BP's lead representative in the U.S. and am responsible for broad oversight and connectivity across all our U.S.-based businesses.

BP itself has committed tremendous global resources to the effort. Including BP, industry and government resources—nearly 17,000 personnel are now engaged in the response, in addition to thousands volunteers.

Indeed, we have received many offers of help and assistance, and we are grateful for them. The outpouring of support from government, industry, businesses and pri-

vate citizens has truly been humbling and inspiring. It is remarkable to watch people come together in crisis.

Our efforts are focused on two overarching goals:

- Stopping the flow of oil; and
- Minimizing the environmental and economic impacts from the oil spill.

Subsea efforts to secure the well

Our first priority is to stop the flow of oil and secure the well. In order to do that, we are using multiple deepwater drilling units, numerous support vessels and Remotely Operated Vehicles (ROVs) working on several concurrent strategies:

- **"Top kill:"** Our primary focus over the last week has been on what is known in the industry as a "top kill." It is a technique for capping wells which has been used worldwide, though never in 5,000 feet of water. The technique, if utilized, will inject heavy drilling mud into the blowout preventer (BOP) and well bore in an attempt to kill the well. The well would then be capped with cement. It cannot be predicted how long it will take for the operation to prove successful or otherwise. BP will report on the progress of the operation as and when appropriate.

  If necessary, we are also preparing a "junk shot" technique to clog the BOP and stop the flow. This involves the injection of fibrous bridging material into the BOP followed by drilling mud to kill the well.
- **Lower Marine Riser Package (LMRP) Cap:** In parallel with the top kill is development of a lower marine riser package cap containment option. This would first involve removing the damaged riser from the top of the BOP, leaving a cleanly-cut pipe at the top of the BOP's LMRP.

  The LMRP cap, an engineered containment device with a sealing grommet, would be connected to a riser from the Discoverer Enterprise drillship and then placed over the LMRP with the intention of capturing most of the oil and gas flowing from the well and transporting it to the drillship on the surface.

  The LMRP cap is already on site and it is anticipated that this option will be available for deployment should it be necessary.
- **Riser Insertion Tube:** Nearly two weeks ago, we successfully inserted a tapered riser tube into the end of the existing, damaged riser and drill pipe, which is a primary source of the leak. Gas and oil is now moving up the riser tube to the Enterprise drillship on the surface, where it is being separated and flared. The oil will eventually be transferred to another vessel or vessels for transportation to one of three different locations on land for treatment.

  We are continuing to optimize the flow from the damaged riser up to the drillship. This remains a new technology, however, and both its continued operation and its effectiveness in capturing the oil and gas remain uncertain.
- **Containment Recovery System:** Initial efforts to place a large containment dome over the main leak point were suspended as a build-up of hydrates, essentially ice-like crystals, prevented a successful placement of the dome over the spill area. The dome is sitting on the ocean bottom 200 meters from the leak while we continue to evaluate the impact of the hydrates.

  A second, smaller containment dome, measuring four feet in diameter and five feet high, called a "top hat," is being readied to lower over the main leak point, if needed. The small dome would be connected by drill pipe and riser lines to a drill ship on the surface to collect and treat the oil and is designed to mitigate the formation of large volumes of hydrates. It is important to note once again, however, that this technology has never been used at this depth, and significant technical and operational challenges must be overcome.
- **"Hot tap:"** This is another containment option on the seabed. This would involve tapping into the riser near the well head and funneling off oil and gas.
- **Dispersant injection at the sea floor**: We are continuing to work closely with the Environmental Protection Agency (EPA) on the subsea application of dispersant. Working through the Unified Command, ROVs are currently injecting approximately 14,000 gallons of dispersant at the sea floor per day. Dispersant acts by separating the oil into small droplets that can break down more easily through natural processes before it reaches the surface.
- **Drilling relief wells:** We are currently drilling two relief wells to permanently secure the well. These wells are designed to intercept the original MC252 #1 well. Once this is accomplished, a specialized heavy fluid will be injected into the well bore to stop the flow of oil and allow work to be carried out to permanently cap the existing well. Each of these operations could take approximately three months.

Attacking the spill

We are attacking the spill on two fronts: in the open water and on the shoreline, through the activation of our pre-approved spill response plans.

- **On the open water**

On the open water, more than 1,255 response vessels are deployed, including 80 skimmers, as well as storage barges, tugs, and other vessels. The Hoss barge, the world's largest skimming vessel, has been onsite since April 25. In addition, there are 15, 210-foot Marine Spill Response Corporation Oil Spill Response Vessels, which each have the capacity to collect, separate, and store 4000 barrels of oil. To date, approximately 262,100 barrels of oil and water mix have been recovered and treated.

Fourteen controlled burns were conducted on Monday.

Working through the Unified Command, we continue to attack the spill area with Coast Guard-approved biodegradable dispersants, which are being applied from both planes and boats. To date, over 705,000 gallons of dispersant have been applied on the surface.

- **Actions to protect the shoreline**

Near the shoreline, we are implementing with great urgency oil spill response contingency plans to protect sensitive areas. According to the Coast Guard, the result is the most massive shoreline protection effort ever mounted.

To ensure rapid implementation of state contingency plans, we have made block grants of $25 million each to Louisiana, Mississippi, Alabama, and Florida.

To date, we have approximately 1.9 million feet of boom deployed in an effort to contain the spill and protect the coastal shoreline. Another 1.28 million feet are staged and ready for deployment and 1.16 million feet is on order. The Department of Defense is helping to airlift boom to wherever it is needed across the Gulf coast.

The Area Unified Command Center has been established in Robert, LA. Incident Command Centers have been established at Mobile, AL; St. Petersburg, FL and Houma, LA.

Eighteen staging areas are also in place to help protect the shoreline:

- **Alabama:** Dauphin Island; Orange Beach; and Theodore;
- **Florida:** Panama City, Pensacola, Port St. Joe and St. Marks.
- **Louisiana:** Amelia; Cocodrie; Grand Isle; Port Fourchon; Shell Beach; Slidell; St. Mary; and Venice.
- **Mississippi:** Biloxi; Pascagoula; and Pass Christian.

Highly mobile, shallow draft skimmers are also staged along the coast ready to attack the oil where it approaches the shoreline.

Wildlife clean-up stations are being mobilized, and pre-impact baseline assessment and beach clean-up will be carried out where possible. Rapid response teams are ready to deploy to any affected areas to assess the type and quantity of oiling, so the most effective cleaning strategies can be applied.

A toll-free number has been established to report oiled or injured wildlife, and the public is being urged not to attempt to help injured or oiled animals, but to report any sightings via the toll-free number.

Contingency plans for waste management to prevent secondary contamination are also being implemented.

Additional resources, both people and equipment, continue to arrive for staging throughout the Gulf states in preparation for deployment should they be needed.

Communication, community outreach, & engaging volunteers

We are also making every effort to keep the public and government officials informed of what is happening and are regularly briefing Federal, state, and local officials.

We are making a live webcam feed of the leak available.

On the ground, in the states and local communities, we are working with numerous organizations such as fishing associations, local businesses, parks, wildlife and environmental organizations, educational institutions, medical and emergency establishments, local media, and the general public.

On Monday, BP announced it would make available up to $500 million to fund an open research program to study the impact of the Deepwater Horizon incident, and its associated response, on the marine and shoreline environment of the Gulf of Mexico.

In addition to the block grants mentioned earlier, we are also making available $70 million in tourism grants to Alabama, Florida, Louisiana and Mississippi.

BP is leading volunteer efforts in preparation for shoreline clean-up. We have helped and will continue to help recruit and deploy volunteers, many of whom are

being compensated for their efforts, to affected areas. Volunteers are being trained in such areas as beach clean-up, wildlife monitoring, handling of hazardous materials and vessel operation for laying boom.

There are seven BP community-outreach sites engaging, training, and preparing volunteers:

- **Alabama:** Mobile;
- **Florida:** Pensacola;
- **Louisiana:** Pointe-a-la-Hache and Venice;
- **Mississippi**: Biloxi, Pascagoula and Waveland.

A phone line has been established for potential volunteers to register their interest in assisting the response effort.

Coping with economic impacts

We recognize that beyond the environmental impacts there are also economic impacts on many of the people who rely on the Gulf for their livelihood. BP will pay all necessary clean up costs and is committed to paying legitimate claims for other loss and damages caused by the spill.

We believe it is inevitable that we will spend more than the $75 million liability cap established by the Oil Pollution Act of 1990.

We are providing expedited interim payments to those whose income has been interrupted. The interim payment is intended to replace roughly one month's lost income, based on the documentation provided by the claimant. The check for the advance payment will be available at the nearest BP Claims Center, the location of which will be communicated to the claimant. Alternative arrangements can be made if this method of check delivery is not feasible.

Claimants will continue receiving income replacement for as long as they are unable to earn a living as a result of injury to natural resources caused by the spill.

Over 25,000 claims have been filed and approximately 12,000 have been paid, totaling nearly $30 million. These are mostly in the form of lost income interim payments. We intend to continue replacing this lost income for those impacted as long as the situation prevents them from returning to work. We have yet to deny a claim.

BP has enlisted a company called ESIS to help administer claims. . The company is well known as a leader in its field and is trained to respond quickly and professionally to significant events.

Twenty four walk-in claims offices are open in Alabama, Florida, Louisiana and Mississippi:

Alabama: Bayou La Batre; Foley; Orange Beach.

Florida: Apalachicola; Crawfordville; Fort Walton Beach; Gulf Breeze; Panama City Beach; Pensacola; Port St. Joe; Santa Rosa Beach;

Louisiana: Belle Chasse; Cut Off; Grand Isle; Hammond; Houma; New Orleans; Pointe-a-La-Hache; St. Bernard; Slidell; Venice;

Mississippi: Bay St. Louis; Biloxi; Pascagoula.

Our call center is operating 24 hours a day, seven days a week. We also have in place an on-line claims filing system. Nearly 700 people are assigned to handle claims, with approximately 400 experienced claims adjusters working in the impacted communities. Spanish and Vietnamese translators are available in some offices.

We are striving to be efficient and fair and we look for guidance to the established laws, regulations and other information provided by the U.S. Coast Guard, which frequently handles and resolves these types of claims.

We will continue adding people, offices and resources as necessary.

Understanding what happened

BP is one of the lease holders and the operator of this exploration well. As operator, BP hired Transocean to conduct the well drilling operations. Transocean owned and was responsible for safe operation of the Deepwater Horizon drilling rig and its equipment, including the blowout preventer.

The question we all want answered is, "What caused this tragic accident?"

A full answer to this and other questions will have to await the outcome of multiple investigations which are underway, including a joint investigation by the Departments of Homeland Security and Interior (Marine Board), The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, and an internal investigation that BP is conducting.

BP's investigation into the cause of this accident is being led by a senior BP executive from outside the affected business. The team has more than 70 people, including engineers, technical specialists, and external consultants. The investigation is ongoing and has not yet reached conclusions about incident cause. This week, the team briefed the Department of the Interior and other U.S. government officials on

the initial perspectives based on the data and witnesses available to them so far, as well as areas of focus for further inquiry.

There is a lot more work to do, including more interviews and analysis, and full forensic examinations of the BOP, the wellhead, and the rig itself, all of which are currently on the sea bed. But the investigation team's work so far suggests that this is a complex accident involving the failure of a number of processes, systems, and equipment. There were multiple control mechanisms—procedures and equipment—in place that should have prevented this accident or reduced the impact of the spill. Put simply, there seems to have been an unprecedented combination of failures.

Only seven of the 126 onboard the Deepwater Horizon at the time of the incident were BP employees, so we have only some of the story, but the BP investigation team is working to piece together what happened from meticulous review of the records of rig operations that they have as well as information from those witnesses to whom they have access. We are looking at our own actions and those of our contractors, as is the Marine Board, and as will the National Commission.

Conclusion

BP is under no illusions about the seriousness of the situation we face. In the last five weeks, the eyes of the world have been upon us. President Obama and members of his Cabinet have visited the Gulf region and made clear their expectations of BP and our industry. So have governors, members of Congress, and the general public.

We intend to do everything within our power to bring this well under control, to mitigate the environmental impact of the spill and to address economic claims in a responsible manner.

Any organization can show the world its best side when things are going well. It is in adversity that we truly see what it is made of.

We know that we will be judged by our response to this crisis. No resource available to this company will be spared. I can assure you that we and the entire industry will learn from this terrible event, and emerge from it stronger, smarter and safer.

[1] *The data described throughout this testimony is accurate to the best of my knowledge as of 8pm, Tuesday, May 25, 2010, when this testimony was prepared. The information that we have continues to develop as our response to the incident continues.*

The CHAIRMAN. Thank you, Mr. McKay.

Mr. Newman?

STATEMENT OF STEVEN L. NEWMAN, PRESIDENT AND CEO, TRANSOCEAN LTD.

Mr. NEWMAN. Chairman Rahall, Ranking Member Hastings, and other members of the Committee, I thank you for the opportunity to speak with you today.

My name is Steven Newman. I am the Chief Executive Officer of Transocean, Limited. Transocean is a leading offshore drilling contractor with more than 18,000 employees worldwide.

I am a petroleum engineer by training, and I have spent years working with and on drilling rigs. I have worked at Transocean for 16 years, and I am incredibly proud of the contributions our company has made to the energy industry during this time.

Today however I sit before you with a heavy heart. The last five weeks have been a time of great sadness and reflection for our company and for me personally.

Nothing is more important to me and to Transocean than the safety of our crewmembers, and our hearts ache for the 11 crewmembers including 9 Transocean employees who died in the Deepwater Horizon explosion.

These were exceptional men, and they performed exemplary service for our company, and we are committed to doing everything we can to help their families cope with this tragedy.

Over the last few weeks, we have also seen great acts of courage and kindness in our colleagues and in our communities. That courage and kindness was embodied by the 115 crewmembers who made it off the Deepwater Horizon that night and were as concerned about the safety of their colleagues as they were about themselves.

It was embodied by the brave men and women of the U.S. Coast Guard, who provided on-scene response and search and rescue efforts, and it was embodied by the medical professionals and the friends and families who met the crewmembers when they arrived ashore.

It is embodied by our friends and colleagues at Transocean and across the industry who have rallied to help the families of the men who were lost. This has been a very emotional period for all of us at Transocean, but it has also been a period of intense activity and effort.

Immediately after the explosion, Transocean began working with BP and the unified command in the effort to stop the flow of hydrocarbons from the well. Our finest engineers and operational people have been working with BP to identify and pursue alternatives for stopping the flow as soon as possible.

Two of our drilling rigs, the Development Driller II and the Development Driller III are involved in drilling relief wells at the site, and our drill ship, the Discover Enterprise, is on scene conducting crude oil recovery operations. We will continue to support BP and the unified command in all of these efforts.

At the same time, we have been working hard to get to the bottom of the question to which the members of this Committee and the American public want and deserve an answer. What happened on the night of April 20th, and how do we assure the American public that it will not happen again?

Transocean has assembled an independent investigative team to determine the cause of the tragic events, a team that includes dedicated Transocean and industry experts. They will be interviewing people who have potentially helpful information and studying the operations and equipment involved.

Because the drilling process is a collaborative process involving a number of companies, contractors, and subcontractors, the process of understanding what led to the April 20th events and how to prevent such an accident in the future must also be collaborative.

Our team is working side by side with others including BP and governmental agencies and these investigative efforts will continue until we have satisfactory answers. While it is still too early to know exactly what happened on April 20th, we do have some clues about the cause of the disaster.

The most significant clue is that the events occurred after the well construction process was essentially complete. Drilling had been finished on April 17th, and the well had been sealed with casing and cement.

For that reason, the one thing we do know is that on the evening of April 20th there was a catastrophic failure of the cement, the casing, or both. Without a failure of those elements, the explosion could not have occurred.

It is also clear that the drill crew had very little time to react. The initial indications of trouble and the subsequent explosions were almost simultaneous.

What caused that sudden violent failure and why weren't the blowout preventers able to squeeze, crush, or sheer the pipe? Those are critical questions that must be answered in the coming weeks and months.

Until we know exactly what happened on April 20th, we cannot determine how best to prevent such tragedies in the future. But regardless of what the investigations uncover, ours is an industry that must put safety first.

We must do so for the sake of our employees, for the sake of their families, and for the sake of people all over the world who use, rely, and depend on the oceans and waterways for their livelihood and sustenance.

I thank you for the opportunity to speak with you today, and I will be happy to answer your questions.

[The prepared statement of Mr. Newman follows:]

Statement of Steven Newman, Chief Executive Officer, Transocean, Ltd.

Chairman Rahall, Ranking Member Hastings, and other members of the Committee, I want to thank you for the opportunity to speak with you today.

My name is Steven Newman, and I am the Chief Executive Officer of Transocean, Ltd. Transocean is a leading offshore drilling contractor, with more than 18,000 employees worldwide. I am a petroleum engineer by training, I have spent considerable time working on drilling rigs, and I have worked at Transocean for more than 15 years. I am proud of the Company's historical contributions to the energy industry during that time. Today, however, I sit before you with a heavy heart.

The last few weeks have been a time of great sadness and reflection for our Company—and for me personally. Nothing is more important to me and to Transocean than the safety of our employees and crew members, and our hearts ache for the widows, parents and children of the 11 crew members—including nine Transocean employees—who died in the *Deepwater Horizon* explosion. These were exceptional men, and we are committed to doing everything we can to support their families as they struggle to cope with this tragedy.

We have also seen great courage and kindness since April 20 that has reaffirmed our faith in the human spirit. That spirit is embodied by the 115 crew members who were rescued from the *Deepwater Horizon* and were as worried about the fate of their colleagues as they were about themselves. It is embodied by the brave men and women of the U.S. Coast Guard who led search-and-rescue efforts for the injured and missing crewmembers, and the emergency workers waiting for the injured crew members when they arrived ashore. And it is embodied by the friends and colleagues who have rallied to help the families of those who were lost at sea.

While this has been a very emotional period for all of us at Transocean, it has also been a period of intense activity and effort.

Immediately after the explosion, Transocean began working with BP (in BP's role as operator/leaseholder of the well) and the "Unified Command" (which includes officials from the U.S. Coast Guard, the Department of the Interior's Minerals Management Service (MMS), and the National Oceanic and Atmospheric Administration (NOAA)) in the effort to stop the flow of hydrocarbons. Our finest operational personnel and engineers have been working with BP to identify and pursue options for stopping the flow as soon as possible. Our drilling rig, the *Development Driller III*, is involved in drilling the relief well at the site, and our drillship, the *Discoverer Enterprise*, is involved in the unique oil recovery operations in the Gulf. In addition, a third Transocean drilling rig, the *Development Driller II*, is moving into position to drill a second relief well or otherwise assist in operations to stop the flow. We will continue to support BP and the Unified Command in all of these efforts.

We have also been working hard to get to the bottom of the question to which the Members of this Committee—and the American people—want and deserve an answer: What happened the night of April 20th, and how do we assure the American public that it will not happen again?

As is often the case after a tragedy of this kind, there has been a lot of speculation about the root cause of this event. Although it is premature to reach definitive conclusions about what caused the April 20 explosion, we do have some clues about the cause of the disaster. The most significant clue is that the events occurred after the well construction process was essentially finished. Drilling had been completed on April 17, and the well had been sealed with casing and cement. For that reason, the one thing we do know is that on the evening of April 20, there was a sudden, catastrophic failure within that basically completed well. It is also clear that the drill crew had very little (if any) time to react. The initial indications of trouble and the subsequent explosions were almost instantaneous.

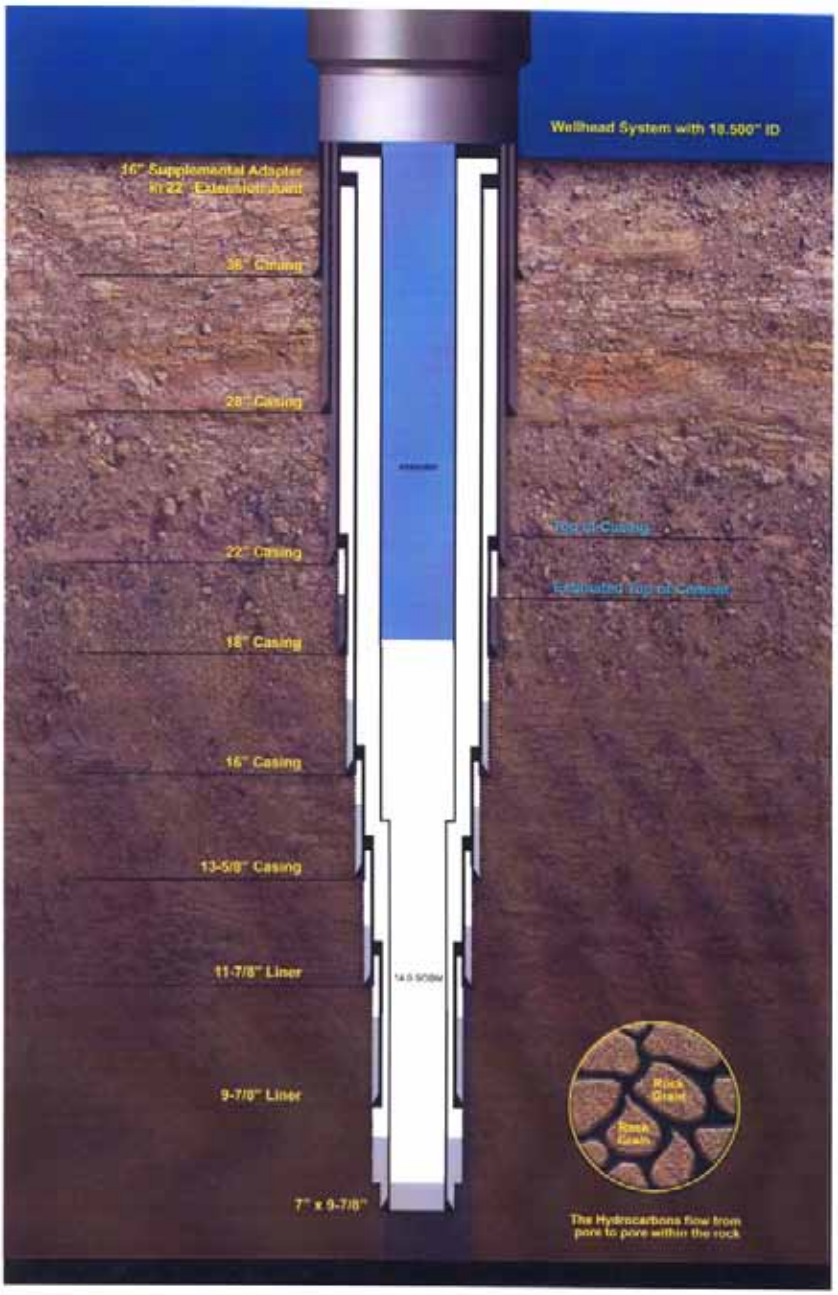
What caused that sudden, violent failure? And why weren't the blow-out preventers able to squeeze, crush or shear the pipe and thereby shut in the flow? These are some of the critical questions that need to be answered in the coming weeks and months.

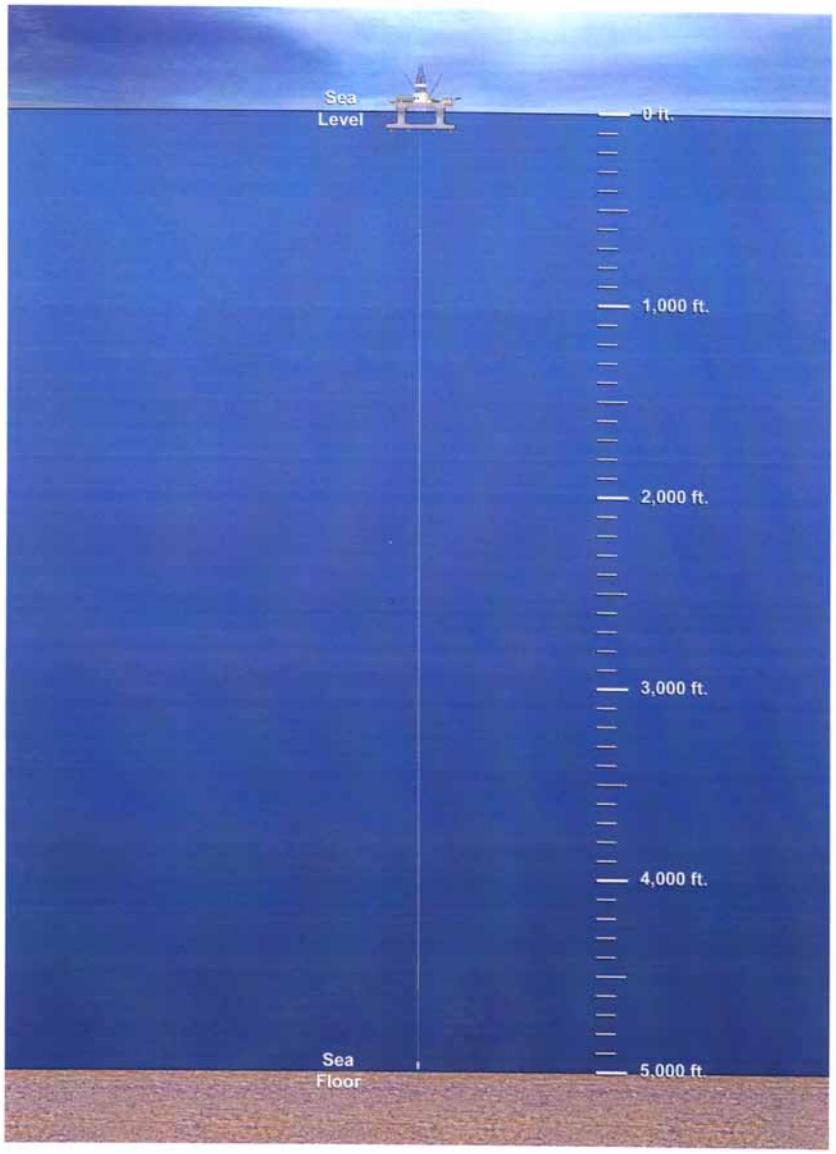
The well construction process is a collaborative effort, involving various entities and many personnel—the well operator, government officials, the drilling contractor, the mud contractor, the casing contractor, the cement contractor and others. For the same reason, the process of understanding what led to the April 20 explosion must also be collaborative. We agree that this is not the time for finger-pointing—instead, all of us must work together to understand what happened and prevent any such accident in the future.

Ours is an industry that must put safety first. And I can assure you that Transocean has never—and will never—compromise on safety. In 2009, Transocean recorded its best ever Total Recordable Incident Rate (TRIR). And MMS, the federal agency charged with enforcing safety on deepwater oil rigs, awarded one of its top prizes for safety to Transocean in 2009. The MMS SAFE Award recognizes "exemplary performance by Outer Continental Shelf (OCS) oil and gas operators and contractors." In the words of MMS, this award "highlights to the public that companies can conduct offshore oil and gas activities safely and in a pollution-free manner, even though such activities are complex and carry a significant element of risk." In awarding this prize to Transocean, MMS credited the Company's "outstanding drilling operations" and a "perfect performance period."

Despite a strong safety record, Transocean is not complacent about safety. We believe that any incident is one too many. Last year, our Company experienced an employee accident record that I found unacceptable. As a result, I recommended to our Board of Directors that they withhold bonuses for all executives in order to make clear that achieving stronger safety performance was a basic expectation—and fundamental to our success. That recommendation was accepted, and our Company paid no executive bonuses last year, in order to send a loud message that we evaluate our success in large part based on the safety of our operations.

Until we fully understand what happened on April 20, we cannot determine with certainty how best to prevent such tragedies in the future. But I am committed—for the sake of the men who lost their lives on April 20, for the sake of their loved ones, for the sake of all the hard-working people who work on Transocean rigs around the world, and for the sake of people in each of the affected states and worldwide who rely on our oceans and waterways for their livelihood—to work with others in the industry, with Congress and with all involved federal agencies to make sure that such an accident never happens again.


Wellhead System with 18.500" ID
16" Supplemental Adapter
in 22" Extension Joint
36" Casing
28" Casing
22" Casing
18" Casing
16" Casing
13-5/8" Casing
11-7/8" Liner
9-7/8" Liner
7" x 9-7/8"
Rock Grain
Rock Grain
The Hydrocarbons flow from pore to pore within the rock


Sea
Level
0 ft.
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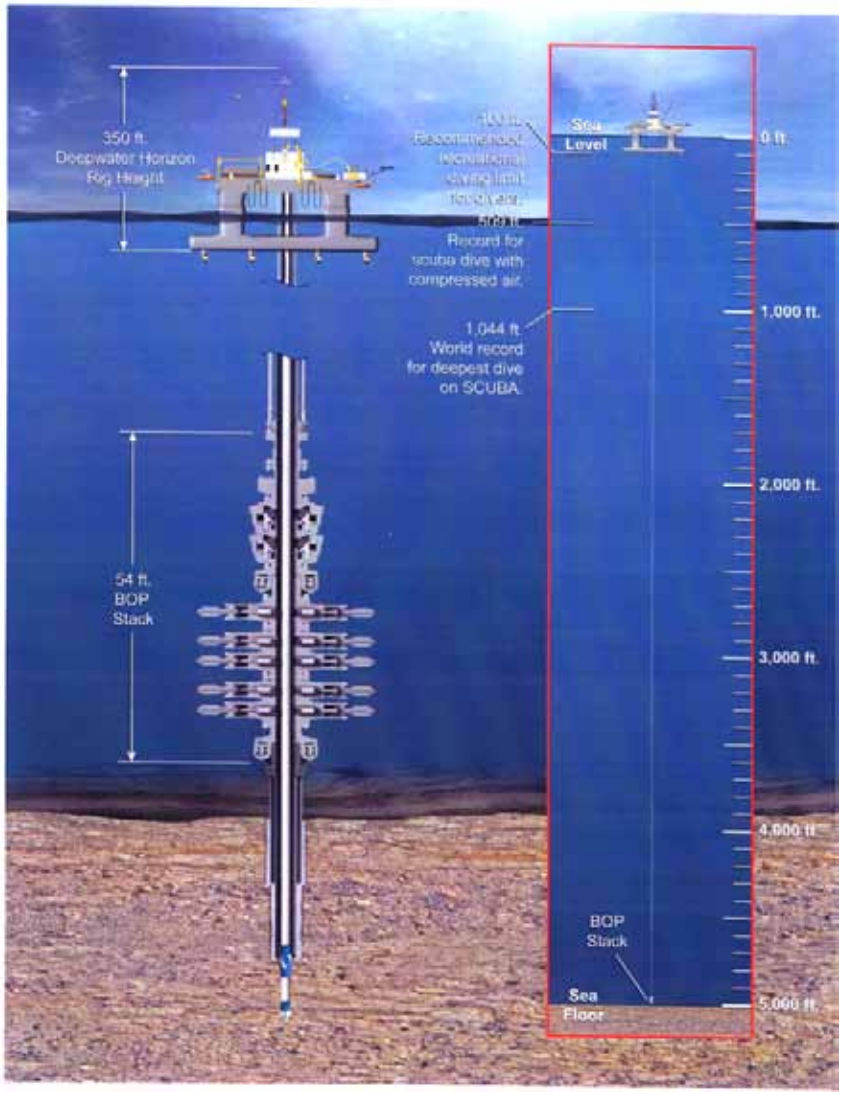
350 ft.
Deepwater Horizon
Rig Height
Sea
Level
0 ft.
Record for
scuba dive with
compressed air.
1,000 ft.
1,044 ft.
World record
for deepest dive
on SCUBA.
2,000 ft.
54 ft.
BOP
Stack
3,000 ft.
4,000 ft.
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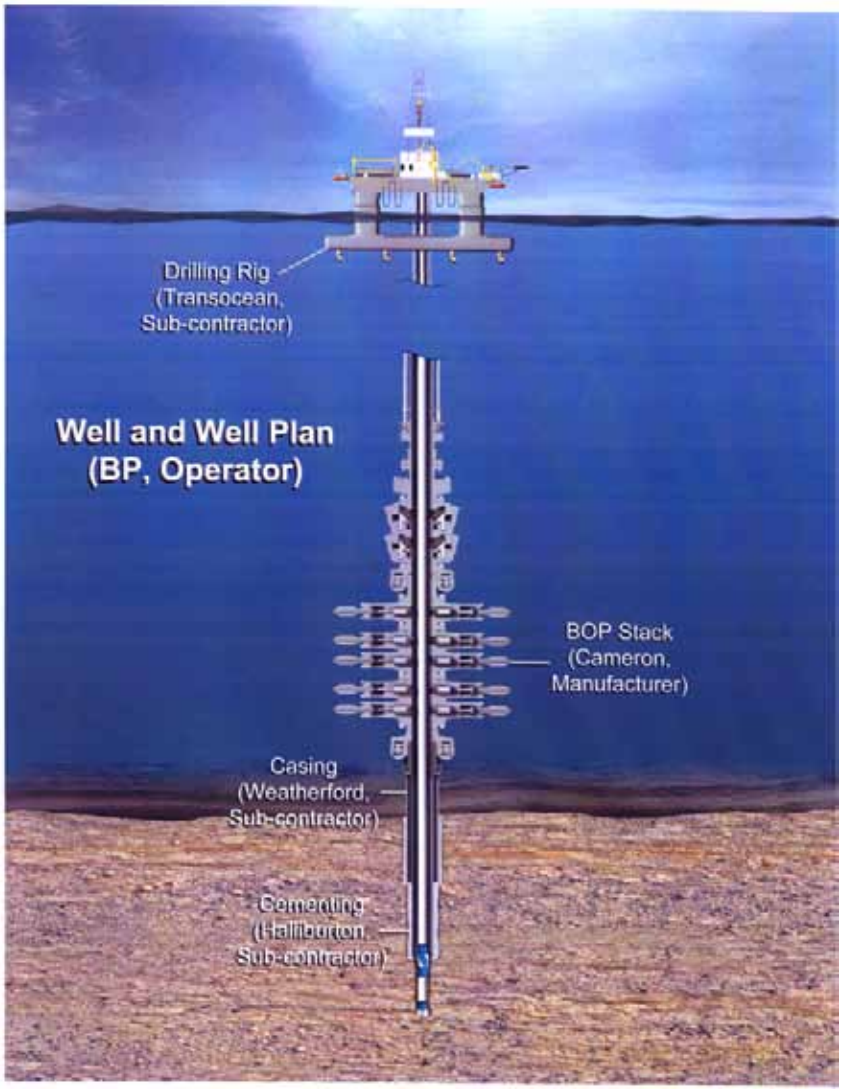
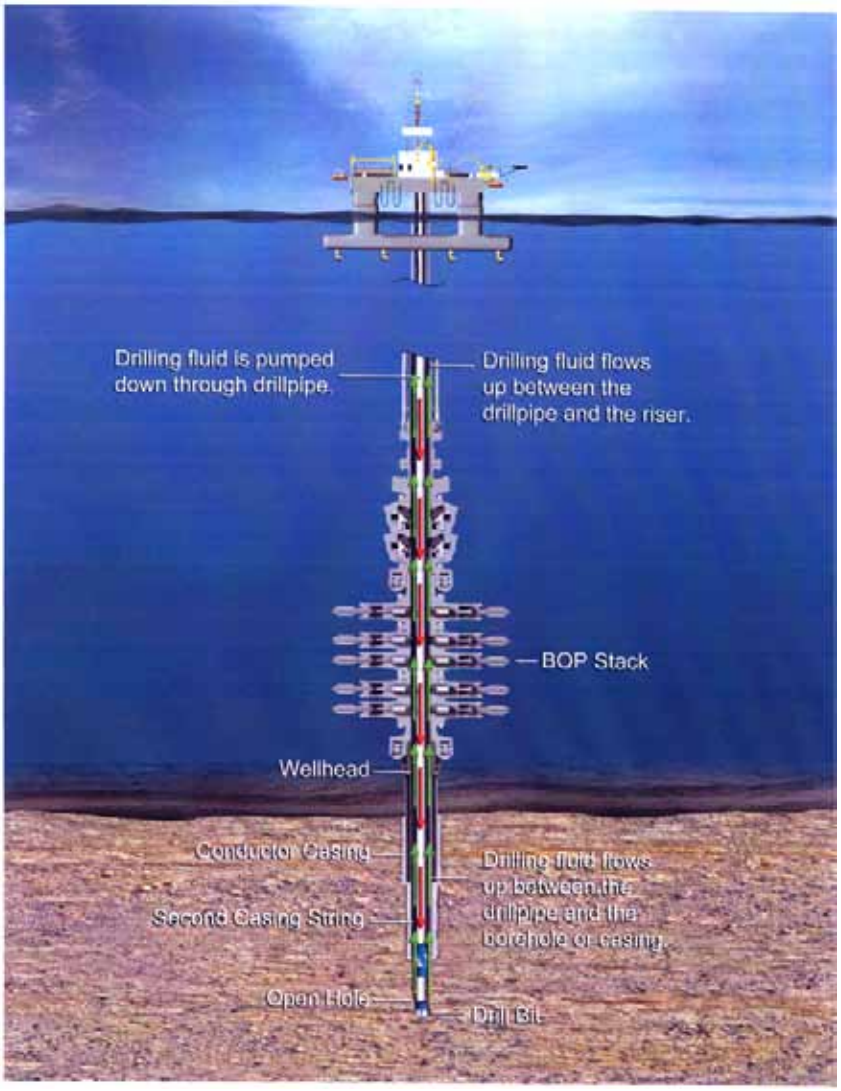
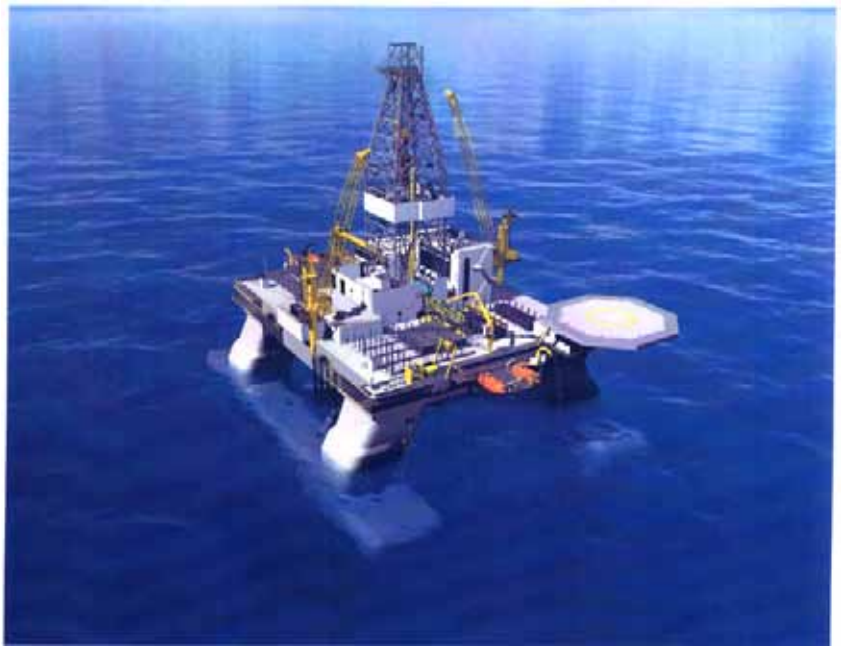
Stack
Sea
Floor
5,000 ft.


Drilling Rig
(Transocean,
Sub-contractor)
Well and Well Plan
(BP, Operator)
BOP Stack
(Cameron,
Manufacturer)
Casing
(Weatherford,
Sub-contractor)
Cementing
(Halliburton,
Sub-contractor)


Drilling fluid is pumped down through drillpipe.
Drilling fluid flows up between the drillpipe and the riser.
BOP Stack
Wellhead
Conductor Casing
Second Casing String
Drilling fluid flows up between the drillpipe and the borehole or casing.
Open Hole
Drill Bit



The CHAIRMAN. Thank you, gentlemen, for your testimony.

As we have already heard this morning and has been reported in the media, the President is going to be having a press conference

here in an hour or so with some announcements to make. This being Washington, DC and the city that it is, we are already aware of what he is going to report according to the experts.

It is reported that he is going to extend the moratorium on deepwater drilling for an additional six months and cancel the upcoming Western Gulf Lease Sale and the Virginia Lease Sale.

Would you both share your opinions? If this is what he announces, would you have a take on this announcement?

Mr. McKay, you first.

Mr. MCKAY. I don't have a take directly on the announcement. What I would say, I think it is important that we learn from this incident everything we can learn as quickly as possible that will influence I think practices, industry practices, that go ahead as well as the regulatory environment by which those practices occur.

Mr. NEWMAN. Mr. Chairman, I think a pause is prudent. I think it is incredibly important to understand what happened and how to prevent such an incident in the future.

But I firmly believe in the long-term importance of the OCS to the economy of the United States. If you think about offshore drilling as an exercise in risk management, the regime in the United States—Transocean works in 30 countries around the world, and the regime in the United States, the approach to risk management in the U.S. Gulf of Mexico is at the upper end of the spectrum.

So the ability we have in the U.S. to manage risk is far superior than other places in the world, and I would hate to see us export that challenge of risk management to other areas of the world.

The CHAIRMAN. You said a pause would be prudent. Are you referring to shallow-water drilling, deepwater drilling, or both and for how long is a pause?

Mr. NEWMAN. I am referring specifically to deepwater drilling because this is the incident that we are specifically discussing today with respect to the Deepwater Horizon.

As I said in my opening comments, we are working very hard to understand what happened. I don't know how to give you a definitive time line around what sort of a prudent pause would be——

The CHAIRMAN. OK. Let me ask you both. Yesterday at the Coast Guard/MMS investigative hearing in New Orleans, the chief mechanic on the Horizon testified that there was an argument between top Transocean and BP employees on the rig less than 12 hours before the explosion, a rather heated argument it has been reported.

The chief mechanic, Douglas Brown, said that Transocean's top manager strongly objected—strongly objected—to BP's plans. One of the Transocean employees who also objected, the primary driller, Dewey Revette, would perish in the explosion that night.

Can either of you shed any additional light on exactly what this argument was about?

Mr. MCKAY. I cannot. I have not seen anything other than what was in the press on that particular discussion or argument.

Mr. NEWMAN. Mr. Chairman, I don't know what the particular discussion related to, whether it was a task to be carried out later that day or what it related to.

The CHAIRMAN. Well, I hope we can find a little more information on exactly what this argument was about because I think it

could give us some very valuable clues as to what really happened here, and that is all of our primary goal was to find out what happened so it won't happen again.

Mr. McKay, in the time line that your investigators put together are these very anomalous pressure readings, sometimes between 6:40 p.m. and 7:55 p.m., about two or three hours before the explosion.

This slide says there was a discussion about pressure on the drill pipe and that the rig team was satisfied that the test was successful despite the fact that the pressures were off.

Do you know who was involved in that discussion and how they might have convinced themselves that this was a successful test? Would the company man have been involved?

Mr. MCKAY. I don't know for a fact but I presume probably so. Most of those type of decisions are a collaborative on a rig. I do think that as we have noted in our investigation that there were anomalous pressures that were measured.

There were decisions made to move forward through steps of the procedure, and we believe that there was, you know, a significant period of time that the well was giving signals that there were issues occurring.

And we need to piece that together through all of the investigations, and I think all discussions, all data, all processes, and all decisions that were made are going to be extremely important through the investigations.

The CHAIRMAN. All right. Thank you, gentlemen.

Mr. Hastings?

Mr. HASTINGS. Thank you very much, Mr. Chairman, and thank both of you for being here today.

Both of you stated something that I agree, and that is that we need to get to the bottom of this so we can make an informed decision as to what happened and whatever corrections should be made in the future because I too am one that believes that there is potential in the OCS and we need to continue doing that. But we obviously have to do it in a very safe way.

Just a kind of a perspective, it is my understanding that since 1969 there have been something in the excess of 36,000 wells drilled in the OCS, and I am talking about the Gulf of Mexico, and the Atlantic, and the Pacific, and in Alaska and since 1969 this is the first incident that we have had.

I only say that to put things into perspective because we know there is risk in everything we do. For goodness sakes, I fly back and forth to my home in Washington State every weekend and there is risk every time I get on an airplane. So I just think that once we get to the point where we have all of the facts, then we can make some informed decisions.

I suspect that there will be some revelations that are maybe embarrassing to the private sector, and there will probably be some revelations that will be embarrassing to the public sector. Well, that is fine. We need to deal with that and try to make sure it doesn't happen in the future.

But what I would like to ask both of you, the area I represent has Hanford Nuclear Reservation, which is the most contaminated nuclear site in the world. There are 53 million gallons of radio-

active material that is in the process of being glassified and sent hopefully to a national repository.

But I only bring that up because, when you are dealing with these type of materials, there is a lot of risk. On the ground, the contractors there have a policy. All of the contractors have a policy if there is anything unsafe, a single individual can stop the process.

I have never been out on a rig in the Gulf, but I would suspect that something like that would happen, and I would ask you if you could both tell me what your safety rules and regulations as it pertains to those rigs on the site.

Mr. McKay, I will start with you.

Mr. MCKAY. Well, our orders are very clear that any employee anywhere at any level if they have any concern about safety have the ability and, in fact, the responsibility to raise their hand and try to get the operation stopped, whether that is our operations or a contractor's operations.

I would presume everybody on that rig probably had the same ability to do something and stop operations if they felt it was unsafe.

Mr. HASTINGS. Mr. Newman?

Mr. NEWMAN. Congressman, what you are talking about we refer to as "stop work authority," and it is a fundamental component of our safety management system.

We have a regular program for recognizing individuals who have taken that stop work authority. We call it, "I made a difference." We take a picture of the individual doing this, calling a time out for safety.

We send that across our entire organization because we want our people to know that they have that opportunity and, in fact, obligation to stop any unsafe act or condition from causing an incident.

Mr. HASTINGS. So those conditions existed on the rig and, of course, we won't know what happened until we get all of the facts and figures. But the point is that your policy in both of your cases is a policy by which somebody can stop whatever operations are going on if they think it is unsafe; is that a fair way to say that?

Mr. NEWMAN. Yes.

Mr. MCKAY. Yes.

Mr. HASTINGS. Yes. OK. I would like to follow up briefly.

In your remarks, Mr. McKay, you said that you block-granted funds on the cleanup to the various states. There has been some talk now in the news and I alluded to that in my opening statement where Governor Bobby Jindal of Louisiana is somewhat frustrated where he has at least a plan.

Now my only question, I guess, is those funds that you block granted to the state could be used as far as stopping the oil coming onshore? Is that the intent of that?

Mr. MCKAY. Yes. The intent of those block grants were to allow the local what are called area contingency plans at the local level, for instance in a parish level, to be actioned as quickly as possible such that there is no waiting time on funds. So that is what those funds are for, yes.

Mr. HASTINGS. OK. Well, I wanted to make that point because we seem to have a little bit of tension between a Governor on the ground with trying to make sure his state is protected by this spill

and a degree of difficulty at least in getting these funds put in place so he can do what he is supposed to do as a Governor of the state.

So with that, Mr. Chairman, I see my time has expired, and I will yield back.

The CHAIRMAN. The gentleman from California, Mr. Miller.

Mr. MILLER. Thank you, Mr. Chairman.

Gentlemen, I appreciate your testimony and your remarks but add today what we are doing is we are managing a failure. Every time we have a catastrophic event like this involving British Petroleum or other parts of the oil and gas industry, we are told that this is an unpredictable cascade of unforeseeable errors, that this is unprecedented and nobody could have foreseen this.

This is sort of like the bankers on Wall Street. Nobody could have foreseen the risk that they engineered themselves, and so nobody's responsible. I don't believe that this is some kind of black swan or perfect storm event. There wasn't something that nobody could foresee, and I don't think you can promise it will never happen again.

Yesterday we spent a lot of time talking about changing the culture of MMS, the Minerals Management Service, and how that culture was wrong.

I wear two hats. I am a member of this Committee and I am Chair of the Education and Labor Committee. I spend a lot of time with British Petroleum about safety, about killed workers, about injured workers, about processes that they go through. This is a record that the American people ought to understand who is doing business on our Outer Continental Shelf.

Back in 2005, BP had a tragic Texas City oil refinery killing 15 workers, injuring 180. During the restart of gasoline production unit, the tower was overfilled, caused flammable liquid geyser to erupt from the stack.

Critical alarms and control instruments failed to alert operators. BP had no flare to burn off the hydrocarbons. Eight previous releases from the same stack. BP relied on low personal injury rates as a safety indicator.

Following Texas City, BP commissioned a special report by former Secretary James Baker in which he found that BP tolerated serious deviations from safety operating practices and concluded material deficiencies and process safety performance exist at BP's five U.S. refineries.

In 2006, British Petroleum spilled 200,000 gallons of crude oil over Alaska's north slope. In August 2006, BP found oil leaking from flow lines that were severely corroded with losses of 70 to 81 percent in three-eighth inch thick pipe. British Petroleum had not done internal pipe clean out or inspections for 14 years to save money.

In November 2007, British Petroleum plead guilty to a single criminal misdemeanor in violations of the Clean Water Act and paid $20 million in fines. This follows $22 million in fines paid in 2000.

In 2009, OSHA fined British Petroleum an additional $87 million for the 700 violations that the Texas City Oil Refinery

that killed 15 workers, injured 180 after they failed after four years to fix the deficiencies that they promised in the settlement.

Now we are still wondering what happened on the Deepwater Horizon. I think what we see here is we see a pattern that apparently, BP, it is impossible for you to keep oil in the pipelines whether it is on the north slope of Alaska, the Outer Continental Shelf, or in your own refineries.

We have a failure of processes here that have been noted numerous times. It is not just me who is noting this but a report on the oil leakage. You commissioned Booz Allen, and they found out that you had deeply ingrained cost-management ethics that led to the failures to inspect.

The Chemical Safety Board did a study on Texas City. Cost-cutting and budget pressures from the BP Group Executive managed to impair process safety performance at Texas City and 15 people died.

You then asked former Secretary James Baker to make a determination. BP does not effectively measure or monitor safety performance. Budget cuts of 25 percent were imposed upon Texas City.

Your own internal people came to your executives, went into the board room in London, and said that these changes should be made. Most of them were not, and then you proceeded to cut the budgets by 25 percent, and the refinery went up in smoke and those people died.

The fact of the matter is that there are red flags on the safety record on the cost-cutting activities of BP throughout the years, and I think it is time for the American people, for the Congress of the United States to ask just who is doing business on the Outer Continental Shelf.

This is not a right; it is a privilege. And when these companies are struggling to replace inventory, the Outer Continental Shelf is a prize and we ought to guard it jealously and we ought to be clear about what kind of companies and what kind of record they bring to that bidding process. They should not be able to exclude companies just by bidding more than others.

I think what we see here, this is a culture. I have discussed this culture with former Chairman of the Board of BP. I have discussed it with their last executives. I have discussed it with the refinery executives, and the culture continues to persist.

I appreciate you got awards from MMS, but maybe this was the clash of two really bad cultures. Thank you.

The CHAIRMAN. Well, the gentleman from California's time has expired, but the Chair will give the panel a chance to respond if you wish.

Mr. MCKAY. I would briefly respond that we have acknowledged that in Texas City, Alaska, that there were some fundamental mistakes made. We have worked very hard.

We got a new CEO in 2007 whose effectively single agenda item for quite a bit of his time was safety, safe, compliant, and reliable operations. We have instituted changes from the top at the Board with the Safety and Environmental Ethics Audit Committee.

We have added a group Operational Risk Committee at the top. We have set up an entirely new division, effectively, which is safety and operational integrity. We are instituting operation manage-

ment systems around the world at every operating business to conform in the standard.

This incident, we don't know what happened yet. I do expect it will be a combination of factors that include human error, processes, and equipment. All I can tell you is we are dedicated to make this company the safest in the industry, and we have not gotten there yet.

We have made a lot of progress, and we continue to work on that. So the direction has been clear, and I acknowledge what you have said from the past and we have taken responsibility for that.

Mr. MILLER. Well, I would still—we will talk more, but I would like to get the facts around the gathering center number one fire in Alaska where we still apparently cannot get a candid report on what took place there.

The CHAIRMAN. The gentleman's time has expired.

Gentlemen from Louisiana, Mr. Fleming, is recognized for five minutes.

Mr. FLEMING. Thank you, Mr. Chairman, and thank you gentlemen for coming today.

I come from the health care industry. I am a physician. Industry such as health care, airlines, the work that you do are risky industries, and one of the things that we have discovered is that in order to be safe you have to have redundancy in multiple systems, safeguards, fail-safe systems.

The good news about that is that if something goes wrong, you have back-up systems. The bad news about that is that often times people can cut corners and get away with it until finally all of the factors align and that once in 30 years or once in even a century a situation occurs where everything goes wrong, and then you have a disaster.

I know that you are not fully knowledgeable or have been briefed about what went wrong, but let me mention some of the things that have come out about this thus far.

It seems that the problem began with an accidental destruction of the rubber annular—I guess it is called an annular. There was evidence that this had occurred, but it was ignored.

Then there was discovered a failure of the redundant electronic system. Apparently that is fully redundant, and throughout this process one had not been working well at all, so that really meant you had one reliable system at best.

Because of time pressures, instead of using the normal heavy fluid for drilling, it was substituted with either light fluid or salt water. And as the story goes, that is what the argument was about was the fact that lighter fluid than normal was being used.

Now again, I can't confirm this but this has been reported, and I am sure we will find out over time. But it seems to me that this reflects that there was a culture that had developed, and I don't which company or maybe it was both.

I know that it has come out of the news that one company seemed to be concerned about the procedures of the other one, and I won't say which one was which but it seems to me that the culture had developed sort of a time-pressure and a relaxation of some of the safety and back stops.

So I open this up to a response from both of you gentleman.

Mr. NEWMAN. Congressman, you have raised two questions that I can respond to, one with respect to the annular. Just so the Committee understands what we are talking about, this is a piece of rubber that is about three feet in diameter. It is about 18 inches tall, and it weighs about 2,000 pounds.

In the 60 Minutes report that aired which included an interview of one of Transocean's employees on the rig, he made reference to having seen a small handful of chunks of annular material come across the shakers. So this is small handfuls of material of a 2,000 pound piece of rubber.

If you consult the manufacturer's own specification sheet, that specification sheet will tell you that this element is subject to wear and tear.

So, you know, having small chunks of rubber come off this is not unusual and not an indication that the annular element was destroyed. In fact, the annular element was repeatedly tested subsequent to those events and passed every one of those tests.

Mr. FLEMING. On that point though, if the annular is not working properly, you could get misreadings on pressure; is that correct?

Mr. NEWMAN. You could get misreadings on pressure, but those would be readily identifiable as misreadings on pressure and they would characterized as failures of the test.

Mr. FLEMING. Is it possible that someone could misinterpret that reading?

Mr. NEWMAN. The reading is relatively straightforward. You either get a straight line, and that is an indication of a successful test, or you get a sloping line, and that is an indication of a failed test.

Mr. FLEMING. Well, it was reported that the pressures were acting very unusually and that, again, apparently there was some discussion or inability to really interpret what those pressure situations were and why they were occurring.

Mr. NEWMAN. If you are referring to confusion on the day of the 20th, I am not sure that the annular element was even involved in those pressure readings that were taken on the 20th. So it is entirely possible that they may be completely unrelated issues.

The other issue, the other question you raised, was with respect to the control system, the duel redundant control systems that are responsible for operating the BOP.

Repeatedly throughout the well, those systems are tested. The industry refers to those duel redundant systems as blue and yellow, and tests alternate between those blue and yellow sides according to regulations, and every time they were tested they passed those tests.

Mr. FLEMING. Mr. McKay?

Mr. MCKAY. I do think—I mean, you asked some questions that I think the investigations are going to need to come to grips with which is what type of decisions were made on what type of information at the time.

And there were anomalous pressures that were taken at various times, and you know, the detail of the different conversations and what was said, and who was objecting to what, I don't know. But the investigations will need to get to the bottom of that I think.

Mr. FLEMING. OK. I think I am out of time.

The CHAIRMAN. The gentleman from New Mexico, Mr. Lujan.

Mr. LUJAN. Mr. Chairman, thank you very much. First and foremost, I think that from all of us our heart and our prayers are with the families of those that lost their lives on the 20th. This is serious.

Especially as our nation's been horrified by the plumes of oil that devastated marine life, local seafood industries, vulnerable wetlands, and the waters of the Gulf of Mexico, we watched the company most responsible for the spill, British Petroleum, understate the spill's extent and impact while trying to escape blame for the Earth's greatest environmental catastrophe since Chernobyl.

Although the sheer volume of oil has stunned most Americans, I am finding it extremely hard to believe that BP executives are shocked. Over the past decade BP has grown to become the largest company in America, systematically undercutting its competitors on safety issues.

In 2005, BP's Texas refinery exploded killing 15 workers, injury 150 more, and we have heard this time and time again. Shortly after, the plant had cut maintenance by spending less than or cutting their expenditures on safety by 41 percent. The next year, a poorly maintained pipeline rupture spilled 200,000 gallons of crude over the North Slope of Alaska. BP has claimed time and again that it is learned from its mistakes, however, it continues to cut back on employee and environmental safety cost to increase its profits.

Over the past three years, 97 percent of all the flagrant violations in the refining industry found by the Occupational Safety and Health Administration were located at just two BP refineries, one of which was the very refinery in Texas City that exploded in '05. BP's citations were classified by OSHA as egregiously willful meaning that they reflect violations of a rule designed to prevent catastrophic events at refineries.

According to Risk Metrics, a consulting firm that scores companies' commitment to health, environment, and safety, BP is among the worst performing major oil companies in these areas.

Last month we witnessed another explosion connected to BP at Deepwater Horizon that killed 11 more people and spread a devastating slick across the Gulf.

Perhaps we shouldn't be surprised to hear that the Associated Press has reported that a Transocean employee on the rig prior to the disaster stated that he had overheard, and I quote, "overheard upper management talking saying that BP was taking shortcuts by displacing the well with salt water instead of mud without sealing the well with cement plugs. That is why it blew." Unquote. Once again, BP abandoned its workers for the sake of a little more profit.

Mr. McKay, the record breaking fines that have been levied against BP over recent years all finding that 97 percent of egregious willful violations over the last three years, one of which was the Texas City refinery that exploded in 05, undermines your company's claims of shock and devastation and a willingness to correct these problems. BP's record appears to indicate that the company has determined that an occasional fatal accident is no more than a cost of doing business. How can any company possibly correct

problems with its corporate culture that are so deeply interwoven into your business model that even a loss of life has not forced a change? At what point will jeopardizing the health and safety of your workers and the environment no longer make sense to your bottom line?

Mr. MCKAY. There have been massive changes made to the company. I went through a few earlier. Just to mention in terms of safety and operational integrity spending that is—that has been rising. It has been, you know, we spent over a billion dollars in Alaska. We have spent over a billion dollars in Texas City rebuilding.

More importantly than that is the agenda that has been created by our new CEO after those events. That is clear top to bottom. That is our agenda. That is our priority.

I cannot say the causes of this incident, but what I can tell you is we have 23,000 employees in this country working to be the safest company in this industry.

We have made massive changes, as I said. Progress is being made. It will never be finished, but I believe this company is making—has made major, major steps at its core since those incidents.

Mr. LUJAN. Mr. McKay, let me read a couple quotes that came back from 2007 by the former CEO. BP gets it. I get it too. I recognize the need for improvement.

After the 11-member panel that BP asked to study its U.S. refineries at the urging of the U.S. Chemical Safety Board made ten recommendations, what they found as far as looking even at Texas was the panel said BP did not learn from a long-string of past accidents, had a false sense of confidence about safety, do not always ensure that adequate resources were effectively allocated to support or sustain a high level of safety in the industrial process, and rotated refinery chiefs too quickly.

Again, a lot of what we are hearing now is well it has been repeated after 2005, and I know we all want to get to the bottom of this. We all want to make sure this does not happen again.

But we have to make sure that we are making the investments and that people are held accountable to making sure that they are putting the lives of people first and the safety of others before them.

Thank you, Mr. Chairman. I yield back my time.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from Colorado, Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman.

Mr. Newman, it has been reported that Transocean has filed a limitation of liability petition. Can you explain this claim to the Committee and explain if this applies to claims under the Oil Pollution Act, OPA?

Mr. NEWMAN. Thank you for the opportunity to clarify this, Congressman. We were instructed by our insurance underwriters very early after the incident to file the limitation of liability. So the first reason we filed it was at the instruction of our insurance underwriter, so we did that to preserve our insurance scheme.

The second reason is that we are being sued in multiple states, in state court, Federal court across many jurisdictions, and so the limitation and liability filing serves to consolidate all of those into

a single venue to ensure that the pace of discovery and the process of administering those claims doesn't disadvantage one claimant against another.

So we did it at the request of our insurance underwriters and to consolidate all the actions into a single venue. It is unrelated to claims filed under the Oil Pollution Act. It is only intended to address non-environmental claims.

Mr. COFFMAN. Thank you.

Mr. McKay, we have been provided a briefing by BP on events leading up to the incident on board the Deepwater Horizon. By your company's own admission, there appears to be a series of problems throughout the day with well control.

Can you explain for us what appears to have happened that day and why when there were problems with the well more caution wasn't applied to the situation?

Mr. MCKAY. I can give the Committee a quick overview of what at least I have been reviewed with the investigation team which is similar to the review the Committee staffers have had.

There were anomalous pressures measured. There were evidently hydrocarbons that enter the wellbore. The recognition of those hydrocarbons is at question. Were they recognized; were they not? It would appear not for a period of time at least.

Operations were continued. The well gave signs at various places in time—and I don't have the time line in front of me—that there was pressure increasing. It would be bled off, and then there would be flow.

It would be bled off, and there were various—it is very complicated because there are lots of operations going on—but there were various indications that hydrocarbons could have entered the wellbore, and the well was becoming capable of flowing. I think that is one of the interim concerns that we have uncovered.

Then the operational activities, whether that was monitoring, discussing decisions, and physical operations have to be pieced together. I don't understand those yet and nor does the investigation team.

But I do believe it became a progressive event is what it would appear, and that there were signals that mounted, and there was an accumulative effect.

And whatever operations were needed to control the well in a well-control situation don't look to have happened. Then after things got out of control, a piece of equipment that is designed to operate in that system didn't work.

We don't know the reasons for any of that yet, but the investigations, I think, I have confidence that the investigations will figure that out.

I think with that confidence then we can minimize and make changes. It will minimize and make changes that will minimize the chance of this happening again and provide confidence for the industry again.

Mr. COFFMAN. Well, thank you both for your testimony. I certainly concur with you on an earlier statement that both of you made in terms of supporting the pause in terms of more leases until we get to the bottom as to what happened and what it will take to correct it.

But I also recognize the importance of offshore drilling and that that pause that the President is going to be talking about today not be extended beyond that time for which we understand how to correct this issue and how to move forward.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman from Washington, Mr. Inslee.

Mr. INSLEE. Thank you. I have to say while we have been engaged in this investigation, it has been very disturbing because it doesn't look like BP or the operators went through one stop sign. It looks like they went through five or six at least.

I mean, anyone can make a mistake, but it is amazing to me the numbers here. We have a dead battery in the blowout preventer. We have a hydraulic leak in the blowout preventer because someone didn't ratchet it down.

We have a casing decision that according to various people a decision to use a particular casing for economic reasons at least created a riskier situation.

We have a failure to respond to the signals from the well that you were getting abnormal pressures. We had an early decision about not using mud that may have been involved in the argument we heard about.

And now our investigators have just tumbled to another one I want to ask you about that might be number six in this series of failures and that is about the centralizers. Your staff has told investigators for the Committee staff that a decision was made by BP to reduce, in effect, the number of centralizers.

Centralizers are sort of a spring-like device that go around to keep the pipe, the casing, centered in the wellbore. It is very important to keep it centered so you have structural integrity so you don't get a leak.

Originally BP staff wanted to use 20 centralizers which would have assured that you had centralizers above the hydrocarbon zone, 500 feet above the hydrocarbon zone.

But someone apparently delivered the wrong ones to the rig according to your staff, and so it was decided to reduce the number of centralizers to only six and because of that decision to only use six there were apparently no centralizers in the 500-feet zone above the hydrocarbon zone. Even though there was cement there, there were no centralizers.

So because there were no centralizers there, you may have been off center which could have weakened or essentially compromised the integrity of the system.

So could you tell us about why BP made that decision to reduce the number of centralizers; why you decided to run this risk of not having centralizers in the zone. These were conscious decisions. These were before the blowout. Why you decided to reduce that and run that additional risk?

Mr. MCKAY. I don't know why. That is part of the investigation that needs to continue. I do acknowledge what you are saying. I was in the review I had prior to this with the investigation team, evidently six centralizers were run rather than 20 or so.

I don't know the reason for that being six versus 20. Obviously the investigation team is looking into that not just our team as well.

Mr. INSLEE. Is it somewhat disturbing at least that apparently your staff thought originally there should be 20; you should have them above the hydrocarbon zone? Somebody made a decision to reduce it to six. Does that disturb you?

Mr. MCKAY. I think it needs to be looked at. I don't know the reason that those were dropped. I don't know—I have no idea what the reason they were dropped, so I don't know if there is a good reason or a bad reason. I don't know.

Mr. INSLEE. When do you think BP will have that answer?

Mr. MCKAY. I think the investigation team will continue to look at it and soon. I don't know the exact time.

Mr. INSLEE. We hope that will be the case. Now, I just have to tell you that it is disturbing to me every single time there is said to be a junction between doing something safer and maybe a little more expensive and something to do riskier and maybe a little less expensive, in this particular case, BP went with the cheaper and riskier solution.

To me this seems like more of a cultural problem than just one running of a stop sign. I just have to relay that as one Member of Congress's reaction.

I want to ask about a larger part of the BP plan for our energy future of this country. Your logo I really like. It is beautiful. It is green. It suggests benign photosynthesis.

It was adopted when your previous leadership of British Petroleum wanted to call BP Beyond Petroleum, and the reason is your previous leadership recognized that every single oil well in the world is an invisible oil spill because the carbon that we use goes in the atmosphere, gets burned up, the carbon dioxide goes in the ocean, creates carbonic acid in the ocean.

Your previous leadership then understood that that is unsustainable because within the next century we probably won't have healthy coral reefs anywhere in the world.

We will have acidic conditions that could damage 40 percent of the food chain, the very basic food chain of the oceans. He understood we had to get beyond petroleum, and yet it seems that that corporate goal has now been abandoned by BP and you have reduced your investment in some of the things that can get us beyond petroleum.

In fact, has that happened and how do you explain that disappointing event?

Mr. MCKAY. I would disagree. We have not abandoned that. We have been very, very clear that we believe in all of the above including the range from expiration in production to biofuel, solar, and wind.

We are still investing on the schedule that Lord Brown talked about years ago. In fact, we are ahead of that schedule, and we are investing primarily in the U.S. on wind, and biofuels, and solar.

So we are still firmly, firmly in belief that it needs to be everything, and we are still investing in that way.

Mr. INSLEE. What percentage of your expenses or investments of your total budget go to renewable energy sources as a rough percentage? Just very rough?

Mr. MCKAY. I would say five to ten percent, but I am not sure.

Mr. INSLEE. We appreciate your comments. We hope there is more fiscal muscle behind those desires. Thank you.

The CHAIRMAN. The gentleman's time has expired.

Just as a housekeeping announcement here because it may affect future questioning from our members to the panel, the Committee has learned—and it appears to be in the public arena now—that the departure of Elizabeth Birnbaum as Director of MMS is imminent.

The Chair would say that her departure does not address the root problem. She has only been the public face of MMS for about 10 months, and the most serious allegations that we have learned recently occurred prior to her tenure.

On the surface, this might be a good start, but I feel this particular individual must not be the end game in our efforts to get at the root causes of the problems at MMS. So the Chair just makes that comment by way of a public announcement.

The gentleman from California, Mr. McClintock, is recognized.

Mr. MCCLINTOCK. In the Santa Barbara oil spill in 1969, that in many ways was technically a more difficult situation. As I understand it, the casing didn't extend deep enough down.

There was a fracture in the substrata. Fissures opened up. You had multiple leaks, and yet that was contained in a relatively short period of time compared with this disaster.

What is taking so long? Is it strictly the difficulties of dealing with 5,000 feet of water?

Mr. MCKAY. There are several reasons. I put them in two big categories. One is 5,000 feet of water where we just can't get human access and it is we are working with submarines and robots.

The second big category is that we have a blowout preventer with what is called a lower marine riser package still stuck on top and a kinked riser 4,300 feet long.

So the ability to—and we have not been able to actuate that blowout preventer through the remote operated vehicles as it should be, nor have we been able to get on top of that blowout preventer to be able to get another blowout preventer, for example, on top of it.

So this is an extremely difficult—extremely difficult—situation, and we have had to do diagnostic work, non-intrusive diagnostic work through gamma rays, sonar, and radiography to try to understand the internal workings of that blowout preventer such that we don't effectively take a step backwards versus a step forward as we do operations because we have been concerned that if the top of that riser package was compromised, then we may have a much bigger problem.

So we have had to work without being able to touch anything, see anything other than robots, and build everything on the sea floor with robots.

Mr. MCCLINTOCK. I realize you have to drill where the oil is, but directional drilling gives a considerable amount of latitude on where to place these rigs. Why are you drilling in 5,000 feet of water?

Mr. MCKAY. Directional drilling can go directionally about—eight miles is about the farthest it can go. This is 41 miles offshore from the delta, so it is quite a ways offshore. So directional drilling just

can't get you there to much of the deep, well, all of the deep water providence in the Gulf of Mexico.

Mr. MCCLINTOCK. So the placement then of the well is determined geologically; it is not regulatory?

Mr. MCKAY. Yes. Yes. Exactly.

Mr. MCCLINTOCK. OK. Thank you.

The CHAIRMAN. The Gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman.

You would think that through enlightened self-interest any money that you might save by lack of due diligence you would lose many times over by disasters such as this.

You certainly have offended the American people all over the country. I am from Michigan way up north, but we are offended by that. You certainly should have offended your stockholders for lack I think of due diligence.

Have you recapitulated your construction of this rig and platform to see what changes may have taken place in the construction of this one compared to those that were built before that might have contributed to what happened, or do you plan to recapitulate in detail construction of this particular platform?

Mr. MCKAY. I do believe it is really important to understand the equipment that was operating, whether that is the rig itself or the blowout preventer, any modifications that were made along the life of that, for example, blowout preventer and anything that may or may not have worked properly with that blowout preventer, I think that will do several things.

One, it will inform as to what blowout preventers should do in the future. Number two, I think it will enhance the testing procedures around blowout preventers now, and number three, I think at least it at least begs the question should blowout preventers be re-certified now.

I also think what we are finding is that the sub-sea intervention capability for the industry will need to be looked at in terms of how can you handle these things, how can you, in effect, have a plan that understands a sub-sea capability available across the industry and be able to be put into service.

So I think there is a reassemblage of the events and the equipment that will be necessary to understand how to go forward.

Mr. KILDEE. I think it would be very important—there is an old saying for lack of a nail, a shoe was lost. For lack of a shoe, the horse was lost. For loss of a horse, the battle was lost. For loss of the battle, the war was lost.

I think you have to go back and look at every step to see what you may have done differently that may have made this less reliable than previous platforms.

You were really going very, very deep, and you think you would take even special precautions, but maybe a decision was made that upon reflection if you really recapitulate here you would find out was not the proper decision maybe not out of malice but out of not knowing what that may have done to the system that you have put together.

I think that is very important because we cannot tolerate this happening again. I am 81 years old, and in my lifetime I have seen

a lot of natural disasters. But I can't recall anything that has captured the American people's attention as much as this.

You have only a fiscal obligation but you have a moral obligation to do better when you begin to operate in that fashion going out into the Gulf of Mexico, a beautiful area, and polluting an area down there.

So I think you have that moral and fiscal obligation, and I certainly hope that you take both those seriously.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from Louisiana, Mr. Cassidy.

Mr. CASSIDY. Thank you.

Mr. McKay, let us change the picture a little bit. Frankly, there are a lot of folks who hear you say that you are going to pay for everything but they think you are going to find a legal dodge at the end that will keep you from being on the hook. I am not going to ask you comment on that. This is just the preparation for my next question.

Eleven people died. I met with some of them. They say that they are covered under the Jones Act and the Death on the High Seas Act, and that they are basically, the survivors, are paid lost wages presuming that they—and this presumes that the person will stay in the same job for the rest of his life.

It will be subtracted from that that which he would have spent upon himself, say to buy a hamburger, but do that for 50 years, then also it will be subtracted the income tax he would have paid, and that is what net out paid. There is nothing for loss of consortium. There is nothing for pain and suffering, et cetera.

A woman in my district, a widow, who delivered her second baby after her husband died. Now, and apparently the liability for this not only is limited but it is transferred to one of your subcontractors.

Now it is almost a test case because I think, I want to believe, that you really want to make people whole. And when folks say no, they will find a legal dodge, I am thinking, well, let us see.

But this actually seems something where—and I was encouraged by your testimony where you are very conscious of those 11 people. The question is, will their recompense, if you will, "their" being those two children, be limited to that which is available under the Death on the High Seas Act and the Jones Act which I gather is less generous than that which covered the refinery workers in the Texas refinery disaster, that they somehow are covered under a different Act and there was actually additional recompense made for those families.

So first, let me just start out with the human element and see what your thoughts are and see if we can get a commitment that you will meet with those families and consider making some other consideration aside from that which is strictly limited by the law.

Mr. MCKAY. I believe the families of the tragedy are being dealt with directly with the contractor or their employers. For instance, I don't know if this is Transocean or——

Mr. CASSIDY. No. This is a subcontractor who has been involved——

Mr. MCKAY. OK.

Mr. CASSIDY. And they are going to follow the letter of it, if you will, and apparently once they take care of it that is done. They will, I am sure, limit themselves to what they are required to pay. But frankly, if you will, that is not the moral issue.

Mr. MCKAY. We will certainly talk to the families.

Mr. CASSIDY. Nan I get your commitment that you will do more than talk, that you will actually make a strong consideration of making recompense of it?

Mr. MCKAY. We will make a strong consideration, yes.

Mr. CASSIDY. I appreciate that.

Second, going through the drilling information that BP put together—very helpful. Thank you very much for providing that to the Committees.

If I start on page 24, I went over this, and Mr. Newman, you mentioned that there was really no sign that something could happen until the thing blew, but I went over this and from at 17:05, 5:00 p.m. in the afternoon to 5:25 in the afternoon, it looks like they were offloading mud. The mud loggers were not informed that offloading had ceased.

Now, I am told that that limits the ability of the mud logger to give a safety signal—my gosh, we are getting either some sort of more out or less out that—it is very significant—that the mud loggers were not informed that offloading had ceased.

I guess I am asking—and by the way, I have also been told by people in academia that you run a safe ship, and they say that is the irony of this. So is there a normal operating procedure that the mud loggers would not be informed, or was this a variation from normal operating procedure?

Mr. NEWMAN. My sense of normal operating procedure would be relatively robust level of communication between all of the subcontractors that are involved in the operation such that everybody is informed about what is going on.

Mr. CASSIDY. So OK, because in the Wall Street Journal they are focusing on the fact that there is a disagreement between the two heads, but there may have been a breakdown farther down, if you will. I am just postulating. I don't know.

Also, you mentioned that it wasn't until then, but I am looking at 17:52, and there was an influx from the well as suspected at this point because 15 barrels were taken at this bleed.

And so, again, it seems like three hours beforehand there was clear evidence that there was an attempt by the well to begin to flow. Any comments on that because, well, you mentioned how anybody has the ability to say stop, and yet apparently there was indications for three hours before the blowup that it is clear that the well has something flowing in it at 18:40, for example. Any thoughts on that?

Mr. NEWMAN. I have not seen that data specifically, Congressman, so I can't comment on whether or not 15 barrels was the amount of fluid that they were expecting to flow back. I don't know whether that was abnormal or not. I don't know what particular operation they were undertaking that resulted in that flow back.

Mr. CASSIDY. That is a fair statement.

Mr. McKay, any comments on that?

Mr. MCKAY. I think that 15 barrels, I think 5 would be calculated as the expected volume if I remember right. So there was some anomalies starting to show up.

Mr. CASSIDY. So you would agree that even three hours beforehand there was evidence for——

Mr. MCKAY. I do think there is a significant period of time where there were signals, and there is a cumulative effect of those signals that were not recognized.

Mr. CASSIDY. Then on page 33, last question because I am expired and thank you for your generosity, Mr. Chairman, page 33 it says the Sheen Test passed and approval was granted to discharge overboard.

One I assume it is seawater you are discharging overboard. I don't know that. It doesn't say, but who gave that approval? Who gives approval for discharge to occur overboard? I can show you the Power Point that that is—are you familiar with this?

Mr. MCKAY. I am familiar, but I don't know who gives the approval.

Mr. CASSIDY. Is that a Federal agency, or is that somebody in Houston in the command?

Mr. MCKAY. Well, it is under—that would be under MMS and EPA regulation I believe, but I don't know who gives the approval on the rig to actually say discharge. I don't know.

Mr. CASSIDY. OK, so I guess my question is—and I don't know, I am just asking all these things—is that a rig-centric approval, or do you have to get on the phone to someone in Robert and say, listen, can we do a discharge overboard?

Mr. MCKAY. I don't know, but I believe it is on the rig, I believe.

Mr. CASSIDY. OK.

Thank you. I yield back. Thank you.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from Arizona, Mr. Grijalva?

Mr. GRIJALVA. Thank you, Mr. Chairman.

I first want to comment, I think there was a reaction to my colleague talking about boosterism, and I don't think it was well received. But the fact of the matter is we are talking about—this is not about a political agenda by the Obama Administration.

This situation that we are at right here with our witnesses before us has been getting to this point for a while. It has been the attitude for the last four or five years and even that, you know, we drill first and we are going to ask questions later, and that we have to pull full trust in the companies and in the industry that they will do the right thing, and that we are going to overlook the corruption and the collusion going on within an agency that is responsible for the oversight, the enforcement, and the investigation of this industry.

So it has been building up. As late as March 19th, almost every member on the other side of the aisle on this Committee—most, if not all—and the Republican leadership sent a letter to Secretary Salazar saying please do not delay opening up new areas to drilling and job creation because it would be a no-cost stimulus for our economy.

Again, drill first and we will find out the consequences later. Well, we are dealing with the consequence. Somebody said we have

to get to the bottom of this. I think we have gotten to the bottom of this.

The responsibility for what is going on in the Gulf, the responsibility for the aftermath of what is going on, rests fully with the industry, and the responsibility—and I am glad that some motion is going on with MMS—rests to some extent, to an extent, with this government for having a lax oversight and for encouraging a culture that is responsive to the industry and not too responsive to the public that they serve.

I have one question only to both gentlemen. I have introduced legislation that says there are no caps on liability to a company on an oil spill or anything else. Mr. Menendez has introduced the same legislation. No liability caps.

Your reaction to that legislation?

Mr. MCKAY. I don't have any specific comments on that particular legislation. What I would say, we have been clear in this incident we are taking our responsibilities as a responsible party very seriously.

We have said we are not going to use any caps of any sort. We have said we are going to reimburse the government for the expenses. We are going to pay all legitimate claims, and we are not going to ask for reimbursement from the government for any claims.

So we have been clear that in our situation that we are in that we are stepping up and saying we are going to deal with this and we are going to make it right for the people of the Gulf Coast.

Mr. GRIJALVA. I appreciate that. I think the legislation talks to now and in the future and not a particular incident.

I think what is going to come from these hearings that will be an interesting experience for each of us here is a reintroduction of the role of this government in the oversight, enforcement, and investigation of oil production and energy production in this country.

We have let that go by the side. We are paying for it now, and we are paying dearly for the people of Louisiana, and I share my colleagues from Louisiana's pain that they are going through.

I just want to remind that, our then colleague, Mr. Jindal at our 2005 hearing about the benefits of offshore drilling, and now Governor, said the oil and gas exploration on the Outer Continental Shelf is vital to Louisiana and as well as the nation.

We have seen first hand the benefits of opening OCS up to safe and efficient exploration and production. Here in Louisiana, we are able to promote and encourage energy production while at the same time also protecting and preserving our environment.

I remind people of that quote because now we are talking about a pause, a moratorium, and a whole different look at how we engage with this industry in the future. I think that is to some a extent very, very pathetic silver lining out of this whole thing, but nevertheless, it is a step to go forward. I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back. The gentlelady from Wyoming, Ms. Lummis.

Ms. LUMMIS. Thank you, Mr. Chairman.

Well, I want to identify myself as a proponent of the responsible recovery of our oil and gas resources, and I am not shying away from that. But I also want to associate myself with the remarks of

Mr. Lujan, and Mr. Miller, and others who have expressed concern about the corporate priorities of BP.

I am of the opinion that there is a corporate culture at BP that prioritizes the wrong things, and I would strongly encourage BP to be introspective about the importance of safety for its workers and of the environment, and they are paramount above all other considerations of your company, and should be. I commend to you our concern that that be addressed.

Now, that said, I would like to ask a question. Does BP have a backup plan if the top kill doesn't work?

Mr. MCKAY. Yes. We have ready to go a—remember I said we have this lower marine riser package on top? We have been concerned that if we take the kinked riser off that the situation could get worse.

The data we have gotten over the last few days indicates that I believe we will be able to take that riser top off. And then we have a containment system built with a rubber grommet seal that we will get on top of that and hopefully capture almost all the oil, if not all of it, while we get other methodologies to try to kill it in place as well as drill these relief wells. So yes, we do.

Ms. LUMMIS. What do the relief wells hope to accomplish?

Mr. MCKAY. The relief wells will intersect this well down near the reservoir itself at 18,000 feet and will directly pump mud effectively at the source of the reservoir and kill it, and kill it for good.

Ms. LUMMIS. OK, now if the top kill is successful, what are your immediate plans to proceed with the cleanup?

Mr. MCKAY. We will keep the capacity out there to be able to deal with it if something goes wrong, let us say, the kill is not sustained, but we think it would be. But we are going to keep capacity out there under unified command to be able to deal with it should it not be.

Also, we will continue with the cleanup. We will continue with dealing with the claims and the economic impacts. There is a natural resources damages assessment that is being done with NOAA as the lead trustee for the Federal Government. That will be done and assess the damages to natural resources, as well as what it would take to restore those, as well as pay for the associated claims around the whole Gulf Coast.

Ms. LUMMIS. Thank you, Mr. McKay.

I have time remaining, and I would like to yield the remainder of my time to Mr. Cassidy.

Mr. CASSIDY. Thank you.

Yesterday Liz Birnbaum, who was the Director of MMS, said that they would not have approved an ADP, advanced drill plan I think, or permit, which would have allowed clearance of the seawater—excuse me—replacement of the mud with the seawater prior to putting the upper plug. You know the nomenclature; I don't. So if you will bear with me. So and yet that apparently is what happened. Now, she had not specifically reviewed the ADP, but she said that that would not have been allowed. So it sounds as if the way this proceeded was at variance with the ADP.

So I guess, one, is that common that things are done at variance with ADP, number one? And, number two, is the ADP not law?

Number three, would both parties have to agree to something that was at variance with a plan that had been permitted by the MMS?

Mr. MCKAY. I believe that the sequence that was performed for replacing the mud with the seawater is—first of all, I don't believe that is an unusual procedure. Second, I believe that was consistent with the temporary abandonment sundry notice or the application that was approved by the MMS. That is what I believe. That can be checked, and we can get back with you on it.

Mr. CASSIDY. Can you do that——

Mr. MCKAY. Yes.

Mr. CASSIDY.—because that actually is different than what she said.

Mr. MCKAY. I believe that is true, but I will check that.

Mr. CASSIDY. In speaking to petroleum engineers, who tell me they don't do offshore, they do say that the more conservative way to do this would be to leave the heavy drilling mud there and then to seal it, and then to pull the mud out as opposed to doing it with seawater in place.

They seem to feel that that was the best—Mr. Newman, your comments on that?

Mr. NEWMAN. First, with respect to the ADP, because we are not a part of the ADP process, when the operator hands us a procedure to carry out, a task, we don't have the approved ADP against which to compare it, so we wouldn't be in a position to be able to assess whether what we are being asked to do complies or doesn't comply with the operator's ADP.

With respect to the procedure for setting the cement plugs, that is part of the abandonment plan and would be specified and overseen by the operator.

Mr. CASSIDY. OK. I think I am out of time again. Thank you.

The CHAIRMAN. The gentleman's time has expired.

We are voting on the House Floor, and before breaking for a vote, the Chair first wants to make an announcement. Then we would ask you two gentlemen to be back with us in 45 minutes. Get something to eat. There is just a cafeteria downstairs, but you can have something to eat there if you would like.

But this was just announced this morning. The U.S. Geological Survey Director, Dr. Marcia McNutt, announced this morning that two teams using different scientific methods have now determined that the well that exploded on April 20th has poured between 17 and 39 million gallons of oil into the Gulf of Mexico thus making this incident the Nation's worst oil spill in history and far greater than the 11 million gallons spilled by the Exxon Valdez incident.

The Chair will announce their recess for 45 minutes while we answer votes on the House Floor.

[Recess.]

The CHAIRMAN. The Committee will resume its business.

The gentleman from New Mexico, Mr. Heinrich, is recognized.

Mr. HEINRICH. Thank you, Mr. Chair.

Mr. McKay, over the last 20 years or so I think it is fair to say the oil and gas industry has made some incredible technological strides. You know, when you think about the fact that you can start a well a mile beneath the surface of the ocean and literally

drill miles into the Earth's crust, I don't think anyone can say that is not an incredible feat of human ingenuity.

I know that employed by the industry and employed by BP are some of the best scientists, geologists, engineers you are going to find in any industry.

Unfortunately, I think what we are learning right now is that kind of ingenuity was devoted mostly to building technologies to allow drilling in tougher and tougher environments, deeper wells, more challenging coastal infrastructure, and not devoted to the kind of technologies to deal with these kinds of accidents in those tough environments. As Mr. Miller noted yesterday, we are using some of the same tools to address this spill that were used in that 1969 Santa Barbara spill.

As I hear from my constituents over and over again, one of the things that folks want to know is why wasn't there a ready-to-go plan B, plan C, plan D, the next day? Why did it look like you were winging it days and even weeks into this accident?

Mr. MCKAY. The response efforts have concentrated in two large pieces, sub-sea and surface, and the Surface Spill Response Plan which is authorized by the government and sits underneath the National Contingency Plan, that has formed the foundation of the surface response which I think has worked overall pretty well, and it is under unified command.

On the sub-sea response, as I said a little bit earlier, this is a very unique and unprecedented situation, and we have this situation where we have a blowout preventer that should have worked, didn't work.

The ability to manually intervene with ROV's has not proved successful. We have on top of that a marine riser package which did not release the rig, therefore we can't get on top of that blowout preventer.

What we have done is respond, and it is the largest sub-sea response ever mounted anywhere. We have four deepwater rigs operating and drilling relief wells, intervening and containing the oil, and 16 submarines that sometimes were——

Mr. HEINRICH. Well, and I appreciate the quantity of the resources there are, but given the fact that a deepwater blowout like this is certainly a possibly and now a reality, how come you had never tested these technologies, the Top Hat Response, and some of these other approaches in that deep water?

I believe from your own testimony you note that these proposed strategies to get the well under control had never been tested at this depth before. Shouldn't we be doing some of these things ahead of time so that we know how things are going to respond in these conditions?

Mr. MCKAY. A couple of things. You are right. This has not been done in 5,000 feet of water before. The Top Hat, the containment domes have been used in shallower water. We are dealing with a rather unique fluid here that has hydrate issues and that is what we ran into.

I would—what I would say is we are definitely going to learn a lot from this, and I will say that I believe the industry's going to have to look at incremental sub-sea capability to intervene in situations like this. I do believe that.

So we have been pursuing multiple parallel paths on every piece of action that we can think of or other experts, including the government, can think of. We will learn from this and, therefore, I think through regulation and through the industry efforts we will be able to put in place some more capacity, some more planning, and some more understanding of worse-case scenarios that will allow us to have confidence in developing the resource going forward. I do believe that.

Mr. HEINRICH. Can you give me some understanding of the thought process that went into attempting this what you called a Top Hat containment dome procedure first as opposed to moving first to use the kill valves to pump mud into this well?

Mr. MCKAY. Yes, I can. The Top Hat was a technology that has been successful in shallow water. It has been used, and it was available and ready to go, so we knew we may have hydrate problems. We thought that was worth——

Mr. HEINRICH. When you say it was ready to go, you didn't have one staged. You had to build it, right?

Mr. MCKAY. We did have—no, we did actually have the——

Mr. HEINRICH. You had one?

Mr. MCKAY.—we had to amend it——

Mr. HEINRICH. OK.

Mr. MCKAY.—and change it a bit for this——

Mr. HEINRICH. Got ya.

Mr. MCKAY.—but we had it. Second, on the top kill, we have been concerned from day one that we didn't know where effectively the choke on this well was occurring. Was it in the kinked riser? Was it in the blowout preventer? Was it down hole?

Therefore, we have not been able to do a top kill until we were able to diagnose with inside the blowup preventer what was happening to the degree we could.

Not only did we try to get the blowout preventer closed, we were trying to diagnose and rebuild parts of the blowout preventer. That is why the top kill took as long as it did to get set up.

Mr. HEINRICH. Mr. Chairman, how much time do I have left or am I out of time?

The CHAIRMAN. Zero.

Mr. HEINRICH. Zero. Thank you very much.

Mr. MCKAY. Thank you.

The CHAIRMAN. The gentleman from Colorado, Mr. Lamborn, is recognized.

Mr. LAMBORN. Thank you, Mr. Chairman.

One of the things that the American people don't like about Congress is that we rush to judgment, and we do this in so many ways. Apart from this whole area, we are doing it with financial reform.

Congress has set up a commission to find out what went wrong in the financial crisis a couple years ago, and we have a report that is due from this commission at the end of the year, but we are doing major financial reform now before even seeing what the results of this commission is that we set up.

With Don't Ask, Don't Tell on the military side, we have a commission once again that is going to come out in December, I think it is, but we are acting now as if we already know what the results are. We are prejudging that.

And in this area we are doing the same thing. You have heard today how there are bills being proposed to shut off drilling in the Pacific Coast completely. We have legislation in both the House and the Senate to create unlimited liability, and we are doing all this—for oil spills—we are doing all this not even knowing what the facts are.

We can't even wait a few days, or a week or two, or whatever it is going to take to find out what the facts are before we make our decisions. And it is that rush to judgment I think is one of the reasons why Congress has such low approval ratings among the American people.

Let us talk about liability in particular, and I didn't know this until just very recently, but apparently under the Oil Pollution Act, OPA, there are at least I guess two types of liability for costs involved with oil spills.

Can you both or either one of you elaborate on that because I guess effectively one type of this liability for cleaning up the spill itself is already unlimited in effect. The costs have to be paid period, so that is already unlimited.

The other type of liability is for economic damages or something like that. Can you both elaborate on this? And that is what is set at $75 million?

Mr. MCKAY. I think that is correct. The OPA 1990 set forth liability structure effectively, and it calls for cleanup cost to be borne by responsible parties.

It has embedded in it a $75 million cap for economic impact claims or damages. We have been very clear from day one that we are not going to exercise that cap or recognize that cap. We believe we will spend more than that.

Also, there is the ability for reimbursement through the trust fund in some ways, and we are not going to exercise that. We have been very clear about that.

Mr. LAMBORN. So there are two types of liability for the cost of mitigating the damage from the spill; is that correct: the cleanup cost itself, number one, which has no limits and, number two, the economic damages which is capped at 75, although in your case you are saying whatever it takes, and that is 75 million?

Mr. MCKAY. Yes. The OPA 1990 is a broad—it effectively obligates broad responsibilities to responsible parties roughly in those categories, cleanup costs and economic impact on the environment as well as the people and businesses that are affected. And yes, we have waived or said it is irrelevant, the $75 million cap.

Mr. LAMBORN. OK. Thank you.

I want to shift gears here and ask about the blowout preventer. Once we can stop the leak and that is the number one priority of everyone concerned, then number two, clean up the oil—once that is capped, will we be able to bring the blowout preventer or preventers to the surface and do a thorough and complete forensic examination to find out mechanically what the issues were there?

Mr. NEWMAN. Yes, Congressman. Once the well is permanently capped, we will recover the BOP and we will be able to perform thorough diagnostics and a complete evaluation of the BOP to determine what prevented it from effectively shutting off the flow of hydrocarbons.

Mr. LAMBORN. OK. All right. I want to thank you.

If I have any more time, I would yield to another member, but is there any effective time remaining, Mr. Chairman?

The CHAIRMAN. Ten seconds.

Mr. LAMBORN. Then I will just yield back.

The CHAIRMAN. OK. The gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. McKay, are you familiar with Robert Kaluza, an employee of your company?

Mr. MCKAY. I do not know Mr. Kaluza.

Mr. DEFAZIO. OK. Donald Vidrine?

Mr. MCKAY. No. I don't know him.

Mr. DEFAZIO. OK. So these are the two individuals from BP who were in charge of determining whether or not the well was stable and making the call on the withdrawal of the drilling mud, and you haven't contacted them in the interim? You haven't been curious as to, you know, what went on? You haven't met with them or talked with them?

Mr. MCKAY. I have not. The investigation team, I believe, has talked to them, yes.

Mr. DEFAZIO. OK. Now, you said earlier that you were only by press accounts familiar with the—you had not discussed nor sought discussion with them.

One gentleman has taken the fifth because of the potential for self incrimination, and the other has an undisclosed illness. Has your company informed you of the nature of his undisclosed illness and whether or not it is potentially fatal, or whether he will be at some point in the future able to testify under oath as to what happened and/or have the opportunity to take the fifth like his college?

Mr. MCKAY. I do not know the state of the medical condition. That is evidently been directly with the Marine board in terms of that discussion, so no I am not aware of that.

Mr. DEFAZIO. Right, but one would—this doesn't seem to be a good direction.

So then to Transocean, do you know the gentleman Jimmy Harrell?

Mr. NEWMAN. I do know Jimmy Harrell.

Mr. DEFAZIO. OK, and is he a reliable long-time employee or?

Mr. NEWMAN. I don't know Mr. Harrell's history with the organization, no.

Mr. DEFAZIO. OK. You probably don't know the chief mechanic who testified yesterday, Doug Brown?

Mr. NEWMAN. I don't know Doug Brown.

Mr. DEFAZIO. OK. So what Mr. Brown quoted or said that there was some heated discussion, and he said that, well—he is quoting Mr. Harrell—well, I guess that is what we have those pinchers for.

So he apparently was not happy with the decision for whether the well was stable or the withdrawal of the mud. Have you had any conversation with Mr. Harrell regarding that?

Mr. NEWMAN. I have not.

Mr. DEFAZIO. OK, so you are not curious about that? I mean, a company who has huge potential liability, and you guys are going to be pointing fingers at each other and you just haven't asked, and no one has asked, and no one has told you?

Mr. NEWMAN. Well, Mr. Brown's testimony before the Marine board was yesterday.

Mr. DEFAZIO. Yes.

Mr. NEWMAN. And so that was brought to my attention last night.

Mr. DEFAZIO. OK.

Mr. NEWMAN. It is an issue that our investigation team will be pursuing to the end.

Mr. DEFAZIO. OK

All right. Then on to dispersants. Mr. McKay, I asked you some questions last week and hopefully you have become a bit more familiar with the dispersants your company's using.

During the last week after the hearings both in Transportation and Energy and Commerce, EPA asked BP to reduce use of dispersants and to use less toxic dispersants.

I have read the response letter, and I could only describe it as non-responsive and insulting. You know, you are saying in that letter—are you familiar with the letter your company sent regarding dispersants?

Mr. MCKAY. Yes.

Mr. DEFAZIO. OK. That you purchased 100,000 gallons of Sea Brat No. 4, but you are concerned because of the potential of a trace or near trace amount of degradation of something that could create a non-phenol.

Yet Corexit is three to five times more toxic on sea life according to EPA tests, four times more toxic than oil. It is petroleum based, not water based. Never been used at these depths before.

You talk about it biodegrading. We don't know what it is going to do in the water column or at those debts where there is little sunlight and cold temperatures.

It was used after the Exxon Valdez disaster and linked to human health problems, respiratory, nervous system, liver, kidney, and blood disorders. One of the two Corexit products being used contains a compound that at high doses is associated with headaches, vomiting, and reproductive problems. Today, we have press accounts from people hired to do cleanup work who are reporting those same symptoms as we had with Exxon Valdez.

So is your company going to honestly respond to the EPA? The EPA has felt that your response was not adequate, but they are contemplating whether or not to order you to change dispersants.

Why are you sticking with Corexit when it is less effective and more toxic?

Mr. MCKAY. We have been working very closely with the EPA, and as I understand it, the Corexit has been so far the most effective, most available, and least toxic of the dispersants. We have been——

Mr. DEFAZIO. No, sir, excuse me. Sea Brat No. 4 is actually nine times less toxic or Corexit is nine times more toxic in the Menidia test and in the Mysidopsis which are of some sea life forms.

It is five times more toxic than Sea Brat No. 4, and in terms of effectiveness, it is about 10 percent less effective on South Louisiana crude oil. So it is somewhere between nine and five times more toxic and ten percent less effective.

Mr. MCKAY. And there are ingredients in that particular product that we have concerns about. We have notified the EPA of those concerns. I think we are both trying to understand whether those are significant or not.

We will not do anything—anything—the EPA tells us not to do, and we will—and it——

Mr. DEFAZIO. Well, I thought they pretty much told you to reduce——

Mr. MCKAY. We have reduced.

Mr. DEFAZIO. OK, and then I thought they told you to look at alternatives, and then you sent the letter back saying your petroleum based more toxic stuff is preferred.

Mr. MCKAY. We are continuing—we didn't commit and we are continuing to look at every dispersant we can find to see if there is a more effective, available, and less toxic dispersant. We have committed to that, and we will do that.

Mr. DEFAZIO. Are you familiar with—one quick last question on this, Mr. Chairman.

The producer of Sea Brat No. 4 just spontaneously called my office and said that, you know, he had been happy to sell it to you but in terms of selling more he was being asked to reveal proprietary information, and strangely enough he was being asked to reveal it to Exxon. Now why would that be?

Mr. MCKAY. I don't know. I am not familiar with that.

Mr. DEFAZIO. Well, that is what your company apparently said.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

The gentleman from New Jersey, Mr. Holt?

Mr. HOLT. Thank you, Mr. Chairman, and thanks for holding this series of hearings.

I thank the witnesses. Of course we lament the loss of human life, and we lament the damage to people's lives, and livelihood, and physical and mental health. And the highest need right now is to stop the oil flow, but we do need to look ahead. BP has said it will pay all the costs for the damages, cleanup, economic damages, and so forth. Transocean I guess has filed a limitation of liability, although I understand that doesn't relate to liability under OPA.

But the question is how are we going to cover the costs of this and future accidents which surely will occur? I mean, this has often been called unprecedented, but it should never be called unexpected. This was too predictable.

Oh, about five dozen of my colleagues and I have introduced the Big Oil Bailout Prevention Act which would raise the liability cap. Would you, each of you, your organizations, your companies support the lifting of the limit on liability from the laughably small number of $75 million?

If not, would you please explain why you think the limit should not be raised?

Mr. MCKAY. I can't comment on specific legislation. What I can tell you in this situation——

Mr. HOLT. Without—specifically, just should the liability limit be raised from the, as I said, laughably small $75 million?

Mr. MCKAY. In this particular situation, we are ignoring and taking that cap away, so in our opinion in this situation, it is not there.

Mr. NEWMAN. I think it is a public policy question that Congress ought to evaluate, and I would hope that in that evaluation Congress would take into account the commercial considerations and the impacts on some of the smaller operators that produce a significant amount of America's oil.

Mr. HOLT. So do you want to tell me what those are then? I mean, that is what we need to take into account, yes.

Mr. NEWMAN. I don't know what the commercial considerations are, but——

Mr. HOLT. OK. I mean, isn't one of those considerations that a small operation could do a billion dollars worth of damage?

OK, well. Moving on then. This is acknowledged to be dangerous employment. One of you mentioned earlier that you are proud of the ability to manage risk.

In other words, this is risky business or, in other words, things can go wrong. Yet, even though it is an industry that is based on the idea that things can go wrong, it is astonishing and scandalous to see the lack of preparation, the lack of imagination, the lack of planning for what to do when things go wrong.

Didn't know whether Top Hat or Sombrero would still work, or whether we should do a junk shot, or what kinds of dispersants we should use. It was as if you had never bothered to develop the check-lists and methods of action that one might—that you should take, and an outsider might take that level of certitude as arrogance.

I think it is obvious that we need to challenge this lack of preparation and ask you to explain it. I mean, was it that you were gambling on not being caught, or was it that you decided that the risk of things going wrong was really small enough to live with, or that MMS never asked you to do these things, or that the cost of things going wrong could be covered out of your—what?

Mr. MCKAY. The first response was within just a few hours of the accident. The sub-sea response has been the largest ever in the history of the world.

We have four operating rigs, deepwater capable rigs, 16 submarines. The creativity has been extraordinary. The professionalism of the employees of BP, the government, the industry has been extraordinary.

Mr. HOLT. In the last six weeks, you mean?

Mr. MCKAY. Yes, and——

Mr. HASTINGS. But how do you explain the lack of preparation? You have been experimenting for these last six weeks because you didn't have in place the checklist, the preparations, the tests, the procedures.

Mr. MCKAY. We had a piece of equipment that has failed, and it has been unable to be accessed or intervened with by the methods that it is intended to. That has presented a unique configuration at 5,000 feet that we have had to design, fabricate, and build around.

I don't think—and I am not trying to dodge this. I don't think the configuration could have been predicted, and therefore fine-fitting mechanical equipment couldn't have been predicted.

What I will say, though, that we are learning that the capability, the sub-sea intervention capability, on a relatively generic basis must be looked at. It probably has to be improved.

It probably has to have an industry sort of structure to it rather than individual companies. I think that is one of the big things we are going to learn out of this.

The CHAIRMAN. The gentleman's time has expired.

The gentlelady from Guam, Ms. Bordallo.

Ms. BORDALLO. Thank you very much, Mr. Chairman.

Mr. McKay, I have a few technical questions for you. Our Committee just received the documents that were filed with MMS describing how BP intended to finish the job on this well.

On April 16th, BP filed a permit to temporarily abandon the well. The permit indicated that work would start on April 18th, and it would take approximately eight days to complete.

Yet everything that has been reported was that the Horizon was only a day or two away from leaving the site when it exploded on April 20th. The eight-day job was almost done after only two days.

Was BP operating a lot faster than what they implied to MMS? Was it trying to rush it?

Mr. MCKAY. I don't believe so. I believe the procedure was being followed, and in one of those steps of the procedure, you know, this well-control event occurred which stopped the procedure.

That procedure, I think, and obviously the investigations, I will have to look at this step by step, but I believe the procedure was being followed in the way that it was authorized.

Ms. BORDALLO. All right, well, I guess I have a follow-up then. I would also like to show you this is the procedure, eight steps. I have it right here, the document that BP filed with MMS.

It is only one page, eight fairly short steps, and it looks like rather a routine procedure that you probably go through regularly.

Do you think this effectively conveyed to MMS the complexity of this procedure which ended during step three with an explosion that killed 11 people?

Just looking at it, it seems highly inadequate to describe a very complex procedure, and I do have my permit here, the application that came through—or no, the MMS permit. I also have that document stating that it should be eight days to complete this procedure.

Mr. MCKAY. I believe the procedure met all the MMS requirements. I can't put it in a relative sense versus other procedures, but I believe that procedure met the MMS requirements.

Ms. BORDALLO. So you were able to complete something that probably should have taken a little longer in a fairly short time?

Mr. MCKAY. No. I am saying that procedure as authorized fit MMS regulations. I don't—as to the timing, we never got through the whole procedure. As you stated, the explosion occurred on step—I don't have it in front of me——

Ms. BORDALLO. Yes.

Mr. MCKAY.—but step three or so in that procedure.

Ms. BORDALLO. Was MMS aware of the problems that were occurring with this well? You submitted a permit that indicated that you had a stuck drill bit, but other than that according to the documents this Committee has, as far as MMS knew, everything was going quite well.

Did MMS receive any of the logs that were run in this well, or were they told that there were mud losses even a major loss event according to one of your documents?

Mr. MCKAY. Yes. I don't know what MMS knew or was told. I don't know.

Ms. BORDALLO. So we have a regulator that is supposed to review and approve your designs and your procedures but all they have are eight bullet points and few if any indications that this was a troublesome well. It seems like we have a hole in our regulatory oversight if that is the case.

One more thing, Mr. McKay. There appear to be inconsistencies in BP's permit submissions. I have that document also in front of me here. On April 15th, BP reported to MMS that the bottom of the next to last piece of pipe was at 17,500 feet.

On April 16th, BP submitted the actual well diagram to MMS and it showed that the pipe ending at 17,157 feet. There is a 300-foot difference in these numbers. Can you explain this discrepancy?

Mr. MCKAY. No, I can't. I don't know those numbers to that detail. I don't know. I can't explain the discrepancy without studying it or having someone look at it. We can get back to you on that.

Ms. BORDALLO. Very good. I do have the documents with me here. Thank you, Mr.—yes?

Mr. MILLER. I just want to enter into the record, Mr. Chairman, if I might there has been discussion here about liability and Ben Ray Lujan raised it on insurance companies.

I just want to enter into the record the story from Reuters that all of the actions that Transocean went through to avoid liability for Louisiana sugar cane farmer for the poisoning of his wells and his fields where the Delaware judge some 10 days ago cited them and sent them back to Louisiana.

But they created false corporations. They created false bankruptcies, false liabilities all to avoid what they owed Mr. William Tebow in Central Louisiana.

So just again, I think history will help us as we go forward in this hearing in understanding the corporate entities that we are dealing with at a time when they are telling us they are going to take care of all of this liability and make sure these people get paid. I am just somewhat of a skeptic here. Thank you.

Thank you gentlewoman for yielding.

Ms. BORDALLO. I yield back, Mr. Chairman.

The CHAIRMAN. Without objection, a request for an article will be made part of the record.

The gentleman from California, Mr. Costa, is recognized.

Mr. COSTA. Thank you very much, Mr. Chairman.

Gentlemen I have some more technical questions as to what took place that day, and then I have some broader questions that I would like to ask you.

Mr. McKay, I understand that two days ago the Committee received a briefing from British Petroleum on the status of your own

investigation and that British Petroleum reported there were three clear indications—one as early as 51 minutes before the explosion—that this well was flowing.

If that had been caught at that time, would there have been enough time to prevent an explosion in your opinion, or were you beyond the point of no return?

Mr. MCKAY. This is an opinion, and the investigation will have to understand it in more detail than I understand it, but my opinion is that that period of time there was a well-control event, and it could have been caught. Yes, I do believe that.

Mr. COSTA. Well, I mean, I am trying to figure out and obviously under due diligence we will get to the bottom of it eventually, I guess, but why it wasn't.

I mean, I have been on these rigs before, the Chairman and I, about a year and a half ago. It is akin to almost being like on a space shuttle where the control room is, and the dials that are going on in terms of what is flowing in, what is flowing out.

It seems to me that they would have been able to clearly see at that time what the indications of the well-flow were; do you not think so?

Mr. MCKAY. Well, I may get some help by Mr. Newman. It is his rig, but I think there were signs that were happening that the well was——

Mr. COSTA. Is that true, Mr. Newman?

Mr. NEWMAN. Congressman, I have reviewed the letter that Chairman Waxman wrote following the briefing, and a simple strip chart of some data that covers the time period between 8:00 p.m. and 10:00 p.m., and in trying to tie the three anomalies that Chairman Waxman references in his note to this strip chart, I have a bit of a difficult time because Chairman Waxman talks about something that happened 51 minutes before the explosion——

Mr. COSTA. Yes.

Mr. NEWMAN.—but the Chairman doesn't identify the time——

Mr. COSTA. Well, let us go with a hypothetical then. I understand this still has to be looked at. If it was true, would your crew at that point under your operating procedures have standing orders to shut the well down?

Mr. NEWMAN. They would, yes.

Mr. COSTA. They would?

Mr. McKay, is it pro forma that you have a British Petroleum officer on the rig at the time?

Mr. MCKAY. We normally have normally two to three people on the rig.

Mr. COSTA. It is an overseer. I think it is an——

Mr. MCKAY. We call it a well-site leader.

Mr. COSTA.—well site?

Mr. MCKAY. Well-site leader.

Mr. COSTA. Was that person on the well at the time?

Mr. MCKAY. Yes. There were two of them. They do back-to-back. Yes.

Mr. COSTA. Does he have access in his office to all the information that the driller would have in those control towers that some of us have actually been on when we have been on-sight?

Mr. MCKAY. I don't know in his office. I don't know.

Mr. COSTA. You don't know. Then we will find that out I said. Could he have ordered the well to be shut down, your overseer, your well or——

Mr. MCKAY. I think anyone on the rig were they concerned about a safety event could have asked Transocean to shut the rig down, including Transocean's Halliburton——

Mr. COSTA. And we don't know if he did or did not?

Mr. MCKAY. I don't know.

Mr. COSTA. OK. I think that is important that we are going to have to find out, Mr. Chairman, as we further pursue this effort.

Let me get now out of the weeds and more into macro sense. The Secretary yesterday talked about reorganizing MMS, Minerals Management Service, and dividing the roles between the collection of royalties and the enforcement procedures.

I know you are trying to focus on shutting down this well, but have you had a chance to get a sense if that would be an improvement?

Mr. MCKAY. I have not, honestly. I do think anything that can be taken from this incident as well as the regulatory structure around this and can be improved is important. I will say that.

Mr. COSTA. Mr. Newman, I would think that your focus from MMS's perspective is more in terms of following the regulations and the enforcement procedures. You don't get into the collection of royalties too much, right?

Mr. NEWMAN. That is correct.

Mr. COSTA. So would it enhance the ability to increase safety if we had a better cop on the beat that enforced the rules and regulations?

Mr. NEWMAN. Because the relationship we have with MMS only relates to oversight and inspection, I am not sure I am the best person to comment on splitting the revenue collection responsibilities from the oversight and——

Mr. COSTA. Well, no I don't expect you to comment on that, but I am talking about having a person, an MMS person on a regular basis. I don't know if it needs to be daily or not but to overseeing this in terms of making sure that all the specs are being followed?

Mr. NEWMAN. MMS visit our rigs regularly.

Mr. COSTA. How regularly?

Mr. NEWMAN. They are on there about once a month. They are out there. They come unannounced.

Mr. COSTA. It seems like we can still do better. Before my time is up. Let me ask the two of you the biggest question here, and that is clearly—I mean, we may have different views.

I am one who supports offshore oil and gas exploration. There are those on this Committee who don't, but this is a terrible setback. It is a terrible tragedy.

It seems to me, how are you as people who obviously support this effort going to try to attempt to restore faith that you are capable of doing this on a safe basis because certainly the public at this point in time has little faith in this ability to continue forward.

Mr. MCKAY. I think in three major ways. One, stop it. Get the thing stopped. Number two is clean it up and deal with the economic impacts all along the Gulf Coast, and number three is we must know exactly what happened, the facts, the facts of what hap-

pened such that then we can make changes to move forward and regain that confidence.

Mr. NEWMAN. Congressman, I can only offer you the same commitment that I gave to the nine Transocean families when I met with them. We will do everything we can to understand what happened, and then we will do everything we can to make sure it never happens again.

Mr. COSTA. Well, we are going to have to do better, gentlemen.

Thank you very much, Mr. Chairman, for the time, and we will continue to follow up with the work of the sub-committee next month as we continue to pursue this effort.

The CHAIRMAN. The gentlelady from New Hampshire, Ms. Shea-Porter, is recognized.

Ms. SHEA-PORTER. Thank you.

Mr. McKay, you said that your company will be judged by how you behave now after the accident, and I would say that you are going to be judged by what you did before the accident, what your company did.

I sit on the Education and Labor Committee, and I too sat through hearings about the Texas Oil Refinery disaster. It looked at the families with their dead loved ones pictures in front and the tissue boxes there because of the pain because BP consistently ignored warnings and, indeed, fired people who warned.

So you have been a bad corporate neighbor, frankly. So you keep saying I don't know, I don't know, we will have to have the facts. Well, I have the Wall Street Journal, and they did a pretty good job, I think, of listing the facts.

I just would like to ask you if you agree with them about what happened, what the facts are? It says BP, for instance, cut short a procedure involving drilling fluid that is designed to detect gas in the well and remove it before it becomes a problem according to documents belonging to BP and to the drilling rig's owner and operator, Transocean. Do you agree with that?

Mr. MCKAY. To cut short a procedure? I don't——

Ms. SHEA-PORTER. Cut short procedure involving drilling fluid. Well, I will be happy to show this article.

Mr. MCKAY. No, I don't know if that is true or not. I don't know.

Ms. SHEA-PORTER. OK. BP also skipped a quality test of the cement around the pipe, which we talked about, another buffer against gas despite what BP now says were signs of problems with the cement job and despite a warning from cement contractor Halliburton. Isn't that ironic? Do you agree with that?

Mr. MCKAY. I don't know what test you are talking about in that particular article.

Ms. SHEA-PORTER. OK. It is the cement——

Ms. DEGETTE. If the gentlelady will yield, it is the cement bond test.

Ms. SHEA-PORTER. Yes.

Mr. MCKAY. A cement bond log was not run on this well. That is right.

Ms. SHEA-PORTER. OK. Let me continue. In an April 18th report to BP, Halliburton warned that if BP didn't use more centering devices, the well would likely have—and I want to quote from Halliburton—a severe, in big letters, gas-flow problem. Still BP decided

to install fewer of the devices than Halliburton recommended, six instead of 21 which we talked about.

They go on to say, despite the well design and the importance of the cement, daily drilling reports show that BP didn't run a critical but time-consuming procedure that might have allowed the company to detect and remove gas build up in the well. Does that sound familiar to you?

Mr. MCKAY. I don't know the procedure that that article's referring to. The centralizers, there were six centralizers run rather than—I think six, rather than 21. I don't know the logic around why that was done.

Ms. SHEA-PORTER. OK, and finally——

Mr. MCKAY. The investigation will be looking at that.

Ms. SHEA-PORTER.—finally BP also didn't run tests to check on the last of the cement after it was pumped into the well despite the importance of cement to this well design and despite Halliburton's warning that the cement might not seal properly.

Workers from Schlumberger Limited were aboard and available to do such tests, but on the morning of April 20th, about 12 hours before the blowout, they were told their work was done. They caught a helicopter back to shore at 11:00 a.m.

I just can't understand this. I just—and I have to tell you that I believe Americans don't understand how this could be. Did you worry, first of all, that we didn't have the technology to clean up? I mean, when we look now and we looked for Plan A, Plan B, Plan C, it appears that not only didn't you not have a plan that we knew would work but every step along the way they ignored.

This is from the Wall Street Journal, but you can read it elsewhere. But I want to move on to what CNN is reporting which is disturbing. Again, I will just read it.

That U.S. and BP are accepting few offers of international help, countries say. And they speculate that out of all of the countries that have offered to help, that we have only accepted three.

They are saying one reason BP may not be accepting the offers of assistance is because of cost, some say. Shipping boom from halfway around the world, for example, is expensive.

Other factors, according to a senior U.S. official include liability for any equipment that might be provided and support for any crews that might accompany that equipment. Is this true?

Mr. MCKAY. Well, I know we have gotten 15,000 different ideas and requests that have come in to help. We are using every good idea we can find. That is coming through unified command.

We are using Norwegian scientists for monitoring. We are using Canadian planes for overflights and analysis through unified command. We have flown boom from Europe. We have flown assets from around the world to get in place all through unified command.

Ms. SHEA-PORTER. But has your company turned down offers from other countries? This article says that you have.

Mr. MCKAY. Turned down—we have——

Ms. SHEA-PORTER. Offers of help. Offers of assistance. I am asking specifically is CNN what they just wrote that some people said it is because of cost, is that true?

Mr. MCKAY. I don't have any information that say we have turned down offers because of cost nor do I know if we have turned down offers from countries. I don't know that.

Ms. SHEA-PORTER. OK, I would appreciate if you would get back——

Mr. MCKAY. We have accepted some from countries.

Ms. SHEA-PORTER.—if you could get back to me on that. Thank you.

I yield back.

The CHAIRMAN. The gentlelady's time has expired.

The gentlelady from the Virgin Islands, Dr. Christensen.

Ms. CHRISTENSEN. Thank you, Mr. Chairman.

I think maybe all the tough questions have been asked, but you know, we are all as has been said before deeply saddened by the loss of the employees and the injuries to others, and we extend our sympathy to the company and the families.

But in addition to doing all—and this is to you, Mr. McKay—all that you can to ensure that this would never happen again, there are people who are currently working on the cleanup.

I asked this question yesterday, but I want to ask it again because in previous spills, the workers have had severe medical problems following up and long after they have worked on the cleanup.

What can you tell me about to sort of reassure us that everything is being done to protect, to train them well, to protect them while they are responding so that we don't find ourselves years later with chronic and disabling ailments in these workers?

Mr. MCKAY. We are training workers. We are getting assistance from OSHA in training and several thousand people have been trained. There are instances——

Ms. CHRISTENSEN. Protective gear provided and——

Mr. MCKAY. Oh, yes. Absolutely. There are instances where, you know, working offshore and working around some of this where it is coming up, there are volatile hydrocarbons coming off the sea, so there are people that are—we have had instances where people have gotten sick and have been brought in.

What we are trying to do is make sure that we don't put anybody in that situation. If someone gets in that situation, we get them out, and we are training everybody.

No one can go touch an oil, or a tar ball, or anything in a marsh unless they are trained to operate boom, and set out boom, pick up boom, skim oil, those kind of things. Everybody's trained.

It is not perfect; I will be the first to admit, and we are working with OSHA to get it better and better.

Ms. CHRISTENSEN. You have answered several questions about your commitment to paying for damages and repairs and so forth. That commitment extends to individuals who may be sickened by responding to this spill?

Mr. MCKAY. Yes, it does. OPA 1990 provides for personal injury if it occurs to be taken care of, and yes we will.

Ms. CHRISTENSEN. OK. Thank you.

Let me ask the gentleman from Transocean a question. BP has talked a lot about their commitment to pay whatever is required of them. I am not clear—I have never heard Transocean say anything to that effect, and maybe I just haven't heard it.

But assuming that as the investigation goes forward and we uncover what went wrong, if to the extent that Transocean would be responsible, are you making that same commitment?

Mr. NEWMAN. We will satisfy all of our legal obligations.

Ms. CHRISTENSEN. I guess Mr. McKay again. I see a number of representatives from other petroleum companies in the audience here. To what extent—you talked about people from Norway and planes from Canada.

To what extent have the other oil companies in the United States come to your assistance and provided their expertise, and do they just show up and say here I am to help, or did someone call them in?

Mr. MCKAY. No, this is an industry effort now, and it is been that way for several weeks. We have as an example in the Houston crisis center where we are trying to do the source—where we are doing the source control or stopping the leak, there are 90 companies, nine-zero.

Our competitors are working with us, Exxon, Shell, Chevron, Conoco, Phillips, Petrobras, E&I from around the world, and we have about 150 people working from the U.S. National Laboratories with us as well, as well as the Navy. We have the best scientists in the world working on this.

Ms. CHRISTENSEN. Was the White House or the unified command involved in—what was their involvement in bringing those companies together?

Mr. MCKAY. We have access to the companies and the resources of the U.S. Government as well as other countries through a combination of efforts. Companies have offered it.

The unified command has helped funnel people toward us, and as an example, the Department of the Interior, Secretary Chu has been very good in getting national laboratory people there. The Navy has offered help.

So it has come from everywhere, and the unified command has been a way that a funnel to help us get resources there.

Ms. CHRISTENSEN. Thank you.

I don't have any other questions, Mr. Chairman. I yield back the balance of my time.

The CHAIRMAN. The gentlemen from Wisconsin, Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman.

Listen, I want to thank the two witnesses who we have here today and your testimony, but I don't think I can adequately represent to you today the level of anger, frustration, deep concern that the people in Western Wisconsin have over this incident. It is one of the reasons why we require a double hull for any transport of oil in the upper Mississippi region to try to avert this.

But Mr. McKay, I think you are right. I think both of you guys are being judged today on a number of factors, one of which is how quickly you can plug this gusher. That is all hands on deck.

Second is how effective and quickly you can mitigate the disaster that is being done and working with the state and local communities to clean up the damage that is occurring and that will continue to occur.

Finally, this is where I part company with what you think needs to be—you have to be completely honest and transparent and open with the American people right now.

I have to be honest, sitting here for the better part of today, I am less than impressed with your testimony today. This head-in-the-sand type of testimony, not knowing, not talking to people, not giving us information about what happened and why just isn't cutting it. It is not cutting it back home.

You know, it is frustrating that we have to be picking up most of the information today over printed press or the media as far as the facts. I mean, just this week the Coast Guard and Minerals Management Service had a hearing down there in Kenner, Louisiana.

Doug Brown, chief mechanic for the Deepwater Horizon testified that he witnessed a skirmish on the rig between British Petroleum well site leader and crewmembers employed by Transocean, the rig's owner, the morning of the blast.

Mr. Brown said the disagreement followed BP's decision to replace heavy drilling fluid with lighter salt water before the well was sealed with the final cement plug. Well, this is how it is going to be, a BP official is quoted as saying according to Mr. Brown.

Now, Mr. McKay, is it your testimony that you haven't talked to Doug Brown at all about this or anyone else that was there participating in this argument that occurred on the rig the morning of the blast?

Mr. MCKAY. First of all, our investigation team is trying to talk to everyone they can. They have talked to our employees. As I understand it, they have not talked to any Transocean employee.

Mr. KIND. You are the head of the company in North America. Have you had any conversations with anyone who was present who had first-hand knowledge of what that argument was about on that rig before the blast occurred?

Mr. MCKAY. No, I have not. We are doing an internal independent investigation, and I have been 100 percent focused to the extent I can on the crisis which——

Mr. KIND. I just find it curious with your lack of curiosity about what happened on that rig, and what was said, and what transpired.

Mr. Newman, is Mr. Brown your employee?

Mr. NEWMAN. Yes, Mr. Brown works——

Mr. KIND. Have you had any conversation with Mr. Brown about what happened on the rig that morning?

Mr. NEWMAN. I have not.

Mr. KIND. Well, I tell you gentlemen, I think your companies are hanging by a thread if you are hoping to continue to do business on any offshore drilling in the United States territory with the response and what has happened here. It is extremely frustrating.

Then you have Andrew Gowers, BP spokesperson declined to answer any questions about workers' accusations or about why the costs may have factored into the company's decision to use the casing system it chose for the Deepwater Horizon.

This is the response that we are getting, you know, from BP about what happened. I think, as the facts leak out, the narrative becomes clearer and clearer.

I think BP went cheap on the casings that was used. I think they were under considerable time and financial pressure to move this along, and because of it they bypassed basic safety procedures and testing procedures that could have averted this.

The main reason this happened is because you were being charged $533,000 a day to rent the Deepwater Horizon rig, and you were already 43 days behind going to a different place and beginning a new drill operation at a cost of $21 million and counting.

So the pressure was mounting. This is the narrative that is coming out right now. And I know there are investigations that still need to be conducted.

But it would be more helpful if representatives of the companies were more forthright and candid about what happened so we know how best to respond to any future—and it could be another one waiting tomorrow or next week that we don't know about. We could be taking steps right now in order to aver it.

Mr. McKay, let me ask you another question. Again it appeared in the media as to why BP let workers from Schlumberger, a drilling services contractor, leave the morning of the accident without conducting a special test on the quality of the cement work that is done.

Now engineers describe these, and it is called the cement bond logs, as an important tool for insuring cement integrity. Why did that happen?

Mr. MCKAY. I don't know why the decision happened to not run the cement bond log, but that decision was made. If I could say, the data that you are quoting and working from is exactly what we shared, including with this Committee, two days ago.

We have not finished our investigation, and we have pledged to be transparent. We have brought to this Committee, as well as others, everything we know as of this date, everything we know.

Mr. KIND. Well, as a former special prosecutor, I find your testimony less than credible. It may work for the attorneys representing your companies right now, but it is not flying with the American people.

Finally, just one question as we do look forward. You say you have two relief wells being drilled right now. If there had been a relief well already in place before this disaster occurred, would that have mitigated or prevented this gusher from occurring?

If at the time you drilled the original well you also simultaneously drilled a relief well in case an accident like this occurred, would that have prevented what is taking place today?

Mr. MCKAY. That would require drilling duplicate wells for every well.

Mr. KIND. Exactly.

Mr. MCKAY. And I——

Mr. KIND. If you did that, would this avoid the disaster that we are witnessing in the gulf today?

Mr. MCKAY.—presumably you would poise the relief well above the reservoir. I don't know. I mean——

Mr. KIND. Does Canada require that of all deepwater drilling in their territory, a——

Mr. MCKAY. Mandatory relief wells?

Mr. KIND.—a mandatory relief well.

Mr. MCKAY. Simultaneous?

Mr. KIND. Simultaneous.

Mr. MCKAY. I don't know. I don't know. I have not heard that. I don't know.

Mr. KIND. Well, that may be something we have to follow up with as far as what additional safeguards need to be put in place.

Mr. Chairman, I see my time has expired. I thank you for your indulgence.

The CHAIRMAN. The gentlelady from Colorado, Ms. DeGette.

Ms. DEGETTE. Thank you very much, Mr. Chairman. Let me follow up very briefly on some questions that Ms. Shea-Porter and Mr. Kind were asking about this cement.

Schlumberger as you heard from Mr. Kind was sent away about 11 hours before the test, and Mr. McKay, do you know why they were asked not to perform the test? Or not asked to perform the test.

Mr. MCKAY. Yes. I don't know. Normally—I will give you generic. I don't know specific to this——

Ms. DEGETTE. Well, you don't know in this situation though? Do you know who sent Schlumberger away? Do you know who was in charge of making that decision to tell them not to do the test?

Mr. MCKAY. I don't know specifically. I would imagine the well site leader was probably——

Ms. DEGETTE. The well site leader? Is there an investigation currently going on into this particular issue?

Mr. MCKAY. There are multiple investigations going on about the whole sequence of events including——

Ms. DEGETTE. OK, and as part of that——

Mr. MCKAY.—cement.

Ms. DEGETTE.—investigation on why this test was not—the cement bond log test was not performed?

Mr. MCKAY. I think, yes. I think all the chronology of the steps and decisions that were made. Yes.

Ms. DEGETTE. OK. Do you know what the status of that investigation on the cement bond log is?

Mr. MCKAY. That discreet step, no. I mean, it is part of the investigation.

Ms. DEGETTE. OK. And are you concerned that Schlumberger was asked not to perform that test in this situation? Does that concern you?

Mr. MCKAY. I am drawing on my past experience, not on this well. Normally, you run cement bond logs. There are inferences of cement bond. You normally do a positive test to make sure the cement bond—you look at the way the job——

Ms. DEGETTE. Holding. Right. Yes.

Mr. MCKAY.—the job was pumped and potentially a positive test. Then decisions are made whether to run the bond log or not. In this particular situation, I don't know why that decision was made at all.

Ms. DEGETTE. Does it concern you that it wasn't made?

Mr. MCKAY. I think it is in—it is——

Ms. DEGETTE. It is not a hard question. Does it concern you that they didn't do it in this case?

Mr. MCKAY. The whole operation concerns me. The whole operation.

Ms. DEGETTE. Including the failure to do the cement bond test?

Mr. MCKAY. The cement operation, what happened pumping it—yes.

Ms. DEGETTE. Thank you. I want to ask you another question which is—Mr. Probert, who was in our Committee before, testified when he was at the Senate about the cement bond log test that the only test that can really determine the actual effectiveness of the bond between the cement sheets, the formation, and the casing itself is the cement bond log test.

Usually, and I think this is what you were just talking about, a cement bond log test is performed if earlier tests indicate potential problems with the cement.

So my question is do we know at this point whether the pressure tests of the cement job that were performed before the blowout indicated potential problems that would require this test to be done?

Mr. MCKAY. What I know is that the cement job was pumped effectively and the volumes matched, and it looked like an effective cement job.

Ms. DEGETTE. So there were no indications in advance as far as you know?

Mr. MCKAY. Through the pumping of the job.

Ms. DEGETTE. OK.

Mr. MCKAY. Then there was a positive test that was done that looked like it held. Then are these anomalous tests that were done on the negative test. When this—I don't personally know when the cement bond log was released. You know, released off the platform——

Ms. DEGETTE. Yes.

Mr. MCKAY.—versus the sequence of events.

Ms. DEGETTE. OK. Let me go to another issue and that is the blowout preventer. According to the Washington Post this last Sunday, BP agreed in 2004 to have Transocean replace a variable bore ram with a test ram on the blowout preventer.

Now, a test ram cannot actually stop the flow of oil and is therefore useless in an emergency situation. The letter from Transocean stated that by BP's signature it acknowledged that replacement would "reduce the built-in redundancy of the blowout preventer thereby potentially increasing BP's risk profile."

Mr. McKay, why was a test ram installed in the blowout preventer if it would reduce the redundancy and increase the risk of a blowout; do you know?

Mr. MCKAY. I am not familiar with the decisions made at that time to get a test ram installed.

Ms. DEGETTE. So you don't know. Now, it is since come out that BP wasted valuable time. We talked about this in the energy and commerce hearing after the accident trying to activate the test ram thinking it was a variable bore ram, and they lost nearly 24 hours trying to activate that test ram.

You had testified before that that was because the port that was to be activated by a remotely operated vehicle was connected to the lower most ram cavity, the one occupied by the useless test ram.

So my question is, how much time would it have taken after installation of the test ram to change the connections in the emergency port so it would work?

Mr. MCKAY. Perhaps that is for Mr. Newman.

Ms. DEGETTE. Mr. Newman, do you know the answer to that question?

Mr. NEWMAN. Because these connections from the ROV intervention port to the actual operating cylinder on the BOP are hoses. They are hose connections. It would be a simple matter of changing the routing of that hose.

Ms. DEGETTE. It would not have taken any time at all, correct?

Mr. NEWMAN. A simple matter of changing the routing of the hose.

Ms. DEGETTE. Thank you very much, Mr. Chairman.

The CHAIRMAN. The gentlelady's time has expired. The gentlelady from California, Ms. Capps.

Ms. CAPPS. Thank you, Mr. Chairman.

Mr. McKay, yesterday your colleague, John Watson, who is the CEO of Chevron, was addressing his shareholder meeting in Houston, and he made the statement in that context that he believed that the Federal Government should raise the safety standards for offshore drilling in order to avoid another tragedy like your massive oil spill.

Do you agree with Mr. Watson that the Federal Government should raise safety standards for offshore operators and that these standards should be required, in other words, be mandated standards?

Mr. MCKAY. I do believe lessons from this incident will change regulations and there will be standards that are raised. I do believe——

Ms. CAPPS. You believe they should be?

Mr. MCKAY. I believe they should be, yes.

Ms. CAPPS. Thank you. So now BP is supportive of proposed MMS rules to require additional safety and environmental management systems because in September BP opposed the proposed rule.

At that time, you said in a letter to MMS that the proposed rule was too expensive, and too prescriptive, and too extensive. It is my understanding that you had worked out a deal with MMS in the past that voluntary standards be created by the industry and that these be based on best practices.

So what is it that changed your mind? It is the spill?

Mr. MCKAY. That particular letter addresses some request for input from the MMS where we did say we didn't favor more prescriptive regulation. We favored regulation that would hold all companies to very high standards.

And, later in the letter, we recommended where we thought that could be improved. So we were—it was about the prescriptiveness of it versus more regulation.

Ms. CAPPS. So which part of it you don't agree with?

Mr. MCKAY. The methodology that they were pursuing. We suggested a different way in that letter.

Ms. CAPPS. OK, but you wanted to have control over how the standards would be. This requirement, this request—and the public's asking for this—is that the government set these standards

now and that they be more strict, more prescriptive, more extensive than in the past.

Mr. MCKAY. Let me just say we are absolutely aligned to anything that will make this safer and this incident not able to happen again we are supportive of.

Ms. CAPPS. OK. I want to turn to a topic that has been raised, but I am also very concerned about the people who are working now to clean up this spill. They are in close contact with the chemicals that are known to be hazardous to human health.

Yesterday the LA Times reported that fishermen hired by BP while—and they described the training class that they were in. They were only told not to pick up oil-related waste, and they weren't provided with protective equipment.

This fisherman who gave the report wore leather boots and regular clothes on his boat, and when asked what BP told them, this fisherman responded they—the BP officials—told us that if we ran into oil it wasn't supposed to bother us.

Now, Mr. McKay, the unified command has recalled the vessels operating in Breton Sound after crewmembers reported health problems. Do you agree with the unified command's decision?

Mr. MCKAY. We are working with unified command as part of unified command as a participant, so absolutely. The unified command system is the structure we operate under.

Ms. CAPPS. Do you agree with their decision to call these workers back?

Mr. MCKAY. I don't know the details, but yes. I mean, we are absolutely in agreement with what unified command's doing.

Ms. CAPPS. I still remain so struck by BP's lack of preparedness for this spill, and now lack of preparedness for the cleanup. May I ask you, Mr. McKay, what were BP's annual profits in 2009?

Mr. MCKAY. I am sorry I don't know the exact number. I think $16 billion. I am not sure. I can get that to you.

Ms. CAPPS. That is OK, and this is profits?

Mr. MCKAY. Yes. World-wide.

Ms. CAPPS. And your salary for 2009?

Mr. MCKAY. My salary for 2009, 650,000.

Ms. CAPPS. Plus a bonus?

Mr. MCKAY. Yes.

Ms. CAPPS. What was your bonus, sir?

Mr. MCKAY. About $1.1 million.

Ms. CAPPS. OK. So this industry with $16 billion in profits and pretty high salaries for its management cannot properly outfit workers and volunteers who are cleaning up the mess.

Mr. Chairman, I yield back.

Mr. PALLONE. Thank you, Ms. Capps.

The gentleman from Texas, Mr. Gohmert?

Mr. GOHMERT. Mr. McKay, we were told by Director Birnbaum yesterday that there was a mitigation plan for such an accident as this that had been approved by MMS. Could you tell us what the first three steps were of that mitigation plan if there was one?

Mr. MCKAY. The first—I don't know the first three steps. These——

Mr. GOHMERT. So if there was a plan, you obviously didn't use that plan in mitigating——

Mr. MCKAY. We have used——

Mr. GOHMERT.—this issue?

Mr. MCKAY.—We have used the Oil Spill Response Plan. It has been the foundation for the entire surface response. It was——

Mr. GOHMERT. Then what would have been the purpose of even having a mitigation plan for such an emergency if that is not what was immediately gone to after there was a blowout?

Mr. MCKAY. It was immediately actioned, literally immediately actioned about three hours after the——

Mr. GOHMERT. The mitigation plan?

Mr. MCKAY.—yes.

Mr. GOHMERT. OK.

Mr. MCKAY. Yes.

Mr. GOHMERT. Then tell me what were the first three steps of the mitigation plan.

Mr. MCKAY. I don't have it in front of me to tell you the first three steps. What I know——

Mr. GOHMERT. Well, what was the first step?

Mr. MCKAY. A first step was the Marine Spill Response Corporation was called to start staging and deploying resources, and that happened within just a few hours.

The Coast Guard was notified and helped in search and rescue. Resource Crisis Center was stood up immediately, which is part of that plan, in Houston. Three days later—I think three days later, in Robert, Louisiana, unified command was set up.

All of that followed the spill response plan. It also catalogued and had available organization phone numbers, deployed resources across the whole Gulf Coast that were activated, and that all happened exactly by the plan.

Mr. GOHMERT. OK.

Mr. MCKAY. And I think Thad Allen——

Mr. GOHMERT. Well, how can you say it happened by the plan if you don't know what the plan was?

Mr. MCKAY. Because Commandant Allen has talked about it and said that the plan was enacted as authorized and as——

Mr. GOHMERT. OK, was this BP's plan or was this the Coast Guard plan?

Mr. MCKAY. BP's plan.

Mr. GOHMERT. OK, so the Coast Guard got a copy, but you are not familiar with it?

Mr. MCKAY. I am relatively familiar with it. I don't know each step in terms of which one's one, which one's two, and which one's three.

Mr. GOHMERT. OK, well where can we get a copy of that mitigation——

Mr. MCKAY. We can——

Mr. GOHMERT.—plan that was approved?

Mr. MCKAY.—we can provide that to the Committee.

Mr. GOHMERT. All right, and I would ask the Chair if we could have, without objection, their mitigation plan provided to the Committee.

Mr. PALLONE. Without objection, so ordered.

Mr. GOHMERT. We have also heard that in order to assure that proper blowout preventers were properly inspected and tested that

offshore inspectors from MMS would come and observe testing, Ms. Birnbaum was not able to let us know whether or not there was an offshore inspector from MMS that was present for a test within 14 days of the blowout.

Do you know whether there was an offshore inspector from MMS in 14 days prior to the blowout who observed a test of the blowout preventers?

Mr. NEWMAN. The last MMS visit to the Deepwater Horizon occurred on April 1st.

Mr. GOHMERT. OK, so that would have been outside the 14 days, obviously. Now, does Transocean or BP have any say in who will come out and be the offshore inspectors from MMS, or is MMS entirely responsible for assigning those inspectors?

Mr. NEWMAN. That is an MMS decision. They just show up on the rigs.

Mr. GOHMERT. You don't have any say in who comes?

Mr. NEWMAN. No, sir.

Mr. GOHMERT. OK. So are you aware of the last team of two inspectors that came to inspect the offshore activity?

Mr. NEWMAN. I do not know the name——

Mr. GOHMERT. At the Deepwater Horizon?

Mr. NEWMAN. I do not know the names of the——

Mr. GOHMERT. Are you aware they were father and son?

Mr. NEWMAN. I do not know the names. I don't know anything about the individuals.

Mr. GOHMERT. Were you aware that they were father and son?

Mr. NEWMAN. I don't know anything about the individuals.

Mr. GOHMERT. OK. So I am still asking, did you know they were father and son?

Mr. NEWMAN. If you tell me they are, I will know it, but I don't know it right—no.

Mr. GOHMERT. OK. The answer is no then, thank you. And obviously you didn't request them.

Did BP request those individuals to be the ones to come out and test?

Mr. MCKAY. No, not that I know of.

Mr. GOHMERT. Observe? OK. Now, we have heard that the Administration has had and continues to have a boot on the throat of British Petroleum, and I know that is hyperbole and I know that it has been said many times.

But could you—and my time has run out—if you would just tell us what that means. How has this Administration kept the boot on the throat as they attended charity events, and basketball, and all that? How did they keep the boot on your throat? What have they done?

Mr. MCKAY. Well, we have—let me just say nobody's more frustrated than we are and want to get this thing killed and cleaned up.

Mr. GOHMERT. No, I understand that. It is costing you a lot of money, and you have said you are going to take care of all of the damages, correct?

Mr. MCKAY. Correct.

Mr. GOHMERT. OK, so how has the Administration kept a boot on your throat? I hear——

Mr. MCKAY. There have been many reviews of what is going on with Secretary Salazar, Secretary Chu, many visits to Robert, Louisiana as well as Houston in reviewing exactly what is happening.

Mr. GOHMERT. Most of those came more than 10 days after the blowout though, correct?

Mr. MCKAY. I don't remember when the first meeting was.

Mr. GOHMERT. Most of the visits——

Mr. MCKAY. Most of the visits, yes.

Mr. GOHMERT.—OK, and so there have been these visits and whatnot. But have there been any threats, any intimidation at all from the Administration?

Mr. MCKAY. No. We are under extreme pressure to get this done by our own needs as well as the Administration's——

Mr. GOHMERT. By virtue of the damages you are looking at for one thing——

Mr. MCKAY. Right.

Mr. PALLONE. The gentleman is about a minute and a half over.

Mr. GOHMERT. Thank you, Chairman.

All right. Thank you.

Mr. PALLONE. The gentleman from Maryland, Mr. Sarbanes is recognized.

Mr. SARBANES. I will come over here so I can see you better. Thank you, Mr. Chairman.

I just had really one set of questions. It shouldn't take all of five minutes even. All of the statements we have been hearing in describing this situation and what happened, and the tragedy of it talk about how unpredictable this was, how unprecedented it was, describe how hard it is to clean this up, or fix it, or address it when you are 5,000 feet under the ocean because it is not like having it right there on land or easily accessed, correct?

Mr. MCKAY. Yes. It adds to the difficulty, yes.

Mr. SARBANES. And so that to me that begs the question of if it is so hard to clean up something or address something that goes wrong at those levels, if it is as unprecedented an environment in which to operate as has been described, it raises a question of why we are there in the first place where the kind of analysis you have to do up front about whether to go to a place where if something goes wrong your ability to fix it is severely compromised or limited.

So what I am curious about is if there was a law that said oil companies, for example, have to demonstrate their capability to respond to a leak at the site to clean that situation quickly and in an effective way in order to be able to go do the drilling, and that let us say your capability to respond would be certified by MMS or some other Federal agency, would you support that kind of thing? I mean, it seems like a reasonable standard to put in place.

Mr. MCKAY. I do support coming out of this incident and what we learn from it that sub-sea intervention capability as one example is an important thing that needs to be looked at.

I think there is both the company's ability to do that, and I think, quite frankly, there will be an industry-wide need for certain capability that needs to be demonstrated in the future so, and general agreement.

Mr. SARBANES. Do you have a comment?

Mr. NEWMAN. I would support what Mr. McKay has said. I think coming out of this there needs to be a re-evaluation of the preparation for oil spill mitigation.

Mr. SARBANES. Would you agree that some kind of certification regarding by some independent authority as to the company's demonstrating that it has the wherewithal to address a leak situation before a permit is issued would be a reasonable position to take?

Mr. MCKAY. I think it is something to consider, and I think my personal opinion is that it will need to be sort of a company look as well as what access to industry capability, formal or informal, could be gained to give confidence around intervention capability.

Mr. SARBANES. OK. Thanks.

Mr. PALLONE. Thank you.

The gentleman from Tennessee, Mr. Duncan.

Mr. DUNCAN. Well, Thank you, Mr. Chairman, and as I said to each of you about a week ago at the Transportation Committee, I am like everyone else. I want to make sure that we do everything possible to get this mess cleaned up and find out the cause.

But I do have this concern that I hope that we don't go to such extremes in overreacting to this that we basically cause a shutdown of much of the offshore oil production in this country because if we do that would potentially drive up the price of gasoline.

And who it would hurt in the end, it would hurt millions of poor and lower income and working people in this country. I don't want to see that happen.

But Mr. McKay, you told me the other day, and I was trying to remember, that there have been 92—was it 92,000 oil wells have been drilled in the Gulf over the last 50 years or so, or what—do you remember the figures?

Mr. MCKAY. It is 42,000 for the wells drilled offshore in the U.S.

Mr. DUNCAN. 42,000?

Mr. MCKAY. Yes.

Mr. DUNCAN. And 7,800 platforms or some kind of——

Mr. MCKAY. Over 7,000 production platforms or injection platforms in offshore U.S. in the last 50 years. About 2,300 deepwater wells drilled in the last 24 years.

Mr. DUNCAN. I guess the night before last, Campbell Brown said on her program that she used the words that so far this had been bureaucracy at it is worst.

Then I saw Governor Jindal on CNN last night saying that he hadn't been able to get the emergency permits that he has wanted. What is not going on that should be going on?

Can either one of you tell me that, what he was talking about? He has indicated that the state is being held back because of bureaucratic delays and so forth.

Mr. MCKAY. I think—I think, I am not sure. I think that is in reference to Barrier Islands to be built where they require permits, environmental assessments, and effectively whether they would be effective for this spill response, and I think that is what he is talking about.

Mr. DUNCAN. Now, last week at the Transportation and Infrastructure Committee hearing you may remember that I commended BP because I said that the company seemed to have done more in

advance than any other company I would ever heard of in response to various accidents or tragedies.

But last week, you said that you had paid 19,000 claims, and today you said you had paid 13,500 and I am curious as to what the discrepancy is there.

Mr. MCKAY. I did say that, and I corrected it later in the hearing. There were 19,000 claims that have been made, and I said paid. There had been at that time about, I can't remember, about 6,000 paid. And I did correct that at the hearing.

Mr. DUNCAN. Oh, OK.

Mr. MCKAY. Today there have been about—and I will get the number wrong, but something on the order of 25,000 to 26,000 claims made and about 13,000 plus paid. As far as I know, those are accurate as of yesterday.

Mr. DUNCAN. Now I know that you have been concentrating most of your efforts on trying to cap this well, and I just was told by an aide that they think there may be some success in this latest work.

I don't know what the—I have been in other meetings, so I don't know what the report was. But what is doing about the cleanup on where the oil has already come up to the surface? People are really concerned about this.

Mr. MCKAY. Obviously we are trying to fight it offshore and keep it offshore, but there are areas in Louisiana in the marshes that have been affected.

The cleanup in some of those areas is to basically to get water hoses and wash it back out and then boom it or skim it up. Some of the marshes that are very sensitive, it is unfortunately better sometimes to just leave it and let nature take its course.

But there are various cleanup techniques that have been authorized for different priority in types of marshes, and those are being enacted. A lot of it is trying to hose it back out of the marsh.

Obviously keeping it from the marsh is priority one, and that is what we are trying to do. Once it is there, it is pretty sensitive, and we have to be careful with the cleanup operations.

Mr. DUNCAN. I know that people have been talking about all kinds of weird or unusual methods of reacting to this, and you know I have heard about golf balls, and mud, and all kinds of things being put down.

But I had a constituent who told me that there was a demonstration on one of the networks about dumping hay into the water and then recollecting the hay. And they said they did this demonstration showing that the hay absorbed the oil and cleaned up the water very quickly. Have you heard of anything like that?

Mr. MCKAY. I have heard of it. There are a lot of natural materials that will soak up oil. A lot of them soak up more water than they do oil, and it is actually a fairly big problem to pick it up.

A lot of the technology that is being used today, the sorbent boom, is much, much better at picking up oil than hay or other natural substances. That is what is being used to try to soak it up.

So I think this is through unified command. I think we are using the best technology available in trying to soak up the oil and keep it off the shore.

Mr. PALLONE. The gentleman's time has expired.

Mr. DUNCAN. All right. Thank you very much.

Mr. PALLONE. Thank you.

The gentlewoman from California, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Speaker, and I would like to enter into the record two articles that have been given to the Chair in regard to the emotional and health impact to residents of other oil spills, especially the Exxon Valdez.

It refers to the estimated 250,000 birds, 2,800 sea otters, harbor seals, bald eagles, killer whales that died along with billions of salmon and herring eggs. It says British Petroleum takes the heat for allegedly downplaying the initial threat to spill in the Gulf of Mexico.

I am really perturbed in going into this issue of health and mental health services. Apparently it alleges that—because I don't have the actual report—that community exhibited any kind of social stress you can imagine.

Alcoholism went up. Suicides went up. Family violence went up. Divorces went up and, of course, bankruptcies and various kinds of financial failures went up in the attendance stress of families.

Then, of course, they felt burned by the U.S. Supreme Court who slashed the jury award. So I keep hearing legitimate claims, and while they may end up in Court trying to figure out whether they are legitimate or not.

I hope this does not happen in this particular case as long as they are connected. To that effect, I would ask if you have set up any kind of system to be able to help not only the families of those deceased workers but also those families that have been impacted, whether there are the fishing boats, all of those along the coast, the business, the tourist business, all of those that are going to be suffering because people don't want to go and smell this gasoline smell.

Mr. MCKAY. Yes, we have. We have 28 claims offices across the Gulf Coast. Those have been set up to deal exactly with the things you are talking about and under OPA 1990, the Coast Guard has a lot of experience through Valdez and post Valdez that they have exercised.

Just very quickly, I know you want to go, we have sort of three systems working. One, our claims office and claims centers that are working with 400 adjusters——

Mrs. NAPOLITANO. Yes, you are talking about the claims. I am talking about services to those men and women and their families in regard to their stress so that they—and this is aside from the filing of claims.

This is services to them to be able to recuperate and not have the divorces or the suicides or any of the PTSD that is mentioned in some of these articles.

Mr. MCKAY. We do have community outreach centers, but what I need to do is get back to you on our plans for sustainability going forward to address those type of needs.

Mrs. NAPOLITANO. Well, I would hope so because I would hate to see this seemingly drive a grade over take BP the moral responsibility to those that it has harmed through their negligence.

I would also want to ask, the emergency response plan that you would be working kind of dovetails, and some of the questions have been asked before. Was there a Plan A, a Plan B, a Plan C for

those wells that are anywhere between 3,500 and 5,000 feet because apparently there is very little you can do at that depth.

What plans were there? What could be carried out had they been tried out? Had they been tested to be able to determine whether or not you would be able to handle a spill whether it was natural or whether it was by mistake, whatever?

Mr. MCKAY. The structure in the past and up to present has been the spill response plans have been effectively concentrated on surface response. Through this incident we are learning, obviously, that there are conditions in sub sea and 5,000 feet of water that are very difficult, maybe more difficult than people would have thought.

There are response plans that are predicated and partly dependent on that blowout preventer, and if not being able to actuate when the event happens at least being able to intervene with an ROV and be able to shut it, or at least being able to access it. That has not occurred——

Mrs. NAPOLITANO. How many—I am sorry, but my time is running out. How many wells do you have that are over 3,500 feet?

Mr. MCKAY. I don't know——

Mrs. NAPOLITANO. Roughly. Give me a rough estimate.

Mr. MCKAY. Well, I know there are 2,300 drilled in the Gulf of Mexico over 1,000 feet, so it would be a pure guess over 3,500 feet.

Mrs. NAPOLITANO. Over 3,500. Are any of those using the same kind of material or the same kind of structure that you use for this 5,000?

Mr. MCKAY. When they are drilled, they use similar blowout preventers and rigs as has been used here.

Mrs. NAPOLITANO. Now, apparently the blowout safeguards that you had—how many were there, about five I heard in one of the prior hearings?

Mr. MCKAY. There are various barriers to blowouts from mud, to cement casing, to well control, to blowout preventers.

Mrs. NAPOLITANO. OK, and in those instances of those other wells, are you utilizing the same methodology as you used on this one?

Mr. MCKAY. Similar methodologies are being used. We have recommended and are implementing incremental and enhanced testing of blowout preventers which we are doing. I believe that redundancy in blowout preventers and other systems will need to be looked at.

We are looking at sub-sea intervention capability and what should be planned or available.

Mrs. NAPOLITANO. I would like to know if you would submit a report to the subcommittee to find out how many wells are actually possibly in danger that might cause a similar blowout that would cause greater damage.

Mr. Chair.

Mr. PALLONE. Yes. That has to be the gentlewoman's last question though because you are a minute over, but if the——

Mrs. NAPOLITANO. I have waited.

Mr. PALLONE. No, I understand.

If Mr. McKay would like to submit that in writing, we would appreciate it.

Mr. MCKAY. We will.

Mrs. NAPOLITANO. And the last question, is there any anticipated participative training for your personal on this 3,000 to 5,000 feet level to be able to understand what can or cannot be done and to develop the plans that hopefully will cap some of these outbreaks or blowouts.

Mr. MCKAY. There absolutely is a lot of training, and there will be more training going forward, yes.

Mrs. NAPOLITANO. Would you please submit something of any of those responses to the subcommittee so we know that hopefully we will not be looking at this in the future?

Mr. MCKAY. OK.

Mr. PALLONE. If you could follow up in a written response.

The gentlewoman had two articles that she referenced?

Mrs. NAPOLITANO. Yes. I gave them to you. I gave you copies. I passed them down. If not, I will get you an additional copy, sir.

Mr. PALLONE. All right. without objection, the gentlewoman would like those submitted to the record without objection. So ordered.

[NOTE: The articles submitted for the record by Mrs. Napolitano has been retained in the Committee's official files. See list of retained documents at the end of this hearing]

Mr. PALLONE. I think I am next, right. OK. I will recognize myself then for five minutes.

Gentlemen, I have to say that long before President Obama announced that he was going to expand offshore oil drilling for oil, I guess, and natural gas, you know, a few weeks before the BP disaster occurred he made that announcement.

As I said before, I was very disappointed in that because I don't believe we should expand offshore drilling beyond the leases that have already been approved every, frankly, because I think that the technology doesn't exist to prevent a spill in the During the period water or, once the spill occurs, to stop it.

I know a lot of testimony has been taken about what could have been done to prevent it, what is being done to stop it. Frankly, I think nothing you could have done would have prevented it and nothing that you will do was able to stop it quickly. Hopefully you will have the ability to stop it soon.

But it all points back to the fact that over the years I have just heard over and over from all the oil companies, not just BP, others, oh, we have plenty of ways to prevent spills. We have plenty of ways to stop a spill once it occurs.

I think this oil spill in Louisiana shows very dramatically that none of those things are true. You may have believed that they were true, and maybe the Minerals Management Service believed they were true. I never believed they were true. Spills occur all the time, and spills will continue to occur.

So I guess my question is why should I believe that we are not going to have another deepwater spill again and that you will be able to do anything about it in the future?

I mean, I assume that you could tell me if you don't, do you continue to advocate that we should expand deepwater drilling? In other words, would you agree with the President that we should expand the lease sales and go into new areas like the Atlantic with

this type of deepwater drilling? Would you agree with that? Do you agree with the President?

Mr. MCKAY. I do believe that this industry can operate safely. I believe that what we learn from this will change the way deepwater is done in some ways in terms of regulation, in terms of safety systems.

Mr. PALLONE. So you would agree with the President that we should continue to expand deepwater drilling in the Atlantic and other areas where it is not done now?

Mr. MCKAY. I believe after we learn what is done here and has happened and those findings are incorporated, I believe that resources can be developed safely and in an environmentally sensitive way.

Mr. PALLONE. Well, why should I believe you now? You and other big oil companies were saying all along, telling the President, telling the Minerals Management Service that this was safe and we could do it.

It wasn't safe. You weren't able to control it. You are still not able to control it. I hope you are in the next few days. Why should we believe you? Why should be believe that the technology is out there or that it will be developed?

Doesn't this spill show very dramatically that statements made by you and others were simply not true? I mean, you may have thought they were true, but why should we believe that they are?

I am not giving you bad intent. I guess what I am trying to tell you is I am not saying you were lying. I am saying you believed certain things that have proved to be false. Why should we believe that you can make a difference in the future and that we should expand things?

Mr. MCKAY. Let me tell you what I believe. We have a context of 42,000 wells drilled offshore that has had a good safety record. We have an incident that I think is unique and unprecedented that we must learn exactly what happened.

I believe that we can put in changes in our operating practices, industry operating practices, and regulations that will allow resources to be developed safely. I do.

Mr. PALLONE. But why didn't it work this time? Why—what went—in other words, why should—you know, all these assurances that were made didn't prove to be true. So why should we act on that and instead just let us have a moratorium.

The President announced a halt today to drilling operations at all 33 deepwater rigs incident he Gulf of Mexico for six months or until a Presidential commission completes its work.

I commend him for that, but it seems to me based on what happened we should just have the moratorium in perpetuity. I mean, we had that for many years.

In fact, until the last couple of months of the Bush Administration, there was an executive order in place for 20 years. There was an Interior Appropriations rider in place for as long as I have been in Congress, over 22 years, that said no expansion.

That was lifted because you made assurances—not you personally maybe but the big oil made assurances that we didn't have to worry. This spill would occur and we would be able to control it, but this proves otherwise.

I just don't understand. There is no reason to think that we should expand, and you are just telling me I should trust you. I know you are an honest person. I am not suggesting otherwise, but you don't give us any reason to believe that we should have those assurances. Unless you want to give me some. That is the end of my question.

Give me an assurance why things are going to be different. I don't hear it.

Mr. MCKAY. As I have said, I think we have a track record for 50 years that has been good, and I think we will learn from this in an unprecedented event to make it safer going forward. That is what I believe.

Mr. PALLONE. Well, I think it is just—you know, I can't—I have to have something more than just your belief, but I do appreciate your effort to respond.

Thank you, Mr. Chairman.

The gentleman's recognized.

Mr. CASSIDY. Mr. Newman, you had mentioned earlier that you would accept, even recommend, a hiatus, if you will, in drilling until we sort out what is going on, but I don't think a lot of colleagues understand there is a difference between deepwater or ultra-deep, and just offshore.

It is my understanding that the access to the blowout preventer, if it is just offshore as opposed to ultra-deep, is much more accessible, and that the difficulty here is that it is basically ultra deep.

So when you say there should be perhaps a hiatus, do you mean for all offshore, or do you mean for ultra deep, or just deep, or do you see where I am going with that?

Mr. NEWMAN. Yes. I think there are differences in the level of complexity with respect to offshore drilling, and operations in shallow water environments where the BOP is basically at the rig, it is on the surface, it is easily accessible probably presents a lower level of challenge and complexity with respect to operations going forward from this point.

So I see no reason to call a halt to shallow water operations on jack-ups where the BOP is readily accessible.

Mr. CASSIDY. Yes, and I am not sure whether the President's moratorium applies to all offshore. He is very concerned about the tourist industry in Florida. I sure hope he is concerned about the roustabouts who are working in Louisiana in a jack-up. I just learned that word from you if I am using it correctly.

So we have to recognize there are a lot of working folks who are employed in this industry, and it has been an industry which has provided folks who otherwise have fewer options with a good living with good benefits. So I hope that is not lost by the President as he addresses this issue.

Going back to the stuff that you all submitted, Mr. McKay, on page 27 it talks about the pressure holds negative test and said the drill pipe pressure it measured at Halliburton stayed steady at 1,400 PSI, et cetera, no flow observed in the kill line.

The rig team was satisfied that the test was successful. The rig team, would that include all people on board, Halliburton, BP, and Transocean? I am just trying to understand this PowerPoint presentation.

Mr. MCKAY. Yes. I am not sure who was involved in the discussions then except and so the task that would generally be a collaborative discussion of and involve various people including BP, Halliburton, and Transocean.

Mr. CASSIDY. OK, so it would have been more than one person though, huh? So it would have been an agreement among everybody?

Mr. MCKAY. Well, the investigation will have to see how it actually worked, but generally those types of decisions are discussed and the consensus is arrived at.

Mr. CASSIDY. OK, next—and you may not be able to answer this either one of you—I had a National Research Council thing which suggested that MMS, NOAA, and others—this is back in 2003—form a committee to understand all these things—the use of dispersants, the use of the fate of oil in a deepwater situation, et cetera.

I am struck that our government agencies back in 2003 apparently didn't act upon it. I say that because at least part of these recommendations or part of their recommendations for what we should do now, I am thinking, "Well, why didn't we do it in 2003?"

As far as you know, was industry ever called by MMS, the Coast Guard, et cetera, to do a plan on how to address potential complications of deep and ultra deep drilling?

Mr. MCKAY. Not to my knowledge, no.

Mr. CASSIDY. OK, so this would not have been solely an industry responsibility. It would have also been a governmental responsibility as well. Fair statement? No, you can't answer that, but I am going to postulate that, yes, that would be the case.

The President is apparently going to recommend that 33 wells currently being explored activity be put on halt. What thoughts do the two of you have about those 33 wells currently being explored activity being ceased? Any thoughts, either one of you?

Mr. MCKAY. Well, I believe as I said a bit earlier that I think we need to learn from this incident. I think that will be relatively quick because there are some incremental changes that I think could be made now.

Then after that is incorporated, then I think it will be up to the government to decide whether to move forward or not.

Mr. CASSIDY. The last thing, and I don't know the answer to this and, again, I am asking just to learn. There are a lot of questions as to whether or not the drill pipe was centered at the bottom of the string, I gather.

And Transocean submitted documents to the Energy and Commerce Committee that showed the effects of a drill pipe being off-center versus centered and the ability of the cement to seal around that drill pipe at the shoe I guess, if I am getting my words correct.

How do you confirm that the drill pipe is centered at the bottom of the well? That graph you all submitted to E&C, how do you confirm that it is centered as opposed to off-centered therefore we can trust that the cement is most likely operational?

Mr. NEWMAN. I think you are talking about casing rather than drill pipe.

Mr. CASSIDY. OK.

Mr. NEWMAN. And the only way, really, to manage the centralization of the casing in the outer string of casing is to put centralizers on it. That is the primary function those centralizers serve.

Mr. CASSIDY. Is there any way to know that centralizers are working correctly? Did we know that six were better—as adequate as 21 because I think it said here that that was not best best practices—this is in the Wall Street Journal—that while some were not consistent with industry's best practices, they were within acceptable industry standards.

So it is acceptable, so presumably there is some evidence that six is adequate; is that a fair statement?

Mr. MCKAY. I think this will be part of the investigation, but I understand the six were there to cover the reservoir section and centralize, and as I said earlier, I don't know the decision making between 6 and 21 and the reasons for that. That will be part of the investigation.

Mr. CASSIDY. So it will be an empirical discussion as to whether or not the six is adequate because you will see whether or not there is leaking or the acoustic test, or whatever. There is no way to visualize that?

Mr. MCKAY. No. There is no way to check that in a visual way.

Mr. CASSIDY. I yield back. Thank you.

The CHAIRMAN. The gentleman's time expired.

The gentleman from Massachusetts, Mr. Markey.

Mr. MARKEY. Thank you, Mr. Chairman, very much.

Mr. McKay, today the U.S. Geological Survey Flow-rate Technical Team issued its findings that its best initial estimate is that the well is leaking 12,000 to 19,000 barrels per day. That is two to nearly four times what BP had been claiming for weeks.

Earlier this week your company provided me with an internal document dated April 27th, 2010, and cited as BP confidential that shows a low estimate, a best-guess, and a high estimate of the amount of oil that was leaking.

According to this BP document, the company's low estimate of the leak on April 27th was 1,063 barrels per day. It is best guess was 5,758 barrels per day. It is high estimate was 14,266 barrels per day.

Were you personally aware on April 27th that the number BP was citing in the press of 1,000 barrels per day was your company's low-end estimate and that the leak could be as high as 14,000 barrels per day?

Mr. MCKAY. I am not personally aware of that at the time. The 1,000 barrel a day was a unified command estimate at the time.

Mr. MARKEY. So that was not an estimate that was based upon BP's information that they gave to the unified command?

Mr. MCKAY. It may have been based on information from a variety of sources, and I am sure BP had input into it, yes.

Mr. MARKEY. Well, you were in command of all of the information for that first week. You were the only source of information in that first week. It was your rig. It was your submarines. It was you who had that capacity to make a determination. So you are saying you did not know that it was 1,000 to 14,000?

Mr. MCKAY. I personally did not know.

Mr. MARKEY. You did not know?

Mr. MCKAY. No.

Mr. MARKEY. It seems hard to believe, honestly, Mr. McKay. You are the head of BP America. You are BP's top official here in the United States. You say that you are unaware that such documents exist but your company had these estimates.

Shouldn't they have sounded the alarm if other people in your company knew that the range was 1,000 to 14,000 barrels? Should other people in your company not have sounded the alarm that it could be a vastly greater catastrophe which was unfolding?

Mr. MCKAY. I don't know at that point in time what was shared with who, but I believe that all of our data and estimates were being shared within unified command with NOAA, and as I understand it, NOAA contributed information from overflight and from dispersion estimates in the water——

Mr. MARKEY. Well, these are your own internal documents, Mr. McKay. They say that you knew that it could be upwards of 14,000 barrels per day in the first week even as BP was saying it was 1,000 barrels per day.

So I think BP had a responsibility to the American people to let everyone know that it could be 14,000 barrels per day right from the very beginning because that would have changed a lot of the response that, in fact, occurred.

Mr. MCKAY. Could I just comment on that? Admiral Allen has been clear that whether it was one, five, 10, or 15 it would not have changed the response.

Mr. MARKEY. I disagree with that. I think that the amount of dispersants which is put into the water is very much tied to the amount of oil which is in the water.

I think the number of booms which you need for the coastline are tied to how much oil is in the water. How far this plume can go is based upon how much oil there is in the water.

So I don't agree with that assessment that BP has made on this issue, OK? It is not, in fact, accurate. Many things are contingent upon knowing how big this catastrophe is.

Does BP have a financial interest, Mr. McKay, in underestimating the size of the leak?

Mr. MCKAY. Could you repeat the question?

Mr. MARKEY. Does BP have a financial interest in underestimating the size of the leak?

Mr. MCKAY. In underestimating the size? I don't know. I don't know.

Mr. MARKEY. Well, the upper estimate of the—you don't know if you have a stake in underestimating?

Mr. MCKAY. We certainly have—we are going to clean up everything that happens so that the size of the leak is—the absolute value of the leak will not impact the response we have, the claims that we pay.

We have said from the outset that we are responsible for the oil spill response cleanup costs, reimbursement to the government, claims that result from it in terms of——

Mr. MARKEY. But isn't it true, Mr. McKay, that the higher the rate of oil that went into the ocean is the higher the liability for BP? In other words, under the existing law if it is only 5,000 bar-

rels per day, then the liability under the existing law for BP is $185 million.

If it is 19,000 barrels per day, which is the estimate that came out today, the liability for your company is $2.1 billion for this spill. There is a big difference there in liability.

What I am afraid of, Mr. McKay, is that BP was more concerned about its liability than it was about the livability of the Gulf by low-balling the number of barrels of oil per day that was being sent out into the Gulf. That is my belief.

Mr. MCKAY. Our position is to do everything we possibly can to stop this, provide as much data as we can as fast as we can, clean it up and deal with all the economic claims.

Presumably, the amount of oil will result in whatever impacts the shore has and the cleanup costs as well as the government's response and our response. So——

Mr. MARKEY. Well, if you had not maintained this fallacy that it was only 1,000 to 5,000 barrels per day all the way until the last couple of days, it would have been a substantially different reaction.

Mr. MCKAY. Could I just comment? Those were unified command—1,000——

Mr. MARKEY. Based upon BP figures.

Mr. MCKAY. And NOAA figures. I have a NOAA document that I can give to the Committee—about 5,000 barrels a day calculated two different ways by NOAA—and it was a unified command decision.

Mr. MARKEY. But again, reliant upon your own data and your experts——

Mr. CASSIDY. Will the gentleman yield?

Mr. MARKEY. I will be glad to yield.

Mr. CASSIDY. I have participated in the 3:00 p.m. joint command call between MMS, Coast Guard, NOAA, and others. BP is not on. I have continually asked for a rate of flow, and I have continually been told by MMS, NOAA, Coast Guard it is very difficult and that they are doing their best.

That has also been a point of frustration from mine, but in fairness to BP, I have heard it straight from the agencies' mouths that they have been unable to do it.

So I yield back. Thank you.

Mr. MARKEY. Yes. Well, again, dependence upon BP figures I think is central to any evaluation that any agency is making.

Let me ask you this, Mr. Newman, BP to its credit has agreed—I wrote a letter last week to each of you asking you to make contributions to an independent science consortium that could be put together, and BP has made a commitment of $500 million to that independent science consortium.

Are you willing as a corporation, Mr. Newman, to make a contribution to a consortium of independent scientists who can make analysis of what is going on down there and what should be done in the long term in order to protect and preserve the Gulf from the worst consequences of this catastrophe?

Mr. NEWMAN. I am unfamiliar with the letter, Congressman, but I will certainly take it into consideration. I am not familiar with

what the science foundation is intending to accomplish, but I will review it.

Mr. MARKEY. Well, it is intended to have the best science available for the people who live in the Gulf going forward, not just BP and not just Transocean but to have the best scientists we have in our country be funded in a way that all the best decisions can be made going forward to protect the people down there.

And I hope that Transocean makes a substantial contribution as well.

Thank you, Mr. Chairman. At the end of the day, it is BP's spill but it is America's ocean. It is the people in the Gulf's ocean. We have to make sure that they get protected.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentlelady from California, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair, and I will be as brief as I can.

I am going to keep harping on some of the information. The hearing before the Department of the Interior, I had asked whether they had adequate environmental baseline information to be able to assess the damages that are occurring to the wetlands, the marshes, the islands, and the near-shore areas and the answer, of course, at that point was not very encouraging.

I associate my remarks with my colleague, Mr. Markey, because of the amount of oil that is going into some of these areas. I ask the question because I know that without some of these hard numbers, these quantitative numbers, your company can argue every assessment that is made.

There is a history, again, with Exxon Valdez showing a clear path of what is likely to happen. You will question every expenditure that is claimed and try to get the courts to limit the exposure and the costs whether it is the five or 11,000 that Mr. Markey was referring to.

My question is are you willing to commit that BP will assume the long-term commitment certainly to exceed 20 years to continue to support the scientists, local fishermen, business, mental health needs, social needs, and the full recovery cost for the environment that have resulted from this black death, and I would like a yes or no answer.

Mr. MCKAY. Could I at least—the——

Mrs. NAPOLITANO. Yes or no, sir?

Mr. MCKAY. I can't put an end on it. I can't put a date on it. What I would say is under OPA we are going to fund the Natural Resource Damage Assessment which will set the baseline as well as the restoration plans——

Mrs. NAPOLITANO. So in other words, there is a baseline, and there will be a cap on some of these things?

Mr. MCKAY. No. No, no, no. No, there is a baseline to establish where we start it from. This is by the government not by us. This is by NOAA that establishes what the resources were there before any damage, establishes the damage, then establishes restoration and recompense from that point forward or as long as it is needed.

Mrs. NAPOLITANO. As I pointed out, the article that I submitted for the record indicates that in the Exxon Valdez that there is still litigation pending because of whatever—or actually the Court dam-

ages were reduced for whatever reason of some of these individuals that had suffered these injuries.

Mr. MCKAY. Under OPA 1990 which happened after the Valdez, this was put in place such that the government agency would do the assessment. The restoration requirements, meaning costs and schedule for however many years it takes, would be set. Then we have said as a responsible party we are going to step up to those obligations.

Mrs. NAPOLITANO. Well, I am hoping to be around. The other question I have is—or actually a statement and a question.

President Obama has already admonished both of your companies for finger pointing, and it certainly seems there is still a lot of the "blame the other guy" going on. BP's investigators seem to not surprisingly be fine that it was Transocean's fault, or Halliburton's fault, or the fluid company's fault, et cetera. More disturbed to find out the companies are withholding information from each other.

Mr. McKay, your investigators said that they were not getting access to Transocean employees.

Mr. Newman, you have said your company is not getting access to BP data.

Can you both commit to stop playing the blame games and get working to find out what went wrong?

Mr. MCKAY. Let me just say we want to understand what happened. We want to cooperate with——

Mrs. NAPOLITANO. That doesn't answer the question, sir.

Mr. MCKAY.—and we are sharing documents and working out, I hope, an ability to talk to Transocean employees. We are sharing our documents——

Mrs. NAPOLITANO. But not getting to talk to each other's employees?

Mr. MCKAY.—that is being worked out, I believe.

Mrs. NAPOLITANO. And to what extent will there be a solution or is this just not going to be——

Mr. MCKAY. I hope so. I hope so.

Mrs. NAPOLITANO. Well, Mr. Chair, I hope they can find a solution because I think this is part of where we are going to find some of the solutions. Thank you, Mr. Chair.

The CHAIRMAN. Thank you. I think we are done with this panel.

Thank you, Mr. McKay and Mr. Newman for your patience and responses today. We appreciate it and all you are doing to try to resolve this disaster.

Our third panel is composed of Mr. Randall Luthi, President, National Ocean Industries Association; Mr. Jack Gerard, President and CEO, American Petroleum Institute; Dr. Michael Hirshfield, Ph.D., Senior Vice President for North America and Chief Scientist, Oceana; and Dr. Michelle Michot Foss, Ph.D., Head of the Center for Energy Economics and Chief Energy Economist, the University of Texas.

Lady and gentlemen, we have your prepared testimonies and, of course, they all will be made part of the record as if actually read. And you are encouraged to summarize.

Mr. Luthi, we will start with you. Welcome back to the Committee again.

STATEMENT OF RANDALL LUTHI, PRESIDENT, NATIONAL OCEAN INDUSTRIES ASSOCIATION

Mr. LUTHI. Thank you, Mr. Chairman, and Ranking Member Hastings, and members of the Committee thank you again for inviting me to speak about the Outer Continental Shelf and the oil and gas strategy implications as a result of the tragedy in the Gulf of Mexico.

My name is Randall Luthi, and I am the President of the National Ocean Industries Association, or NOIA, which represents over 250 companies working to explore for and produce both traditional and renewable energy sources from the Outer Continental Shelf.

I became President of NOIA in March of 2010, yes, just a couple of months ago. Our members are engaged in activities ranging from exploration to production, engineering to marine and air transport, offshore construction to equipment manufacture and supply, shipyards to communications, geophysical survey into diving operations, and the development of America's first commercial offshore wind farm.

The accident in the Gulf of Mexico and the recent tragedy in West Virginia remind us all that the development of energy comes with risk, a risk that must always be foremost in our minds and must be minimized or eliminated whenever possible.

Indeed, America's innate pioneering spirit endures in the face of the most treacherous conditions rather that be the outer reaches of space, beneath tons of earth, or miles below the ocean.

We, the members of NOIA, and the rest of the Nation mourn with the families who have lost loved ones and pray that they might find comfort. We remember their sacrifice by strengthening our resolve to demonstrate responsibility, accountability, leadership, and cooperation in the wake of this tragedy.

This vital industry must regain the public's trust. Our members stand ready to provide information, expertise, and a self-critique of offshore operations, equipment, procedures, and practices.

We are committed to working with the Administration, the Congress, and particularly this Committee to answer the many questions that rightfully are being asked.

We are asking ourselves the same questions that your Committee has asked, and will continue to ask, because one tragic and deadly accident is one too many.

We are committed to finding out what went wrong, the cause, rather it be mechanical failure, human failure, some yet unidentified factor, or a combination of all and fix it.

To that end, you are witnessing a great cooperation among industry to find the cause and respond to the effects of this spill. Various task forces are working night and day to develop recommendations for increased safety and reliability.

Nearly all our member companies and their employees live in the Gulf of Mexico region. This accident is extremely personal to them. This is where they raise their children, their grandchildren, and make their homes.

Their neighbors are shrimpers, fishermen, boaters, tourism, and the hospitality workers. It is important to our members to look

after their neighbors by conducting their business in a responsible manner that puts safety above all else.

As we listened to the various press reports and testimony, there seems to be a common thread emerging. It appears that the technology to harness oil and gas resources has advanced by leaps and bounds.

But it appears—and I underline appears—that the oil spill response technologies may not have kept pace. That is why we are forming a response team of experts to make recommendations for robust and timely spill response and cleanup capabilities.

We will seek participation from our sister trade associations, response organizations such as the Rain Spill Response Corporation, as well as ecologists and scientists with expertise in oil, gas, and the environment.

The panel will examine the existing and cutting edge techniques and sub sea capture, surface containment and disbursal, the need to reconstitute an industry funded response research and development fund, and the need to harmonize differing response regulations between the Minerals Management Service and the U.S. Coast Guard.

This team of experts will provide recommendations for the future. If there is a better mousetrap or a better way to use that mousetrap, I trust this team will find it.

In closing, for the foreseeable future we will continue to need energy resources produced everyday on the Outer Continental Shelf. All forms of energy both traditional and renewable are available off our shores. It is our responsibility to provide that energy safely and in a timely manner.

Now is the time to discuss the need for energy for our families and our economy. Now is the time to frankly discuss the need for a diverse energy portfolio including renewables, fossil fuels, biofuels, wind, wave, and title energy. We need them all, and we can produce them all at home. Now is the time for a review of our industry both internally and externally. NOIA member companies remain committed to ensuring that we produce domestic energy and protect the safety of workers in the environment. We look forward to working with the Committee to achieve these goals.

Thank you, Mr. Chairman and members of the Committee.

[The prepared statement of Mr. Luthi follows:]

Statement of Randall Luthi, President,
National Ocean Industries Association

Chairman Rahall, Ranking Member Hastings, and members of the Committee, thank you for inviting me to speak before you today about Outer Continental Shelf (OCS) oil and gas strategy and implications of the recent tragedy in the Gulf of Mexico. My name is Randall Luthi, and I am the President of the National Ocean Industries Association (NOIA), which represents over 250 companies working to explore for and produce both traditional and renewable energy resources from the OCS.

Our members are engaged in activities ranging from exploration to production, engineering to marine and air transport, offshore construction to equipment manufacture and supply, shipyards to communications, geophysical surveying to diving operations, and the development of America's first commercial offshore wind farm.

This accident in the Gulf of Mexico and the recent tragedy in West Virginia remind us all that the development of energy comes with risk: a risk that must always be foremost in our mind, and minimized or eliminated. Indeed, America's innate pio-

neering spirit endures in the face of the most treacherous conditions: the outer reaches of space, beneath tons of earth, or miles below the ocean.

We, the members of NOIA, and the rest of the Nation mourn with the families who have lost loved ones and pray that they might find comfort. We remember their sacrifice by strengthening our resolve to demonstrate responsibility, accountability, leadership and cooperation in the wake of this tragedy. This vital industry must regain the public's trust.

Our members stand ready to provide information, expertise, and self critique of offshore operations, equipment, procedures and practices. We are committed to work with the Administration, the Congress, and this Committee to answer the many questions that are rightfully being asked; and to use this knowledge to reshape industry practices and procedures to minimize the chances of this ever happening again. We are asking ourselves the same questions, because one tragic and deadly accident is one too many for our collective family of offshore employees and their loved ones to endure. We are committed to finding out what went wrong, whatever the cause, whether it be mechanical failure, human error, some as yet-identified factor or a combination of all, and fix it.

To that end, you are witnessing great cooperation from industry to find the cause and respond to the effects of the spill. Various task forces are working day and night to develop recommendations for increased safety and reliability. As more is learned concerning the cause of the accident, our members will assist in discussing short and long term actions required to improve subsea blowout preventer (BOP) stack testing, reliability and intervention. These solutions will require input from operators, exploration and service contractors, and equipment manufacturers. We must examine the design and execution of various industry practices for cementing, casing, BOP configuration, and well control.

Amidst these worthy questions, however, we must not lose sight of the fact that industry competitors have joined forces in an unprecedented response effort to find a solution to the problems in the Gulf. As outlined by the attachment, this includes NOIA's major and independent producers, as well as member service and supply companies who have stepped forward to offer vessels, helicopters, remotely operated vehicles, boom, dispersant, monitoring equipment and perhaps their most treasured assets, their best and brightest technical experts.

Nearly all of these companies and their employees live in the Gulf region. This accident is very personal to them. This is where they raise their children and grandchildren. They live and work there. Their neighbors are shrimpers, fisherman, boaters and tourism and hospitality workers. It is important to our member companies to look after their neighbors by conducting their businesses in a responsible manner that places safety above all else.

As we have listened to press reports and the testimony of others, a common thread appearing is that while technology to locate and harness oil and gas resources from the offshore has advanced by leaps and bounds over the past decades, we still have work to do to ensure that oil spill response technologies advance along with our ability to find and develop offshore resources ever farther from shore.

That is why NOIA is forming a Response Team of experts to make recommendations for robust and timely spill response and cleanup capabilities. We will seek participation from our fellow trade associations, response organizations such as the Marine Spill Response Corporation, as well as ecologists and scientists with expertise in oil, gas and the environment. This panel will examine the existing and cutting edge techniques in subsea capture, surface containment, and dispersal; the need to reconstitute an industry-funded spill response research and development fund; and the need to harmonize currently differing spill response regulations between the Minerals Management Service and the U.S. Coast Guard. This team of experts will use its collective knowledge and experience to provide recommendations for the future. If there is a better mouse trap, or a better way to use the mouse trap, this team will find it.

I will also address the reorganization of the Minerals Management Service. NOIA believes the current Administration is in the best position to determine what administrative changes are best for the agency at this time. We are encouraged that this restructuring appears to include the necessary funding and resources to ensure that oil and gas will be produced here in a safe and environmentally responsible manner. That is certainly the goal of our member companies and we look forward to working with the Administration and the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue.

In closing, let me state a simple fact: that for the foreseeable future we will continue to need the resources produced every day on the nation's Outer Continental Shelf. All forms of energy production—both traditional and renewable—are avail-

able off our shores. It is our responsibility to provide that energy in a safe and timely manner.

We know that we will continue to need that energy to fuel our cars, heat our homes, run our businesses, and grow our food. We know petroleum products are all around us: the ink in our pens, the lenses and frames in our glasses, the clothes on our back, the carpet beneath our feet and the chairs we are sitting on are all products of oil and natural gas. It is engrained in our daily lives in ways we never think about. And that will be the case for decades to come.

Now is the time to discuss the need for energy for our families and our economy. Now is the time to frankly discuss the need for a diverse energy portfolio, including fossil fuels and cutting edge renewables such as biofuels, wind, wave and tidal energy. We need them all. We can produce them all at home.

And now is also a time for review of our industry, both externally and internally. NOIA member companies remain committed to ensuring that we produce domestic energy and protect the safety of our workers and the environment. We look forward to working with this Committee to achieve those goals. Thank you; I look forward to your questions.

NOIA Member Companies Engaged in Deepwater Horizon Response

NOIA member companies are lending their resources in an unprecedented cooperative effort to stop the flow of oil and prevent further damage to the environment.

These resources include land-based and offshore facilities, aircraft, marine vessels, remotely operated vehicles (ROVs), a containment dome, subsea tooling, subsea video, dispersant, personnel, and technical expertise on suction systems, blowout preventers, dispersant injection, well construction, containment options, subsea wells, environmental science, emergency response, spill assistance, well intervention, and drilling and well competence.

Aker Solutions

Aker Solutions is on contract with BP and has been providing deepwater multipurpose vessels, first with the initial rescue operations and since then with subsea intervention support. Aker employees have volunteered to assist with clean-up activities in Mobile, Alabama.

American Pollution Control (Ampol)

- Ampol owns and operates a boom factory in New Orleans, which is currently dedicated 24 hours per day to production of 18" near shore boom and Ocean Boom
- Ampol has 6 vessels offshore providing skimming operations
- Ampol has 5 vessels offshore providing insitu burning operations
- Ampol has 1 vessel offshore to support the offshore operations
- Ampol has crews providing protection booming in Pensacola, Florida; Mobile, Alabama; Pascagoula and Biloxi, Mississippi; and Venice and Cocodrie, Louisiana
- Ampol has converted an offshore pipe lay barge to lay Ocean boom to protect White sand beaches in Alabama
- Ampol is working on protection booming of Marsh Island, Louisiana
- Ampol has crews loading the aircraft every day for dispersant spray operations out of Stennis, Louisiana
- Ampol has spill managers assisting BP in Mobile, Alabama and Houma, Louisiana command centers
- Ampol has boom experts inspecting the booms air freighted in from around the world
- Ampol has an insitu burn expert assisting the burn operations
- Ampol total personnel working on this BP project is 250 and growing
- Ampol is currently hiring and training up to 300 more personnel

Anadarko

Anadarko has 4 employees assisting BP technical teams.

Bee Mar LLC

Bee Mar's new build DP–2 platform supply vessel, the M/V Bee Sting, promptly answered the distress signal of the Deepwater Horizon on April 20th and joined several other vessels in performing a survivor search and rescue effort and attempting to contain the fire on the rig using its offship firefighting equipment. Bee Mar has also offered the use of its DP–2, ABS-classed Platform Supply Vessels and conventional Offshore Supply Vessels to assist in containing the oil spill. Additionally, Bee

Mar is coordinating with environmental response companies and other vessel providers to develop new approaches to containing and cleaning up the spilled hydrocarbons.

Bristow Group

Bristow group, an offshore services company, has been providing aviation services to BP with 8 helicopters flying observation and spotting flights both morning and afternoon. Bristow is inspecting booms in location for oil containment. Bristow provided these services to BP for 'out of pocket' expenses only. This means that the aircraft and crews were utilized free and only fuel burn, direct operating costs and base set up in Mobile, Alabama were reimbursed. Bristow performed on a similar basis to FEMA during the 2005 hurricane evacuations and clean up/recovery efforts.

Broadpoint

Broadpoint has been providing both satellite and cellular service for communications to many of the vessels involved in the response. They are providing a video feed to BP back to their headquarters location in Robert, Louisiana.

CalDive

CalDive has one 100 foot utility boat offshore, with 7 men aboard assisting in the offshore spill response; they are working directly for BP. CalDive has submitted to BP and the USCG and the National Response Corporation a schedule of its entire 28 ship/barge fleet and 2000 person workforce in the Gulf of Mexico available to assist in the cleanup efforts.

CapRock Communications

With nearly 30 years of experience and service to customers in over 120 countries, CapRock Communications is a premier global satellite communications provider for the energy, maritime, government, engineering and construction and mining industries as well as for disaster recovery services. CapRock delivers highly reliable managed communication services including broadband Internet, voice over IP, secure networking and real-time video to the world's harshest and most remote locations.

CapRock Communications has provided VSAT (very small aperture terminal) communication packages, video services, short-notice orders and fast-response technical support for vessels supporting the relief wells and clean-up efforts in the Gulf of Mexico. In direct response to the current oil spill in the Gulf of Mexico, CapRock has provided increased bandwidth, remote video streaming, quick response time and several on-deck technicians to a support vessel involved in the clean-up efforts. Recently, the vessel had critical communications needs for its operations. Both the operator on board and the rig owner required remote video streaming links and other technologies to fully function in their support role for these efforts. Within hours of the request, CapRock issued technicians out to this vessel, installed video encoders for these streaming links and had systems fully operational within a few days. At least one of CapRock's technicians remained on the vessel for a longer period of time for ongoing support and to ensure the systems continued to operate at full capacity.

Chevron

Chevron is providing both direct and indirect support to BP and government to help stop the leak and assist with the spill response.

- Chevron has assigned technical experts to BP in the areas of subsea wells, subsea blowout preventer (BOP) intervention, subsea construction, environmental science, and emergency response
- Chevron has provided wildlife experts who work for Chevron Energy Technology Company, who are assisting with long term wildlife management plans and hurricane evacuation plans.
- Chevron has provided subsea equipment to BP
- Chevron personnel have joined the Coast Guard's local incident command response team in Louisiana, Mississippi and Alabama.
- BP has contracted the Chevron Pascagoula Refinery's marine wildlife rescue portable trailer as an additional resource
- BP has access to Chevron's Venice Shore base for spill response activities and equipment storage
- Chevron supports the work of Tier 3 spill response and cleanup cooperatives, such as Marine Spill Response Center, Clean Gulf, and Oil Spill Response Ltd., who provide personnel and equipment, such as dispersants, fire boom and radios

ConocoPhillips (COP)

- ConocoPhillips (COP) continues to work with BP and PHI (Petroleum Helicopters Inc.) to allow usage of COP's contracted helicopter for various issues related to the oil spill. BP is currently utilizing this resource up to 3 times per week. ConocoPhillips has extended the invitation for use of its shore bases in Fourchon and Dulac, Louisiana for staging and departure locations. ConocoPhillips remains in contact with BP's Logistics Group, U.S. Coast Guard and the Terrebonne Sheriff's Office for any needs related to shore base and helicopter requirements.
- ConocoPhillips is providing IMAT (Incident Management Assistance Team) resources on a rotational basis to BP. ConocoPhillips continues to support BP with incident management assistance at all levels. ConocoPhillips' Crisis Management Emergency Operations Center is in communication with BP's Crisis Center to identify any additional assistance required.
- ConocoPhillips is providing technical experts to participate on the Joint Industry Task Force set up to review both offshore operating procedures and equipment used in Deepwater Drilling operations. The task force recommended changes in both areas to improve offshore safety and these recommendations were submitted to the Department of the Interior on Monday, May 17th. These groups will continue working with a long term focus on applying the findings from the incident investigation, revising existing API standards and submitting improvement suggestions to the Minerals Management Service.
- ConocoPhillips is a member of the Marine Preservation Association that directly contracts MSRC which provides oil spill response in the Gulf of Mexico. ConocoPhillips and others participate and fund the cost of making the clean up equipment and dispersants available. ConocoPhillips is also a member of the Norwegian Clean Seas Association that has provided resources for the clean-up effort.
- ConocoPhillips has reviewed BP's current plans, offered ideas, and environmental and wells related technical assistance to BP's VP of Drilling and Completion Engineering.
- ConocoPhillips has established a system for employees to make charitable contributions to non-profit agencies involved in the cleanup. Contributions will be matched by ConocoPhillips.
- ConocoPhillips is directing employees who are interested in volunteering to the central volunteer information site.
- At the request of the Department of the Interior, ConocoPhillips submitted a letter to the MMS on April 30th with recommendations covering immediate actions to be taken, short terms steps to reduce risks in current deepwater drilling and risk reduction steps for future drilling operations.

It should be noted that ConocoPhillips does not have any GOM drilling operations at this time, therefore has limited availability to boats or other equipment to offer BP to assist in the incident.

Davis-Lynch Inc.

Davis-Lynch is working with BP to supply the necessary equipment for the relief well being drilled.

Delmar Systems

Delmar, as a leading provider of mooring-related services, is consulting with BP regarding anchor/mooring solutions to be used in whatever solutions are finalized in a solution to contain the well flow leak and diverting oil and gas to the surface for further containment. Discussions are ongoing and Delmar is offering its full support of engineering, technical, planning and operational capability in addition to various specialty mooring equipment and hardware on a priority basis.

Diamond Offshore Drilling

Diamond Offshore Drilling is providing a 7000' hydraulic pod hose and pod reel, a BOP mandrel and a DWHC BOP connector.

ExxonMobil

ExxonMobil has teams of technical experts in its Upstream Research Company and drilling organization working to provide BP with engineering and technical expertise in a range of areas related to the response. The company also continues to support the work of spill response and cleanup cooperatives in the Gulf of Mexico. ExxonMobil has offered the use of a drilling rig as a staging base, two supply vessels, an underwater vehicle and support vessel and has provided experts to respond to BP's request for technical advice on blowout preventers, dispersant injection, well construction and containment options. The company also continues to support the

work of Tier 3 spill response and cleanup cooperatives, such as MSRC, Clean Gulf, and Oil Spill Response Ltd., to provide personnel and equipment, such as dispersants, fire boom and radios. ExxonMobil is also identifying, procuring and manufacturing additional supplies of dispersant for potential use.

FMC Technologies Inc.

FMC's direct assistance to BP to support their Deepwater Horizon Response efforts fall into two areas:

- Personnel:
  FMC has supplied offshore personnel on the Discoverer Enterprise and Q4000 drill ships.
  The personnel on the Discoverer Enterprise are supporting BP's efforts to siphon oil from the leaking riser pipe to the surface. On the Q4000, FMC personnel are working with BP to support their efforts on the "Top Kill" initiative.
- Equipment:
  BP requested FMC to design and manufacture a special adapter to connect to flexible hoses and a subsea manifold for the "Top Kill" initiative. To complete this work, FMC assembled a team including engineers, manufacturing personnel, offshore personnel, and project management. All work, from concept, through final design, manufacturing, and shipment was completed in a matter of days.

Global Industries

Global Industries has been in touch with BP and has offered its entire fleet, including ROV's and the following DP vessels to provide deepwater support and possibly quarters vessels to the response initiative:

- DB Hercules
- DB Titan 2
- Global Orion
- Normand Commander
- Olympic Challenger

Hereema

Heerema offered to mobilize the heavy lift vessel "Balder" from Trinidad to help in any way possible and has provided BP detailed drawings and Material Take Offs of installation aids for buoyancy modules.

Kiewit Offshore Services

Kiewit Offshore Services regularly makes its services available in the event of a disaster or emergency, and has done so in this case, offering to assist BP and Transocean in any way they require.

Marathon

Marathon provided 2 support vessels that assisted in around-the-clock fire fighting and search and rescue following the explosion. Marathon offered to deliver ROV hot stab equipment; however BP found a closer option. Marathon offered services of deepwater drilling experts

Marine Spill Response Corporation (MSRC)

MSRC was formed in 1990 and became fully operational in 1993. Since that time MSRC has responded to over 700 incidents from vessels, barges, pipelines, refineries, terminals and off-shore operations. Additionally, MSRC mobilized significant resources to respond to 36 separate incidents for 22 different customers during Katrina/Rita in 2005. The response requested from BP *in the first two days* of the incident exceeded the total called on for any prior response, including Katrina/Rita.

On-water/off-shore Response:

The assets mobilized in the first 12 hours are far in excess of any regulatory planning requirements necessary to meet the worst case discharge of the largest tankers that transit in U.S waters. From just after mid-night (Central Daylight Time) on April 21, through mid-morning of April 21, BP activated the single largest mobilization of response resources for any incident in the twenty-year history of MSRC. This included:

- 6 specially built Oil Spill Response Vessels (OSRVs) from Miami, Florida and locals throughout the entire Gulf Coast to Corpus Christi, Texas. These OSRVs include high capacity skimmers, boom and boom boats as well as 4,000 barrels of temporary storage. Importantly, they also have two oil/water separators that allow for skimming operations to continue much longer.
- At present there are 10 of the 210' Responder Class OSRVs on scene, from as far away as Maine and New Jersey.

- Significant additional resources have been mobilized since the initial activation and the totals under MSRC direction include the following:
  - 1.4 million feet of boom
  - 463 contractor boats
  - 10 210' Oil Spill Response Vessels (OSRVs)
  - 4 Barges
  - 22 Shallow Water Barge Systems
  - 6 Fast Response Vessels (FRVs)
  - 244 MSRC personnel
  - 6800 Contractor personnel

Dispersant Response:

Concurrent with BP's initial activation of the OSRVs, BP activated MSRC's aerial dispersant capability, which includes a C130 and King Air 90. These were ready for spraying by mid-morning of April 21. At present aerial dispersants are not required under USCG regulations, but BP has been providing funding, along with other companies utilizing MSRC, as a contingency planning tool.

Shore-line Response:

Pending potential shore-line impact, BP requested MSRC mobilize the largest single resource base in MSRC's twenty-year history, and currently this stands at over 6,800 personnel under MSRC management. Boom deployed or pre-staged as of May 20 stood at approximately 1.4 million feet at key sites along the Gulf.

Newfield Exploration

Newfield sent a support vessel, the Odyssea Diamond, to assist during the rig fire on April 20. The vessel was subsequently utilized to tow 2 damaged lifeboats to Fourchon, Louisiana and was sent back to Newfield on April 22. Newfield released the Helix Q4000 semi-submersible intervention vessel to BP on April 30, requiring an early suspension of subsea well intervention operations at MC 506. The Q4000 remains on contract with BP at this time.

Newfield has donated through the Newfield Foundation to the following:

- $1500 to the Gulf of Mexico Foundation
- $2500 to the Nature Conservancy of Texas
- $5000 Texas Adopt a Beach Program

Oceaneering

Oceaneering is supporting BP with people—round the clock—to work on all manner of subsea ideas. One vessel is on location with 2 ROVs and there are 2 additional ROVs on a third party vessel that BP has hired to be on location. In addition, Oceaneering has ROVs on both of the two other drilling rigs that BP/Transocean is bringing to the location. Oceaneering equipment is providing the video feed from the ocean floor.

Oil States International

Oil States has offered emergency response accommodations and engineering assistance to BP.

Plains Exploration & Production Company

Plains Exploration & Production Company made any and all of its equipment and expertise available to BP and Transocean as it responds to the Deepwater Horizon incident.

Seacor Holdings, Inc.

Seacor Holdings, Inc. is in the business of planning for, responding to, and handling communications during emergencies. Seacor Holdings, Inc. is the parent company of Seacor Environmental Services, an emergency response, planning, consulting service and media advisor. Seacor has a large contingent of professionals working in different BP command centers, overseeing different operational requirements and other jobs.

- Seacor has provided boom, skimming vessels, boom deployment vessels, and is helping BP secure the various services and assets required to support the mobilization.
- Seacor's offshore marine support group has provided several large vessels, one as a command and communications center, equipped with systems to track marine assets and coordinate, and several that support deep water work, as well as several fast response vessels (25–30 knots) and smaller work boats.
- Seacor has two master mariners working for BP to help manage the ad hoc fleet of local boats retained to work on near shore operations.

- Seacor's aviation group, ERA, is flying USCG personnel and has offered to contribute flight tracking technology.

Shell Oil

Shell has provided the following:

- Initially, 6 vessels for fire fighting and search & rescue (released within 24 hrs.)
- A dynamically positioned vessel with a Remotely Operated Vehicle (ROV)
- An EC135 helicopter
- An ROV intervention hot-stab panel
- A spare Control POD
- Dispersant
- A Containment Dome
- An Autonomous Underwater Vehicle
- Sections of Co-Flexip pipe
- Technical experts in the areas of subsea wells, environmental science, and emergency response, providing Shell practices for consideration to advance safe operations in Deepwater (Safety Cases, well design, etc).
- Robert Training and Conference Center (RTCC) in Robert, Louisiana to provide full support of Unified Area Command including accommodations and press conferencing space including accommodations and press conferencing space.

Many Shell employees and contractors have asked how they can best assist in this response effort. Currently, we are encouraging all Shell employees and contractors interested in volunteering to do so via the "Volunteer" link on the Deepwater Horizon Response Unified Command website. As the beach and wildlife impact could potentially increase, Shell is actively looking for opportunities to employ groups of trained volunteers to provide assistance as appropriate.

Statoil

StatOil has offered both spill assistance and drilling and well competence.

Stone Energy

Stone Energy sent its M/V "Wisconsin" to the site the first night. It was released from service the next morning. Stone has also offered the use of its MC109 Amberjack platform as needed and stands ready to assist at any time. Stone Energy is looking into the potential to organize a group of industry volunteers through Louisiana Volunteers to Assist Disasters chaired by Margaret Trahan of Lafayette and with the advice of Dr Keith Ouchley of the LA Nature Conservancy. Stone Energy has made contributions to the trust (what trust)?

Taylor Energy

On Tues May 4th, Taylor Energy attended a Review of Preliminary Plans for Well Intersection and Dynamic Kill Operations on MC 252 #3 at BP's office to provide assistance as a peer Operator. Taylor Energy has recently drilled five successful intervention wells nearby at MC20 within the last sixteen months, with a sixth intervention well currently in progress.

Teledyne RD Instruments

Teledyne RD Instruments is providing Acoustic Doppler Current Profilers (ADCPs) to measure the speed and direction of the currents for the entire water column around the accident area.

Teledyne is also working with Horizon Marine to do vessel surveys to measure the size of the plume and help model where and when the oil slick will go.

Tidewater

Tidewater has 4 vessels assisting the cleanup.

- The Damon B. Bankston, was instrumental in the rescue of the 115 survivors from the rig, and is currently working in spill response efforts.
- Pat Tillman—has been on long term contract with BP and has carried various tools, equipment, and dispersant to the Macondo site.
- LeBouef Tide—on short term contract supporting BP operations and the spill response.
- War Admiral—on short term contract monitoring loop currents.

The CHAIRMAN. Thank you.

Mr. Gerard?

STATEMENT OF JACK N. GERARD, PRESIDENT AND CEO, AMERICAN PETROLEUM INSTITUTE

Mr. GERARD. Thank you, Mr. Chairman, Ranking Member Hastings, and members of the Committee.

I am Jack Gerard, the President and CEO of the American Petroleum Institute. API has over 400 member companies which represent all sectors of America's oil and natural gas industry.

Our industry supports 9.1 million jobs including 170,000 in the Gulf of Mexico related to offshore development business that provides most of the energy we need to power our economy and our life along the way.

The tragic and heartbreaking accident in the Gulf was unprecedented, and our thoughts and prayers continue to go out to those families who lost loved ones, to the workers who were injured, and to all of our neighbors in the Gulf who were affected.

Response to the accident has also been unprecedented. Our work will not end until we stop the flow of oil, clean up the environment, understand the causes, and correct them. We owe that to our employees, to their families, and we owe it to the country.

Safety is a core value for the U.S. offshore oil and gas industry. Companies and employees understand the significant risks of working in the challenging offshore environment and place a strong focus on safety training procedures and equipment.

Offshore workers are the first line of defense against oil spills and other accidents on rigs and platforms. These hardworking, conscientious professionals are schooled in how to protect themselves and the environment.

They actively observe each other's behavior and remind their coworkers about safe operating practices. They work under a comprehensive suite of regulatory standards and frequent inspections that further reinforce their safety ethic.

The industry's commitment to safety is real and strong, but the April tragedy in the Gulf clearly demonstrates there is more work to be done. All of us realize that we must do better.

The process of improvement has already begun with the formation of industry task forces which provided input to the U.S. Department of the Interior on improving offshore equipment and offshore operating procedures.

Their work will complement Interior's Outer Continental Shelf's safety oversight board and lead to enhancements to existing API standards and possibly to new API standards. API has helped create numerous standards on safety which we provide free of charge to all. The API standards program is accredited by the American National Standards Institute, the same independent organization that accredits programs at some of our Federal laboratories.

We fully support President Obama's plans for an independent Presidential commission to investigate the spill. At the same time, we urge our policy makers to be careful in their approach so that any policies enacted don't have unintended consequences for our nation and our recovering economy.

Proposals to halt or restrict offshore energy projects could result in hundreds of thousands of lost jobs including many in the Gulf states, billions of dollars of lost government revenue, and a sharp decrease in our country's energy security.

President Obama and Interior Secretary Salazar struck the right balance when they recently reaffirmed the importance of domestic oil and natural gas production to the nation's strategy for energy and economic security.

We can safely and reliably produce the oil and natural gas we will need at home. For more than 60 years our industry has developed the ample natural resources that lie off our coast and with rare exceptions has done so in a safe environmentally responsible way.

We will address the safety issues related to this accident and continue to provide the energy our nation needs keeping jobs and revenue at home while enhancing our energy security.

It is important to take the time to understand the causes of the accident as we work to improve the safety and reliability of offshore oil and natural gas development. This knowledge will help the industry raise the bar on our performance and better inform policy choices related to offshore development.

We will continue to support the Department of the Interior, other agencies, and the President's independent commission in their efforts to learn what caused this accident.

Thank you, Mr. Chairman. I look forward to your questions.

[The prepared statement of Mr. Gerard follows:]

Statement of Jack Gerard, President and CEO, American Petroleum Institute

Good morning Chairman Rahall, Ranking Member Hastings, and members of the committee.

I am Jack Gerard, President and CEO of the American Petroleum Institute. API has about 400 member companies, which represent all sectors of America's oil and natural gas industry. Our industry supports 9.2 million American jobs—including 170,000 in the Gulf of Mexico related to the offshore development business—and provides most of the energy we need to power our economy and our way of life.

The tragic and heartbreaking accident in the Gulf was unprecedented, and our thoughts and prayers go out to the families who lost loved ones, to the workers who were injured, and to all of our neighbors in the Gulf who were affected.

The response to the accident has also been unprecedented. Industry and government were on the scene immediately and massively. Many thousands of people have been working long and hard to control and halt the release of oil and protect the shoreline.

Our work will not end until we stop the flow of oil, clean up the environment, understand the causes, and correct them. We owe that to our employees and their families, and we owe it to our country.

Safety is a core value for the U.S. offshore oil and natural gas industry. Companies and employees understand the significant risks of working in the challenging offshore environment and place a strong focus on safety training, procedures, and equipment.

Offshore workers are the first line of defense against oil spills and other accidents on rigs and platforms. These hard-working, conscientious professionals are schooled in how to protect themselves and the environment. They actively observe each other's behavior and remind their co-workers about safe operating practices. They work under a comprehensive suite of regulatory standards and frequent inspections that further reinforce their safety ethic.

The industry's commitment to safety is real and strong, but the April tragedy in the Gulf clearly demonstrates there is more work to be done. All of us realize we must do better.

The process of improvement has already begun with the formation of industry task forces, which provided input to the U.S. Department of the Interior on improving offshore equipment and offshore operating procedures. Their work will complement Interior's Outer Continental Shelf Safety Oversight Board and lead to enhancements to existing API standards and possibly to new API standards. API has helped create numerous standards on safety, which we provide free of charge to all. The API standards program is accredited by the American National Standards Insti-

tute, the same independent organization that accredits programs at some of our federal laboratories.

A commitment to safety improvement is vital because more domestic production of oil and natural gas both onshore and offshore is critical to jobs for Americans, a stronger economy, and enhanced energy security.

The tragic accident in the Gulf doesn't change the reality that demand for energy is growing and that we'll need more oil and natural gas to help meet that demand in the coming decades. Offshore production from the Gulf of Mexico plays an important role meeting demand today, accounting for 30 percent of the nation's total domestic oil production and 11 percent of domestic natural gas production. Approximately 70 percent of the oil and 36 percent of the natural gas produced in the Gulf come from deepwater exploration.

We fully support President Obama's plans for an independent presidential commission to investigate the spill. At the same time, we urge our policymakers to be careful in their approach so that any policies enacted don't have unintended consequences for our nation and our recovering economy. Proposals to halt or restrict offshore energy projects could result in hundreds of thousands of lost jobs, including many in the Gulf States, billions of dollars of lost government revenue, and a sharp decrease in our country's energy security.

President Obama and Interior Secretary Salazar struck the right balance when they recently reaffirmed the importance of domestic oil and natural gas production to the nation's strategy for energy and economic security.

Permanently shutting down an entire program or system, whether it's our interstate highway system, our space program or our airways is never an option when there's an accident or tragedy. Doing so when it comes to offshore oil and gas activity shouldn't be an option either.

We can safely and reliably produce the oil and natural gas we'll need at home. For more than 60 years, our industry has developed the ample natural resources that lie off our coasts and, with rare exceptions, has done so in a safe, environmentally responsible way. We will address the safety issues related to this accident and continue to provide the energy our nation needs, keeping jobs and revenue at home while enhancing our energy security.

It is important to take the time to understand the causes of the accident as we work to improve the safety and reliability of offshore oil and natural gas development. This knowledge will help the industry raise the bar on our performance and better inform policy choices related to offshore development. We will continue to support the Department of the Interior, other agencies and the President's independent commission in their efforts to learn what caused this accident.

This concludes my statement, Mr. Chairman. I welcome questions from you and your colleagues. Thank you.

The CHAIRMAN. Thank you.

Dr. Hirshfield?

STATEMENT OF MICHAEL HIRSHFIELD, PH.D., SENIOR VICE PRESIDENT FOR NORTH AMERICA AND CHIEF SCIENTIST, OCEANA

Dr. HIRSHFIELD. Mr. Chairman and Mr. Hastings, members of the Committee, thank you for the opportunity to appear before you today. I would especially like to thank Chairman Rahall and all of you for your work to address the daunting issues of energy policy, climate change, and the many threats faced by our oceans.

My name is Michael Hirshfield. I am the Senior Vice President for North America and Chief Scientist for Oceana, a global conservation organization headquartered here in Washington, D.C.

Oceana's mission is to protect and restore our world's oceans for the sake of the fish, wildlife, and people that depend on them. Today I will discuss the need to protect our oceans from the all too visible threat posed by offshore oil drilling in the United States.

Last year, Oceana's board member Ted Danson testified before the full Committee on this subject and our Pacific Science Director, Dr. Jeffrey Short, testified at a joint subcommittee hearing.

At both hearings, Oceana stated our opposition to expanded offshore oil drilling because the risks were too great and the benefits too small. In light of the Gulf disaster, we call today on Congress and the Administration to suspend all pending approvals and ban all new drilling in the Outer Continental Shelf indefinitely. In place of expanded offshore oil drilling, the United States should begin the transition to a clean energy economy.

Mr. Chairman, I wish you didn't have to hold this hearing. For years the oil industry has told us all that offshore oil drilling was safe. They repeatedly downplayed the risk and oversold the benefits.

They tried to convince us that catastrophes like the deepwater drilling disaster could never happen. I could easily fill my time with embarrassing industry quotes. I will spare you that.

Yet we should not have been surprised by this catastrophe. Just last year a new shallow water drilling rig off the coast of Australia had a blowout similar to the one in the Gulf.

The Australian rig spewed roughly 17,000 gallons of crude oil daily into the Timor Sea for about 75 days. As is now painfully obvious, so-called fail safe mechanisms do fail, and we lack effective means to stop ongoing oil releases or clean them up.

I want to make a special point about the risks of drilling in the Arctic. Imagine this disaster occurring in the ice, in the dark, in extraordinarily rough seas, and without the enormous response capability we have seen in the Gulf.

We appreciate the reprieve that President Obama will be giving the Arctic for this summer, but the fundamental problems will still remain. The Arctic should be taken off the table for good as should the rest of our coastlines.

We now hear calls for action to ensure that this will never happen again. We all wish that could be the case. Let us be honest, we know another offshore oil drilling disaster will happen. We don't know when, but it will happen, and it will be caused by another unexpected combination of technological failure and human error.

The industry is asking us to play a game of environmental roulette, and they are taking aim at a long list of targets. Will we see oil foul the beaches of the Atlantic seaboard next? The Pacific? The Arctic?

Four years ago, President Bush acknowledged that America is addicted to oil. Just last week, Senator Murkowski said we all agree that we need to minimize our use of oil but we will continue to need it for a long time.

Unfortunately, the conversation seems to be all about how long we will continue to need it not about when we get serious about minimizing it. But when do we start?

America's answer so far seems to be we will start tomorrow. We are acting like the addicted smoker buying just one more pack of cigarettes promising to quit but never doing it. So tomorrow never actually comes.

The oil industry's answer is much clearer. They will stop drilling for oil when all the oil is gone. If it is left up to the industry, our addiction will never end. So the question remains will we learn the correct lesson from the deep-water drilling disaster and finally end our oil addiction?

Oceana urges Congress to take these three steps to set America on course toward a new energy economy. One, immediately and indefinitely suspend all approvals, activities, and processes other than current production related to offshore drilling.

Two, ban all new offshore drilling and provide permanent protection for the areas previously subject to moratoria. Three, pass legislation that provides for a more efficient clean carbon free energy future that emphasizes the development of renewable sources of energy.

In closing, I would like to read one more quote again from President Bush: "By applying the talent and technology of America, this country can dramatically improve our environment, move beyond the petroleum-based economy, and make our dependence on Middle Eastern oil a thing of the past." I couldn't agree more.

Thank you.

[The prepared statement of Dr. Hirshfield follows:]

Statement of Michael F. Hirshfield, Ph.D.,
Senior Vice President for North America and Chief Scientist, Oceana

Introduction

Thank you for the opportunity to provide testimony before the House Natural Resources Committee. I want to start by thanking Chairman Rahall and his fellow committee members for their efforts in addressing the daunting issues of energy policy, climate change, and the many threats faced by our oceans and marine life from habitat loss to ocean acidification. I am the Senior Vice President for North America and Chief Scientist for Oceana, a global ocean conservation organization headquartered here in Washington, D.C. that works to restore and protect the world's oceans. In addition to our headquarters in Washington DC, Oceana also has staff located in Alaska, California, Georgia, Massachusetts, New York, Oregon, and Tennessee, as well as international offices in Belize City, Belize; Brussels, Belgium; Madrid, Spain; and Santiago, Chile. We have 300,000 members and supporters from all 50 states and from countries around the globe. Our mission is to protect our oceans and the fish and wildlife that depend on them.

Today, I will present testimony regarding the need to protect our oceans from the increasingly visible threats posed by offshore oil and gas exploration and development in the United States. The ongoing Deepwater Horizon drilling disaster is a clear testament that offshore drilling is a dirty and dangerous business, one that threatens jobs, both in the fishery and tourism industry, and also one that threatens public health and the health of marine ecosystems.

Oceana testified in front of the House Natural Resources committee twice last year on this very issue. Our board member, Ted Danson, testified before the full Committee, and our Pacific Science Director, Dr. Jeffrey Short, testified at a joint hearing of the Subcommittee on Energy and Mineral Resources and Subcommittee on Insular Affairs, Oceans and Wildlife. In both instances, Oceana stated clearly and for the record that we oppose the expansion of offshore oil and gas drilling. (*Testimonies of Ted Danson and Dr. Jeffrey Short attached hereafter as Appendix A and Appendix B*).

Today, we echo that call and take it a step further: we must suspend all pending approvals and ban all new drilling in the Outer Continental Shelf indefinitely. In place of expanded offshore oil and gas activities, the United States should begin the transition to a clean energy economy. By pursuing carbon-free alternatives, such as offshore wind and solar energy, combined with conservation and fuel efficiency improvements such as those contemplated by President Obama's announcement last week, the U.S. can step away from the frenzied pursuit of offshore drilling, which has demonstrably put our vital ocean ecosystems at risk. The United States should promote clean energy industries that will allow us to finally break our fossil fuel addiction, stimulate our economy and become an exporter of energy technology. And by doing so, we can stop placing the profit interests of the oil industry above those of the fishing industry, the tourism industry, human health and well being, and marine ecosystems.

Lessons from the Deepwater Horizon Drilling Disaster

The Deepwater Drilling Disaster in the Gulf of Mexico is a tragedy for the families of the workers killed, the ocean ecosystem, and coastal economies. It clearly illustrates to us that the business of offshore drilling is dirty and dangerous.

As Congresswoman Donna Edwards, from my home state of Maryland, said so eloquently, "You can't stop the spilling, until you stop the drilling." Now more than ever, it is time for the U.S. to recognize that the risks of offshore drilling far outweigh the benefits it may provide. Despite the oil industry's statements, disasters like this will happen again unless we act to prevent them.

Our oceans give essential protein to nearly half the world's population. United States recreational and commercial fisheries combined supply over 2 million jobs. Coastal tourism provides 28.3 million jobs and annually generates $54 billion in goods and services. More drilling means more oil spills, more lost jobs, more contaminated beaches, and more ecosystem destruction. Our marine ecosystems and the communities that depend on them are threatened by the short and long term toxic effects of oil.

Oil spills happen. These spills range from small, steady leaks to large catastrophic blowouts and they occur at every stage in oil production from the exploration platform to the oil tanker to the pipeline and storage tanks. The impacts to fish and wildlife and coastal communities are numerous and well documented. To date, the Deepwater Drilling Disaster has pumped millions of gallons of toxic oil in to the Gulf of Mexico.

The spill resulting from the Deepwater Drilling Disaster threatens Gulf coastlines from the Louisiana Bayou to the Florida Keys. The resulting oil slick now covers almost 16,000 sq miles of ocean. Fisheries have been closed in state waters of Louisiana, and over 48,000 square miles of federal waters have been closed to commercial fishing. The damage has only begun, and we may not know the true cost of this catastrophe for many years or possibly decades.

For the past month, millions of gallons of oil have gushed into the Gulf of Mexico, overwhelming all available response capability. More than 800,000 gallons of toxic dispersants have been applied at the surface and below it. Federal officials are still struggling to obtain accurate information about the spill's impacts. What is certain is that there will be impacts. More than one month in, responding agencies still have more questions than answers.

Staff of the National Marine Fisheries Service, the National Ocean Service, and the U.S. Fish and Wildlife Service have all publically expressed concerns about the movement of oil and oil dispersal contaminants to upland habitats and their effect on estuarine and freshwater habitats.

The timing of the spill coincides with the loggerhead sea turtles' migration from foraging grounds to nesting grounds. The historic average of sea turtle strandings for the month of May is 47. The current turtle stranding rate is significantly higher than past rates. The cause of mortality is still unknown for many of the turtles, but the corpses have been taken for necropsy. Since April 20th, there have been 162 sea turtle strandings in the Gulf of Mexico in which 156 sea turtles have died. Most of the stranded sea turtles were juvenile Kemp's Ridley.

This spill will impact the drifting pelagic community and near shore species such as snapper, grouper, Spanish and King mackerel, and shrimp. Since April 20th, there have been 12 bottlenose dolphin strandings, all 12 of which died.

Both onshore and open ocean species of birds are vulnerable to the impacts of oil. Depending on where the oil reaches shore, beach nesters, such as terns and plovers and marsh dwellers are vulnerable. Even if oil doesn't end up in nesting habitat, other indirect impacts could result, such as effects on food supply.

Much of the wildlife impact will remain unseen. Oil can have long term effects on feeding, reproduction and overall health of the animal. Also, put simply, many of the carcasses simply will not wash ashore. Nevertheless, we are now beginning to see the first images of seabirds, sea turtles, and other species affected by oil. Unfortunately, these images, and the harm to ocean life that they portray, will be continuing for the foreseeable future.

The economic impacts on the Gulf Region's commercial and recreational fisheries could be staggering. Gulf fisheries are some of the most productive in the world. In 2008, according to the National Marine Fisheries Service, the commercial fish and shellfish harvest from the five U.S. Gulf states was estimated to be 1.3 billion pounds valued at $661 million. The Gulf also contains four of the top seven fishing ports in the nation by weight and eight of the top twenty fishing ports in the nation by dollar value. Commercially-important species and species groups in the Gulf of Mexico include: blue crab, stone crab, crawfish, groupers, menhaden, mullets, oyster, shrimp, red snapper, and tunas.

Gulf landings of shrimp led the nation in 2008, with 188.8 million pounds valued at $367 million dockside, accounting for about 73% of U.S. total. Louisiana led all Gulf states with 89.3 million pounds. State waters in Louisiana are now closed to fishing and 48,005 sq mi of federal waters, which is just under 20% of the Gulf of Mexico exclusive economic zone, are closed to fishing. The Gulf also led in production of oysters in 2008 with 20.6 million pounds of meats valued at $60.2 million and representing 59% of the national total.

The Benefits of Offshore Drilling are not Worth the Risks

While the oil industry clearly stands to benefit from offshore drilling, we all bear the risk. In this case, BP has transferred a tremendous amount of risk to residents of the Gulf coast in exchange for no clear benefits. Although offshore oil and gas production can have tremendous impacts on marine life, it will not contribute significantly to lower prices at the pump or energy independence.

Offshore Drilling Provides No Relief from High Gasoline Prices and Will Not Create Energy Independence.

Additional offshore oil drilling will not lower gas. In 2009, the United States Department of Energy (DOE) estimated that by 2030, gasoline prices would be only three pennies less than if previously protected ocean areas remained closed.

The U.S. Department of Energy predicts has found that at peak production in 2030 drilling in the Atlantic, Pacific and Eastern Gulf of Mexico would produce 540,000 barrels a day, which would account for 2.5 percent of daily energy demand in the United States. Thus, regardless of the oil produced offshore, the United States will still import the vast majority of its oil from other countries. The increased production will not diminish this dependence or prices at the pump significantly. The United States Department of Energy (DOE) estimates that even if we opened all offshore areas to drilling, the U.S. would still import about 58% of its oil supply. Currently, about 62% of the crude oil supplied to the United States comes from foreign sources, with the top two suppliers being Canada and Mexico. The United States simply does not have enough domestic oil to reduce its dependence on imports, much less to fulfill its demand.

The only way to become truly energy independent is to end our addiction to oil. The best way to eliminate foreign oil dependence is to eliminate dependence on all oil by developing alternative sources, rapidly switching to plug-in and electric vehicles and phasing out oil consumption in other portions of our economy like home heating and electricity generation.

Additionally, the development of offshore wind energy off of the East Coast and Great Lakes could create thousands of jobs. Europe already has 19,000 people employed in the offshore wind industry and the European Wind Energy Association expects nearly 300,000 to be employed by the offshore wind industry by 2030. We should be demanding, and our energy policy should be promoting, similar job growth here in the United States. It has been estimated that a $1 million investment in energy efficiency and renewables creates three times the number of jobs created if that same $1 million was invested in the oil industry.

The plain facts speak for themselves—expanded drilling will not lower gas prices or make us energy independent. The Deepwater Drilling Disaster illustrates that the harm posed by oil and gas activities in the Outer Continental Shelf dramatically outweighs any perceived benefits that can be gained by expanding drilling.

Oil and Gas Activities have Tremendous Impacts on Marine Life

Accidents inevitably accompany all stages of offshore production, and these accidents can be catastrophic. We are now seeing in the Gulf of Mexico that there is no available technology or capability to respond to a spill, particularly a gusher of the magnitude we are witnessing in the Gulf.

We should not be surprised by the Deepwater Drilling Disaster. Well blowouts are certainly not uncommon, and even the latest advances in drilling technology have not prevented them.

On 21 August, 2009, the Montara oil rig suffered a blowout and began spilling oil. The well was located in 250 ft of water, between East Timor and Australia. It took four attempts over ten weeks to block the leak and it was eventually stopped when mud was pumped into a relief well. The Australian Department of Resources, Energy and Tourism estimated up to 2,000 barrels per day (or up to 85,000 gallons) were spilled over that time, five times the estimate given by the responsible party, the PTT Exploration & Production Public Company Limited. In the end, the Wilderness Society estimated the oil slick to have affected 19,000 square miles of ocean.

The Deepwater Drilling Disaster is not an isolated incident and offshore oil drilling remains extremely dangerous. Since 2006, the United States Minerals Management Service (MMS) has reported at least 21 offshore rig blowouts, 513 fires or ex-

plosions offshore and 30 fatalities from offshore oil and gas activities in the Gulf of Mexico. Additionally, in 2007 the MMS reported that from 1992 to 2006 there were 5, 671 wells drilled, and 39 blowouts. It is important to note that these blowouts occurred at a variety of depths and in a variety of environments. A blowout is not a rare occurrence, and it can happen anywhere, not just in the deep waters of the Gulf of Mexico.

Once a spill occurs, little can be done to clean it up. According to the National Academy of Sciences, "No current cleanup methods remove more than a small fraction of oil spilled in marine waters, especially in the presence of broken ice." We have been drilling in the Gulf of Mexico for more than 60 years. Although we are using the latest advances in drilling technology, pushing the limits of the physical environment, the Deepwater Drilling Disaster shows that we still lack the technology and planning to effectively respond to large oil spills. As Robert Bea, a professor at U.C. Berkeley and former Shell employee stated, "we are still chasing it around with Scott towels."

Industry would have us believe that the process of offshore oil and gas extraction is completely benign. Consider this statement made by the American Petroleum Institute in a 2009 letter to the Committee on Natural Resources:

> "Over the past 40 years, improved practices and equipment have enabled the industry to significantly strengthen its offshore environmental performance and meet or exceed federal regulatory requirements."

Or these by David Rainey, Vice President, Gulf of Mexico Exploration BP America Inc., in his testimony to the Senate Energy and Natural Resources Committee on November 19, 2009.

> "Advances in drilling technologies and production systems have been significant. They include extended reach drilling, drilling in deeper waters, and to greater depths. These advances enable more production while reducing environmental impacts and allowing for efficient use of existing facilities and infrastructure."
>
> "Many of the technology examples discussed . . . have enabled a robust track record of environmental stewardship and can reduce or even eliminate the visual "footprint" of offshore energy operations."

But offshore drilling isn't safe just because the industry says it is. We can all see with our own eyes that there are limits to the oil industry's accident prevention capability—whether they are technological or managerial limits, the industry simply cannot guarantee safe operation.

As Oceana's Jeff Short, one of the world's experts on the chemistry of oil and its impacts, stated in his testimony at that same Senate Committee hearing in November, 2009:

> Oil development proposals in the marine environment are often presented and discussed as engineering challenges, without sufficient regard for the complexity of the environment in which they would occur, or the often dubious assumptions implicit in assessments of environmental risks and clean-up and mitigation technologies. Oil spill contingency plans are treated as exercises in damage control, taking for granted that not all damage can be controlled, and based on the faulty assumption all potential outcomes are adequately understood, predictable, and manageable. The truth of the matter is that our understanding of how oil behaves in the environment, the ways it affects organisms, and how well response and mitigation measures actually work in the field is still largely unknown.

The Deepwater Drilling Disaster shows us that current technology and regulation cannot prevent what we now know is inevitable—a major spill of oil into the marine environment, and one which is to date beyond our ability to control.

The Arctic is Particularly Vulnerable—and Response Capability is Nonexistent

The risks from these activities are particularly acute in the Arctic, where the oceans play a critical role in the culture of Native peoples, there is little available response, rescue, or clean-up capability, and little information about the environment or impacts from oil development is available (*see* Appendix B)

Because there is a significant lack of information, both from western science and documented local and traditional knowledge of Arctic peoples, it is impossible to ensure that exploration drilling will not harm the health of Arctic marine ecosystems or opportunities for the subsistence way of life. Managers do not have the baseline information needed to conduct quantitative risk assessments of activities or, if a spill were to occur, assess impacts to hold companies accountable for damages. This lack of information is evident in the cursory and general environmental reviews that

have been conducted and the errant generalizations that the Minerals Management Service (MMS) has made.

Further, response, rescue, and clean-up capabilities are virtually nonexistent for the challenging conditions in Arctic waters, which can include sea ice, stormy seas, extreme cold temperatures and long periods of darkness. There is no demonstrated capability to clean up spilled oil in icy waters. The nearest Coast Guard response and rescue vessels would be nearly 1,000 miles away, and the Coast Guard has stated publicly that it could not respond to a spill. Particularly given the fact that we must dedicate all available resources to limiting damage in the Gulf of Mexico, it would be irresponsible to allow parallel risky activities in Arctic waters.

It would be impossible to quickly mobilize additional emergency spill response vessels into the Arctic Ocean due to the area's remoteness and difficult operating conditions. As Commandant Thad W. Allen, National Incident Commander for the coordinated response to the *Deepwater Horizon* blowout, testified before a Senate committee last August, the Coast Guard has "limited response resources and capabilities" in the event of a major spill in the Arctic Ocean. In comparison, BP reported that it had mobilized response vessels, including 32 spill response vessels with a skimming capacity of more than 170,000 barrels per day and an offshore storage capacity of 122,000 barrels within forty-eight hours of the *Deepwater Horizon* blowout. On the morning of May 16, Unified Command reported that "650 response vessels were responding on site, including skimmers, tugs, barges and recovery vessels . . . in addition to dozens of aircraft, remotely operated vehicles and multiple mobile offshore drilling units." It would be impossible to deploy the same resources that quickly in the Arctic. Yet, despite this massive mobilization of resources, the oil gushing from the *Deepwater Horizon* blowout remains unchecked to date.

The events surrounding the Deepwater Drilling Disaster provide significant new information that requires the Minerals Management Service (MMS) to reanalyze Shell's drilling plans. The new information goes to the heart of the decision to approve Shell's plans, and accordingly the approval of any drilling should be suspended pending reconsideration of the environmental analysis in light of the *Deepwater Horizon* spill.

Shell has made efforts to distinguish its proposals from the Gulf tragedy. It is clear, however, that the same technologies and standards that failed so tragically in the Gulf have been or will be applied in the Arctic. (*See* Appendix C, Final Response to Shell, May 19, 2010) Given the obvious deficiencies and commitment to wholesale reevaluation of our oil and gas program, there is no reason to allow Shell to take these risks with our Arctic resources. The Deepwater Horizon was an exploration well, just like those proposed by Shell for this summer. Moreover, MMS's approvals were made using the same standards and processes that allowed the Deepwater Horizon tragedy and under the same cloud of collusion that has been revealed by the GAO, New York Times, and other media outlets. (*See* Appendix D, Offshore Oil and Gas Development: Additional Guidance Would Help Strengthen the Minerals Management Service's Assessment of Environmental Impacts in the North Aleutian Basin, Government Accounting Office, March 2010, attached hereafter; *see also* Appendix E, William Yardley, Arctic Drilling Proposal Advanced Amid Concern, New York Times, May 19, 2010, attached hereafter; *see also* Appendix F, Juliet Eilperin, U.S. agency overseeing oil drilling ignored warnings of risks, Washington Post, May 24, 2010.)

It is Time to Kick the Habit and Move to a Clean Energy Economy

It is clearly time for a bold Congressional effort to transition America into its much needed clean energy future. In doing so, Congress should focus in part on clean sources of ocean energy such as wind, solar, and geothermal power. The Deepwater Drilling Disaster shows us that now, more than ever, our oceans and the communities that rely on them on a daily basis need a clean energy future. Future generations of Americans deserve oil free beaches and oceans that are an abundant source of food, wildlife and clean energy.

The Deepwater Drilling Disaster presents us with a glimpse of what our oil addiction is doing to our country. It is costing us jobs, valuable destroying natural resources and distracting us from developing innovative new technologies that can empower us both by lighting our homes and stimulating our economies.

The United States Department of Energy has projected that we can generate 20% of electricity demand from renewables by 2030. Offshore wind could provide 20% of this amount. Supplying even 5 percent of the country's electricity with wind power by 2020 would add $60 billion in capital investment in rural America, provide $1.2 billion in new income for farmers and rural landowners, and create 80,000 new jobs.

This effort has started, as the United States added enough wind power in 2007 alone to provide electricity to more than a million homes.

Let's stop pretending that offshore drilling lowers the price of gasoline. A more effective way to bring down the price of gasoline—without the risks of catastrophic environmental and economic damage—is to raise fuel economy standards for new cars and trucks sold in the United States, as called for last week by President Obama. Making cars that get 35.5 miles per gallon of gas, as federal regulations will require, will save a dollar per gallon by 2030. Compare this with the 3 cents a gallons savings the EIA says drilling all our offshore oil reserves will bring over that same period. We should be working as rapidly as possible to electrify our transportation and home-heating systems, using electricity provided by carbon-free sources like wind and solar.

Congress could make tremendous progress in creating a new energy economy right now by passing legislation that would stimulate this process. For example, setting a Renewable Electricity Standard (RES) would cut harmful carbon emissions while creating jobs and saving consumers' money, reducing costs for utilities and consumers. A strong RES, such as mandating that 25% of electricity should be generated from renewable sources by 2025, can stimulate domestic investment in new renewable energy throughout the nation, creating jobs and income in rural areas, as well as in the high tech and manufacturing sectors. An RES would reduce the need to drill for onshore and offshore natural gas or to build new supporting infrastructure for these activities such as drilling rigs, pipelines, terminals and refineries.

It is critical that Congress continue to promote legislation that provides direct and substantial investment in clean energy component manufacturing to ensure that an adequate supply chain for goods essential to the renewable energy industry is created in the U.S. This legislation must direct federal funding for clean energy manufacturers to retool their facilities and retrain their workers to develop, produce, and commercialize clean energy technologies.

Recommendations

And so, today, on behalf of Oceana, I ask you to take three important steps that will steer our country in the right direction toward energy independence based on renewable, carbon-free energy sources and lasting protections for our coastal and marine environments.

The tragic events unfolding in the Gulf of Mexico have focused the nation's attention on the consequences of our addiction to oil. We need to understand what led to the BP blowout and spill and to prevent it from happening again. We need to understand not only the engineering problems of blowout preventers and potentially criminal behavior on the part of one or more corporations, but also the systemic regulatory failures of MMS to provide needed environmental impact analysis, appropriate industry oversight, and meaningful enforcement.

President Obama has appropriately pledged to task a special commission to undertake a thorough investigation and analysis of the failures that resulted to the *Deepwater Horizon* disaster. Damage from the ongoing oil spill in the Gulf of Mexico may last for generations, and a quick 30-day review is clearly not sufficient to credibly address the many technical and regulatory concerns that have been brought to light by this spill.

I. Immediately and indefinitely suspend all approvals, activities, and processes—other than current production—related to offshore drilling.

It is imperative to allow sufficient time for the President's commission and other investigative bodies to complete their investigations of the failures that led to the ongoing BP blowout and to apply the lessons learned from this disaster to prevent such a tragedy from ever happening again. For that reason, we must immediately suspend all approvals, activities, and processes—other than current production—related to offshore drilling. That suspension should remain in place while the independent review called for by the administration takes place and all changes recommended by it are implemented. All approvals already granted must be re-evaluated based on the new information gathered by the commission and using any new processes recommended.

The most immediate and dramatic need is to suspend approval for drilling in the Arctic Ocean. The Minerals Management Service approved Shell's plans to drill exploration wells in the Chukchi and Beaufort Seas this summer. For the same reasons, proposals to open areas off the east coast of the United States must be put on hold indefinitely. We should not be considering opening new areas to leasing when it is clear that we cannot control companies that own leases on currently open areas.

To reiterate, Congress and President Obama must immediately and indefinitely suspend all approvals, activities, and processes—other than current production—related to offshore drilling. That process should begin with suspension of the approvals for Shell's exploratory drilling plans in the Chukchi and Beaufort Seas.

II. Ban new offshore drilling in the Outer Continental Shelf (OCS) and permanently protect all areas currently closed to leasing.

Since 1982, Congress and the President banned oil and gas leasing on much of our coasts. Those moratoria were allowed to lapse amidst the rancor of political campaigning in the last three years. Those protections should be restored and made permanent. This year's catastrophic disaster in the Gulf of Mexico illustrates that a ban on new drilling is essential to ensuring that a similar fate does not befall our other coasts, which, like the Gulf of Mexico, support important national assets in the form of valuable coastal economies and marine environments. As disturbing as this catastrophe has been for all of us, we need to make sure it never happens again. Congress should exercise its authority to permanently ban drilling offshore.

III. Finally, Congress must continue to pursue legislation that provides for a more efficient, clean, carbon-free, energy future that emphasizes the development of renewable energy.

By providing incentives for investments in clean energy such as offshore wind we could achieve the goals outlined above and possibly more. We could generate more energy, at a lower cost, from Atlantic offshore wind farms than from drilling all the oil in the Atlantic OCS areas. East Coast offshore wind electricity generating potential could supplant 70% of the East Coast's fossil-fuel generated electricity supply. Providing this quantity of clean energy could cut 335 million metric tons of carbon dioxide emissions annually—while limiting the risk of exposure to highly volatile energy expenses and creating three times as many jobs as offshore oil and gas development.

Summary

We must dramatically change course and move forward toward a future in which we rely upon affordable, carbon-free, renewable energy and end our dependence on oil. A "teachable moment" is upon us. What will we learn from the Deepwater Drilling Disaster? Ultimately, it is imperative for the United States to shift toward a future in which we rely upon affordable, carbon-free, renewable energy; one in which our oceans and the environment are healthy, and one that ensures our freedom from oil dependency. Part of this effort must include an emphasis on development of carbon-free technologies, including wind and solar power, in conjunction with improved energy efficiency.

Oceana urges the United States Congress to act swiftly to set up a rational policy to protect our oceans and the economies that depend on them from the impacts of offshore oil and gas drilling. Specifically, in light of Deepwater Drilling Disaster, Congress should take the following essential steps to set America on course toward a new energy economy:

- Immediately and indefinitely suspend all approvals, activities, and processes—other than current production—related to offshore drilling.
- Ban all new offshore drilling and provide permanent protection for the areas previously subject to congressional and presidential moratoria.
- Pass legislation that provides for a more efficient, clean, carbon-free, energy future that emphasizes the development of renewable sources of energy.

In the wake of the Deepwater Drilling Disaster, it is clear that none of the response options are good ones. What we have seen so far—burning the slick, use of toxic dispersants, booms and skimmers, a cofferdam, and a siphon—are all either lose-lose propositions or long shots that don't come close to stopping the spill, much less cleaning it up. Even stopping it at this point would be little solace to those depend on the oceans. We must avoid repeating this "no good option" predicament in the future, and we urge Congress to take the necessary steps outlined above to do so.

[NOTE: Attachments have been retained in the Committee's official files.]

The CHAIRMAN. Thank you.

Dr. Foss?

STATEMENT OF MICHELLE MICHOT FOSS, PH.D., HEAD OF THE CENTER FOR ENERGY ECONOMICS AND CHIEF ENERGY ECONOMIST, UNIVERSITY OF TEXAS

Dr. FOSS. Mr. Chairman and members of the Committee on natural resources, I am Michelle Michot Foss, Chief Energy Economist and Head of the center for Energy Economics based in the Bureau of Economic Geology Jackson School of Geosciences at the University of Texas.

Perhaps more importantly today I am a South Louisiana native, so you can imagine how I feel about a lot of the things that have happened over the past few weeks.

In April 2004, I presented testimony on the importance of research and development, ultra deep water exploration and production activities. I am going to try to make my remarks as dispassionately as I can.

As an economist, I think that there are immeasurable benefits of hydrocarbons in our economy, the use of oil and gas in our economy not only in the United States but worldwide.

If we were to take everything out of this room that was made in part from or through the use of hydrocarbons, there would be nothing left. It has been that way for a long time.

There is a tremendous amount of energy contained in these molecules that is why they are so important. That is why human beings have used them so widely. That is why the energy challenge we face is so difficult. It is why the economic tradeoffs are so tough. It is why the decisions are so important.

I have four key points to present to the Committee as you make your deliberations. We have large resource endowments, but our reserves have to be replenished. This is what drilling is all about.

Exploration and production activities are designed to take what we believe exists and resources and convert them into proved reserves that we can produce and use everyday.

The industry has done that steadily. Just looking at oil we have produced since 1900 and used 197 billion barrels of oil in the United States economy alone while increasing our reserve base through industry activities, and that is using U.S. Government data from the Energy Information Administration.

The second key point is that domestic reserve replenishment is linked to economic benefits. At this point in time in this situation, people have not had a chance to take a look closely at the economic impacts associated with some of the ideas that are being proposed to band drilling.

The closest thing is a report that was completed and submitted in February of this year under the umbrella of the National Association for Regulatory Utility Commissioners using the National Energy Modeling system, which is maintained by the U.S. Energy Information Administration.

That report gives us an idea of the amount of resources and reserves remaining in our continent alone, which is substantial. It also gives us some ideas of the economic effects of maintaining moratoria, and we can translate that information into the likely effects of what would be considered through some of the things that are being discussed.

Through 2030, the research found nearly 13 million jobs less than what we would have in a base case, a roughly 17 percent increase in average natural gas prices, a roughly three percent increase in gasoline prices, a roughly five percent increase in electricity prices, reductions in real disposable income, increases in energy costs for a variety of different kinds of energy consumers.

Of course, this is why, as was pointed out earlier by one of the members of the Committee, this is why these decisions are so important. The oil and gas industry as has been stated already is a very important part of the economy of the Gulf Coast.

The economic implications of reducing drilling or banning drilling would have a large and substantial effect on all of the communities and the states' economies that would be difficult to remediate.

The third point is the impact of energy costs including the costs of alternatives on households. A great deal of work has been done on this front over the years.

Since 2000 roughly, 2001, for households that are roughly $50,000 in income, energy costs rose to about 20 percent of the share of household disposable income, so you can get an idea of people who would be most heavily affected by this.

My final point, point four, future sustainability of the oil and gas industry must be assured. Everything that I have said in no way alleviates anyone from any of the responsibility of doing the right thing, whether it is the private sector or the public sector.

People have to operate responsibly. They have to develop best practices not only in this country but worldwide because we are not the only country that is pursuing oil and gas resources offshore or in deeper waters.

I believe that there are ways of developing technologies to ensure that the industry can continue to progress. I have provided some ideas of that in testimony.

I think they required careful thought, sincere stewardship, careful research, careful development, and deployment of the right kinds of practices.

Regulating any industry is a tough job. Overseeing government activities is also a tough job, and these are all things that everyone really has to really work hard to get done the right way.

But in the end, I think we will able to find solutions to these problems and continue to benefit from the power of the resources that are ours to use as human beings.

Thank you very much.

[The prepared statement of Dr. Foss follows:]

Statement of Michelle Michot Foss, Ph.D., Chief Energy Economist and Head, Center for Energy Economics, Bureau of Economic Geology, Jackson School of Geosciences, University of Texas

Mr. Chairman and members of the Committee on Natural Resources, I am Michelle Michot Foss, Chief Energy Economist and Head of the Center for Energy Economics, based in the Bureau of Economic Geology, Jackson School of Geosciences at The University of Texas. I am pleased and honored to be selected as a witness for the Committee. However, I had not expected that, in my career, I would be called upon to present evidence of the economic value and importance of domestic oil and natural gas production to the United States and the Gulf Coast in such a manner. These are extraordinary circumstances and an extraordinary time.

As a Louisiana native with deep roots in Acadiana, and as a resident of Houston, Texas, let me first say on behalf of myself and my research team, our UT community, our industry and government supporters and colleagues and my family and

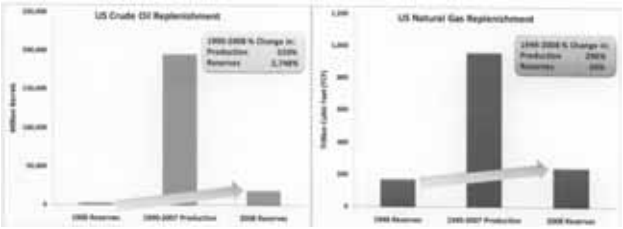
friends in Lafayette and south Louisiana: our hearts go to the families of those lost in the Deepwater Horizon tragedy. This should be foremost in everyone's minds. As well, our hearts and minds should be focused on all of those whose lives and livelihoods are affected by this event and it is from that perspective that I present my testimony.

On April 29, 2004 I presented testimony before the House Subcommittee on Energy and Air Quality on *Ultradeep Water Research and Development: What Are the Benefits?* I know that there are astounding and almost immeasurable benefits associated with the discovery and utilization of oil and natural gas resources in our deep water provinces in the U.S. and around the world. There are astounding and almost immeasurable benefits associated with oil and gas production from all of our onshore basins. These benefits are hugely difficult to replace—thus the intensity of debate in our country and worldwide about how we will best meet our energy needs into the future. The size, scope, diversity, inventiveness, determination and diligence of our oil and gas enterprises, from smallest to largest, and the men and women who work in them are attributes that other countries strive to emulate. We know this from direct experience. Finally, to meet and move beyond this current challenge will require thoughtful, careful, sincere stewardship from all facets of industry, government and civic leadership. That is where the American people need to concentrate our efforts.

The charter for these oversight hearings is broad. Domestic oil and gas production plays a vital role in our economy, ranging from domestic energy and economic security to myriad, rich scientific benefits. Future sustainability of the industry must be assured. I present four key points for the Committee's consideration.

1. We have large resource endowments, but our reserves must be replenished.

Of critical importance is replenishment, the ability to convert resources to proven reserves and replace the oil and gas that we consume each year. Using publicly available data from the U.S. Energy Information Administration (USEIA), the productivity of America's vast oil and gas industry base is easily demonstrated. Since the beginning of last century, Americans consumed 197 billion barrels of domestically produced crude oil even as the industry continued to find and add reserves, resulting in a 2008 reserve base that was orders of magnitude larger than known proved reserves in 1900. In similar fashion, our known, proven stocks of natural gas have increased as domestic production and consumption surged following World War II. With recent successes in our continental shale gas basins, drilling in the Gulf of Mexico deep shelf and deep water plays we expect proved natural gas reserves to remain robust. Overall, on a barrel of oil equivalent basis, the U.S. remains the largest producer and reserve holder in the world. Looking further ahead to energy frontiers, the same methane hydrate crystals that impeded containment of oil from the Macondo well drilled by Deepwater Horizon could offer a potential, clean fossil fuel source well beyond any time horizon we can imagine.



2. Domestic reserve replenishment is linked to economic benefits.

Replenishment of U.S. reserves of crude oil and natural gas generates economic benefits as domestic exploration and production proceeds. Availability, conversion and delivery of these energy resources provide competitively priced energy supplies fostering economic development and income growth.

Prior to the Deepwater Horizon incident, the National Association of Regulatory Utility Commissioners (NARUC), acting as an umbrella organization for many collaborating organizations and companies released a major review, *Analysis of the Social, Economic and Environmental Effects of Maintaining Oil and Gas Exploration and Production Moratoria on and Beneath Federal Lands.* The analysis for the NARUC committee was undertaken by SAIC and the Gas Technology Institute using the USEIA's National Energy Modeling System (NEMS). I and many others

served as external advisors for the moratoria study effort. The final report is available via www.naruc.org.

This study effort focused on questions regarding federal lands that are subject to various restrictions or for which policies are not formulated to provide access for drilling. **However, importantly for these hearings, the data in this new study can provide insights on energy availability, cost and economic consequences of policy and/or regulatory actions that would limit or ban domestic oil and gas development.** Key findings were as follows.

- A review of all available data and information for both moratoria and non-moratoria areas suggests that the natural gas resource base is estimated to increase by 132 trillion cubic feet (Tcf) onshore and 154 Tcf offshore (excluding parts of Alaska as detailed in the final report); the offshore crude oil resource base is estimated to increase by 37 billion barrels of oil (Bbo, excluding parts of Alaska19); the onshore crude oil resource base is estimated to increase by 6 Bbo for the Arctic National Wildlife Refuge (ANWR), with no estimated increase in the Lower-48 resource base. With these additions, GTI estimates the current resource base to increase from 1,748 Tcf to 2,034 Tcf for gas and from 186 Bbo to 229 Bbo for oil. The increases are driven by two primary factors: the increased shale gas activity and development successes, and an increase in resource estimates for the currently restricted offshore areas to better reflect the impact of new technology and successes in the currently available and developed offshore areas.
- The study committee and advisors tested a number of scenarios (to 2030) associated with keeping moratoria in place, and which provide some guidance should domestic oil and gas drilling decline.
  - Domestic crude oil production projected to decrease by 9.9 billion barrels, or nearly 15 percent per year, on average.
  - OPEC imports projected to increase by 4.1 billion barrels, or roughly 19 percent per year on average, resulting in increased cumulative payments to OPEC of $607 billion ($295 billion on a net present value or "NPV" basis).
  - Domestic natural gas production projected to decrease by 46 Tcf or 9 percent per year on average.
  - Net natural gas imports (both as liquefied natural gas or LNG and as pipeline deliveries) projected to increase by nearly 15.7 Tcf or almost 75 percent.
  - Employment in energy intensive industries projected to decrease by nearly 13 million jobs, an average annual decrease of 0.36 percent.
  - Energy prices projected to be higher: annual average natural gas prices increase by 17 percent; annual average electricity prices increase by 5 percent; annual average motor gasoline prices increase by 3 percent. More renewables would be used adding to the higher cost of delivered energy.
  - Real disposable income projected to decrease cumulatively by $2.34 trillion ($1.16 trillion NPV or $4,500 per capita), an annual average decrease of 0.65 percent.
  - Energy costs to consumers projected to increase cumulatively by $2.35 trillion ($1.15 trillion NPV or $3,700 per capita), an annual average increased cost of 5 percent.
  - Import costs for crude oil, petroleum products, and natural gas are projected to increase cumulatively by $1.6 trillion ($769 billion NPV), an annual average increased cost of over 38 percent.
  - Gross domestic product (GDP) projected to decrease cumulatively by $2.36 trillion ($1.18 trillion NPV), an annual average decrease from the base case of 0.52 percent.

Using 2007 data, PriceWaterhouseCoopers estimated that the more than nine million employees, $558 billion in labor income and $1 trillion in total value added by the domestic oil and gas industry constituted more than 5 percent of U.S. total employment, more than 6 percent of U.S. total labor income and more than 7 percent of U.S. total value added, respectively. However, this study did not account for the GDP effects utilizing oil and gas in our energy systems as inputs to other goods and services, nor did PWC attempt to measure the GDP impact of goods manufactured from oil and gas feedstocks or economic effects of exporting these goods. Finally, PWC did not attempt to estimate economic benefits of U.S. oil and gas industry investments abroad, or the total contribution in taxes, royalties and other fees paid by the oil and gas industry to all government jurisdictions as well as public (including federal) and private mineral owners. All of these benefits would push the total economic value of the U.S. industry into the trillions of dollars and a substantial chunk of U.S. GDP.

Of great concern is the impact on livelihoods associated with my home state's commercial and recreational fisheries and seafood businesses. A widely quoted esti-

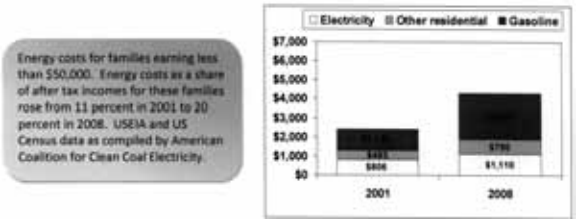
mate of the value of Louisiana's seafood industry is $3 billion. This is vital to the coastal communities and families that depend on these activities. But even more vital and much, much larger are the employment, income and tax revenue benefits associated with Louisiana's and the Gulf Coast region's oil and gas businesses. To understand the full scale of negative consequences and social displacement that could result from a sharp drop in drilling activity one has only to investigate the outcomes from the collapse in oil prices during the mid-1980s. In that instance, the total effect of lost jobs and income in the states that host oil and gas industry activity along with home and commercial mortgage foreclosures and subsequent collapse of the savings and loan industry shaved roughly one percent from U.S. GDP growth.

We know and understand very well the distribution of oil and gas resources and proved reserves around the world, the extent of sovereign government control over access and development, and the structure and role of national oil companies. While we support free and open international trade in oil, natural gas and other critical raw materials, U.S. domestic production is our best hedge against global oil and gas geopolitical risk. Indeed, outside of the US, many other nations view our access policies and existing limitations on drilling and replenishment as hoarding our own supplies while draining those of others. Meaningful efforts to sustain our domestic industry over the long term and meaningful policy signals that we intend to continue replenish our reserves in a consistent manner would send one of the most impressive foreign policy signals we could engineer, as well as serving as a moderating force on global commodity prices.

Finally, oil and gas exploration and production activity serves up amazing, and humbling, lessons about the earth, its history and biology, physical and chemical properties and the forces that drive our planet. Offshore oil and gas exploration in particular both consumes and produces advances in science and technology that extend from global positioning to advanced composites and other lightweight materials. These are the immeasurable but absolutely necessary benefits that emanate from the industry and its workforce.

3. The impact of energy costs, including costs of alternatives, is very real.

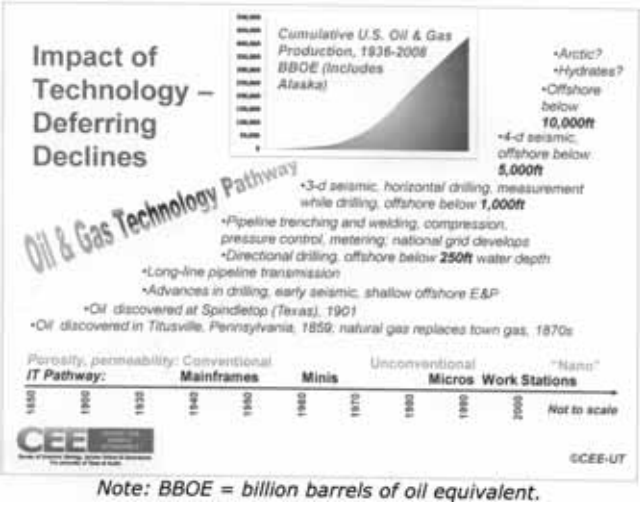
Any reduction in U.S. oil and gas production and consequent upward pressure on energy prices will impact households. Middle and lower income households are particularly vulnerable because energy costs are a larger share of their disposable income. It is these households that are most susceptible to energy price shocks. Indeed, in our view, given all available data, we feel that the national recession incorporated classic energy price shock components—extraordinarily high oil prices, combined with several years of generally rising energy costs as the U.S. economy expanded rapidly, stretched these households to the breaking point. Borrowers from this population, no longer able to meet their obligations, in all likelihood triggered the first wave of mortgage foreclosures.



While we are optimistic about some alternative energy technologies being pursued, the reality is that costs of alternatives—including the cost of public subsidies which far too often is discounted or ignored—are high. Timing and "scalability" of low energy density options are uncertain. The law of unintended consequences plays out in large and visible new land use impacts; introduction of new and profound environmental risks (for instance "dead zones", like that in the Gulf of Mexico, are expanding due in large part to more intense cultivation and use of fertilizers for biofuels production); and security implications associated with critical non-fuel minerals requirements. This last consideration represents a distinct trade off and risk associated with rapid acceleration of alternative energy and advanced grid technologies that we have not nearly begun to explore.

4. Future sustainability of the oil and gas industry must be assured.

The domestic U.S. oil and gas industry has repeatedly shown an ability to absorb and deploy advanced technologies in order to progress to the next frontier of discoveries.



Note: BBOE = billion barrels of oil equivalent.

To sustain the oil and gas technology pathway, a number of variables must be considered.

- Finding and lifting costs and the economics of exploration and production are susceptible to, and underlie, cycles in commodity prices. Low prices send signals to producers that demand is low and supply surpluses exist. Drilling is reduced. Low prices stimulate demand, reducing excess supplies and pushing prices up. Drilling resumes. Investment decisions for oil and gas projects involve time—the larger the project, the longer the lead times. Companies must be able to manage through price cycles and adverse business conditions in order to replace reserves and be positioned to meet future demand. In a world of fast growing emerging markets and complex international geopolitics these challenges can be extreme. The oil and gas industry is a major contributor of tax revenue across all levels of government. Imposing new obligations for taxes and royalties that are rigid and not market responsive will hinder replenishment with all concomitant economic impacts.
- Environment and safety protections must be at the forefront and solutions must be flexible, adaptable, innovative and appropriate to the problem at hand. This is not a matter of regulatory oversight as we know it. As the industry progresses into new frontiers new mechanisms for assuring environment and safety protocols are needed, supported by data and analysis and bolstered by technologies that encompass real time information and rapid deployment, not least to manage the public cost and burden of regulatory oversight. Remote logistics arrangements are needed for crisis management in frontier locations. Smooth management processes are essential. Most crucial is that we have the patience, in a trying time, to understand the sources and causes of failure and evaluate best practice future actions for prevention before engaging in wholesale restructuring and redirection of our regulatory apparatus.
- Finally, public education is essential. Very little is understood about the oil and gas industries in general. From a mass polity point of view, offshore operations, especially those in deeper waters and more remote locations, truly are akin to moon shots. Hydrocarbons in marine environments need to be better understood, both in terms of natural occurrence—the source of 70 to 80 percent of concentrations—and mitigation when accidents happen. In sum, public education on U.S. energy sources, technologies, needs and choices could be better served.

The industry overall will be better off as lessons are learned from the Deepwater Horizon accident and new practices and technologies are developed and deployed. This will be a powerful tribute to both the lives lost and the lives saved as the industry progresses. Thank you for your time and attention.

The CHAIRMAN. Thank you all for your testimony. Let me ask my first question to both API and NOIA.

Mr. Gerard and Mr. Luthi, what are your positions on the announcement by the President today that he is willing to put a six month—or that he will put a six-month hold on new deep-water drilling, canceling the Virginia Lease Sale and the Western Gulf of Mexico Lease Sale, putting the Arctic exploratory drilling off for a year, and directing new safety standards and regulations?

Mr. GERARD. Thank you, Mr. Chairman. We understand the legitimate concerns that the public has and particularly at this time the frustration that we all share with the ongoing tragic incident in the Gulf of Mexico.

However, I think we also need to recognize that the issue and the announcement made today by the President is much bigger than just the oil companies and the oil industry.

It impacts every man, woman, and child in our society. As Dr. Foss just mentioned a moment ago, we have come to rely on oil and natural gas for 60 percent of our energy needs in the country today.

We certainly hope that the President's announcement of a moratorium does not turn into a moratorium on economic growth and job creation.

The CHAIRMAN. Mr. Luthi?

Mr. LUTHI. Thank you, Mr. Chairman. We too are looking at it very closely. I noticed you mentioned this morning, you know, only in Washington will you know what is in an announcement before you get the announcement. As you know, I have been sitting here rather than reading the announcement and paying attention to the Committee.

But here are the things we are concerned about. Certainly everyone wants to look closely at this accident and find out what happened, and I think that still should be the major goal of everyone in this Committee, everybody in the industry. Let us find out what happened, see what you can do to fix it.

As the Committee goes forward, I think you have to look at an overall approach of how best to talk about offshore resources, and you don't talk about it necessarily in the immediate wake of a terrible accident, which this is, but you keep in mind the economic factors.

You keep in mind the approximately 200,000 jobs that are related to the oil and gas industry in the Gulf of Mexico. And you also look at the process itself.

For example, delaying lease sales might be a little premature. Lease sales are generally done well in advance of actual, you know, exploration. But again, I think it needs to be taken in the entire context as you move forward. We stand ready to help the Committee identify issues to look at should we be asked to do so.

The CHAIRMAN. OK. Dr. Hirshfield, Secretary Salazar has testified in earlier hearings that a categorical exclusion was used in approving the BP drilling permit for the Deepwater Horizon because the Gulf is "an area where we know a lot about the environment." Do you agree with that statement?

Dr. HIRSHFIELD. I do not. One of the things that we have learned over the years is we may think we know a lot about the environ-

ment. We may think we know about fish. We may think we know about turtles. But what we don't know is what happens under the ocean. We really don't have a clear picture.

These categoric exclusions result in very, very cursory assessments of the resources at risk. Long catalogues, long, you know, long stapled-together lists including in the case of, as I have read, BP's plan, you know, how to address the issues associated with walruses, a cut-and-paste that didn't——

The CHAIRMAN. They have been used quite a bit then?

Dr. HIRSHFIELD. Yes. They did not do a good job of cutting and pasting their plan. So categoric exclusions should be eliminated completely from this industry.

The CHAIRMAN. Completely?

Dr. HIRSHFIELD. Completely.

The CHAIRMAN. All right, Mr. Luthi, as the former head of MMS, you have a unique insight into the problems plaguing that agency. Do you believe there is any way we can fix MMS?

Mr. LUTHI. Thank you, and that is—it was my honor, Mr. Chairman, to head up MMS for a period of time. There comes a time, however, you know when you come into any kind of an agency I think you look at you want to make it the best it can be. I don't think there is any director that doesn't come in with that goal in mind and do everything you can to make it better.

But there comes a time when the perception is so great that it cannot be made better that you have to look at other options, and certainly one of those options the Committee is looking at today with dividing the agency up.

We certainly again—what we would like is if it makes, you know, energy development and restore the public faith that we can indeed do energy development safely, we are certainly supportive of changes in the——

The CHAIRMAN. Do you think we can still restore that image or is it too late—too far gone?

Mr. LUTHI. Well, I believe, you know, that is part of the option. As I understand, dividing it into three agencies probably doesn't leave a whole lot left.

The CHAIRMAN. OK, but does it get to the root of the problem?

Mr. LUTHI. I certainly hope so. I think things you want to look at or make sure that there is a strong chain of command and a strong chain of communication from top to bottom.

I would suggest that everyone read those inspector general reports both in 2008 and the one that was released last week. Make that required reading for any regulator as well as industry. It shows where potential problems lie.

The CHAIRMAN. Employees as well?

Mr. LUTHI. Absolutely employees as well.

The CHAIRMAN. And Congressmen, yes. I am out of time.

Mr. Hastings?

Mr. HASTINGS. I just want to follow up on the Chairman's line of questioning as it relates to MMS is an administratively created agency. Do you think you ought to be statutorily creative?

Mr. LUTHI. Congressman Hastings, that is certainly an option that is not in my purview any more. I can give you some general thoughts. Having it not being going through the Organic Act and

a legislative creative problem actually allowed Secretary Salazar to make sweeping changes in a hurry. That could be a pro or a con depending on how you look at it.

Having it in an Organic Act and depending on what you do with the approval process or rather a Senate confirmation can change the structure, can make it either more wieldy or less wieldy.

So once again, that is something that Congress would need to talk about.

Mr. HASTINGS. Well, on something as large as from an environmental standpoint and the incident in the Gulf of Mexico, that is why I ask that question. Do you have the flexibility or are you building in a rigidity that you can't resolve.

Then, of course, if you have the rigidity then that could be a potential problem. If you have the flexibility, that flexibility becomes a whim of whatever the Administration's political thoughts are and sometimes that may not work either. So I just ask the question to somebody with your background to get an idea.

One of the interesting things, this hearing as you know was scheduled before the incident happened in the Gulf of Mexico, and it was to be the response of the President's announcement on OCS, and I think we all thought when that was scheduled that it would be something that we could build upon.

The last two days it seems to have evolved—and you have a great deal of patience sitting out listening to all this—into some theater. I won't try to characterize that theater because I think we really need to get this thing stopped and cleaned up, and then go from there.

But having said that, there is a common thread that has been asked by a number of members that I think is important anyway and, Mr. Luthi, you reference this in your testimony where your organization is going to develop a response team for cleanup techniques.

I think you said something to the effect that if there is one thing that is really lacking in technological improvements it is the cleanup techniques.

I agree with you. I think that that is an area where you need to put top priority and get as many organizations involved with that because, you know, this will be stopped at some time. The demand, however, for oil and gas will go on.

I am a believer that we ought to be developing the OCS and we ought to be developing other areas because that is a major part of our energy. But if we could find a good way in order to get the technology advanced on cleaning up, I think we would be making great, great strides.

Do you have a time frame as to when you can get some preliminary information back?

Mr. LUTHI. I do not, Congressman. We will be putting together the response team as we are calling it within the next few weeks and, of course, we will operate as rapidly as possible.

One of the things that we will certainly want to know is how the response continues through the next few days, weeks, and months. But it certainly will be done.

We want it done correctly. We don't want to rush it. We want them to be able to give a quality product.

Mr. HASTINGS. Well, I totally agree, and with the advances in technology in a number of ways—in fact, the technology in drilling—I mean, I thought the figure was since 1969 something over 36,000 wells drilled. I found out in testimony it is over 40,000 since the last incident.

Now, you know, that is pretty good because if—and I am not, you know, we live in a society where there is some risk. If we take everything out of our society where there is a risk of an accident, we won't even be flying airplanes because we had a crash of an airplane here just yesterday in India.

Now, if we were to apply exactly the same what some are advocating that, OK you know, this happened so therefore we should stop all production, then by the same logic we probably shouldn't be flying in airplanes.

I dare say, unfortunately, somebody will probably be killed in a car accident someplace in the country today. Does that mean that we are not going to drive cars? Of course not. I mean, the nature of human nature is to, you know, challenge the risks that we have and try to overcome them. I think that is exactly the challenge that we have here with the OCS.

And Dr. Foss, I will just simply say, which hasn't been said in any of the hearings, that the byproducts of the oil and gas industry—it would probably boggle a lot of people's minds how broad that is.

In fact, I would just suggest if I am not mistaken I think the 787 is an example of that, just to kind of connect the dots.

Thank you very much, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Costa.

Mr. COSTA. Thank you very much, Mr. Chairman. I have a lot of questions and not a lot of time.

I concur with the gentleman from Washington's comments, I mean, life is not without risk and what we tend to not do very well, in my view, as Members of Congress is adequately weigh risk assessment with risk management, which was a question that I asked the Secretary yesterday.

Mr. Gerard, while the President made the announcement today, there has been speculation that this was going to happen over the last 48 hours or so. Have you folks made any determination as to what the potential economic impacts may be over the next six months as a result of this moratorium?

Mr. GERARD. We haven't done an analysis internally. I would say Wood Mackenzie did some earlier projection. I don't know if you have seen that report or not.

Mr. COSTA. No, I haven't.

Mr. GERARD. But I would get that to you. In a recent report they found that a six-month moratorium on new drilling activity would result in the reduction of about four percent of the production out of the Gulf of Mexico.

Mr. COSTA. OK. I would like you to give a sense. I mean, we are going to have to do those numbers and obviously move forward.

Dr. Hirshfield, you have talked about a more efficient source of energy that is carbon free. I think all of us in a lot of attempts would like to see that, but what you fail to do, it seems to me, is to fill in the blanks and that is that every President since 1973

when we had our first gas alliances talked about reducing our dependency on foreign sources of energy, reduction of carbon energy.

But every Congress and every President since that time has attempted to enumerate policies to get there, and obviously we are dependant upon more source of foreign industry, primarily carbon energy, and what do you think is lacking?

And you didn't talk about the economic dislocations, and the poor people in this country that are suffering right as a result of this recession notwithstanding the middle class, how do you attempt to try to address those issues? How do you get there from here? I mean, there is not a magic wand, but.

Dr. HIRSHFIELD. I do not want to imply that there is a magic wand. I am certainly not suggesting that we could possibly stop using oil today. What I am asking is when do we stop continuing to dig the hole deeper?

We are in a hole. We agree that we are addicted to oil. We agree that it is time to move on. BP agrees that we need to deal with climate change and put a price on carbon.

I think it is high time this country puts a price——

Mr. COSTA. Some of the major oil companies have talked about a carbon tax, and I commend them for that.

Dr. HIRSHFIELD. We certainly hope this——

Mr. COSTA. I think this is really out of your area of expertise, and then therefore it is probably not a fair question. But until you link the two in terms of the economics in a way that shows a path to getting there, which is why I am going to go to the person next to you.

Dr. HIRSHFIELD. Well, Senator Sanders introduced legislation today that proposed to link fuel efficiency improvements, which we could do—we could move this nation toward the fuel efficiency standards that they have in Europe, that they have in China, and that——

Mr. COSTA. But we are attempting to do——

Dr. HIRSHFIELD.—we are moving toward——

Mr. COSTA.—that. We passed that in legislation last year. I supported that effort.

Dr. HIRSHFIELD.—I would like to see a six-month commissioned blue-ribbon panel from the President that spends as much time and energy focused on how do we get off of oil as we do how do we keep this kind of catastrophe from happening again. Thank you.

Mr. COSTA. Yes.

Dr. Michot Foss, I was very intrigued with your testimony because one of the things I have always felt in looking back over the last 30 years, notwithstanding all the rhetoric, is what has been lacking is an interim, mid-term, and long-term plan and an economic pathway to get there—recognizing that we are going to continue to be dependent upon a source of carbon for a time period as we develop a robust renewable portfolio because, in your testimony, you talk about the economic dislocations and the tradeoffs.

Frankly, until we get some willingness on a bipartisan fashion to agree on that path over a 20-year period and get bipartisan buy-in and continuity to stick with it, I don't see how we get there from here. Could you comment on that?

Dr. FOSS. It is very difficult.

Mr. COSTA. What has been lacking?

Dr. FOSS. What has been lacking? Well, my views are going to be a little bit different, I think, than what often gets discussed.

Mr. COSTA. Do you support a carbon tax? Not a cap-and-trade. I am just talking about the Tom Friedman type of 50 cents, $1.00, whatever.

Dr. FOSS. I am going to bail out and say that for——

Mr. COSTA. You are agnostic?

Dr. FOSS. No. No. Most economists would prefer a transparent carbon tax. It is easier to be able to understand how it is going to apply. You can understand what its effect is. It is easier to measure the impacts on businesses, and consumers, and society in general.

So generally speaking, I think most economists—any well-trained economist is going to be much more comfortable with a transparent tax. Now, having said that, I think that one of the things that we have struggled with for a long time is how do you properly direct especially public resources, which are constrained because business resources will come into research and development in search of opportunities.

Public resources are a different matter because we have scarce resources and we need to use them for a lot of other things, education, health care, and everything else.

How do you direct public resources into energy research the right way? We have tried a lot of things over the past 35 years. We have to get back to basics and understand that to a certain extent physics, chemistry, thermodynamics are working against us.

If you go from higher forms of energy to lower forms of energy, if you lose energy density in order to try to take advantage of something that looks good like alternative energy systems, there are real costs and tradeoffs associated with that. And that is really the problem. I mean, it is a technological, technical, physical, chemical problem that we have to understand.

I actually think that we should spend more of our time focused on materials because, as Mr. Hastings pointed out, it is the byproducts of hydrocarbons, what we do with the molecules, the things that we make with them that are so difficult to replace because everything we use, everything that we build and manufacture, everything that we derive economic benefit from in some way or another takes those molecules and combines them to give us the things that we use, the tools, the implements, the machines, the computers, the electronic goods.

So materials research, how do we find new compounds? What are we going to replace those molecules with? Where is that going to come from? That is actually a bigger problem than replacing the energy in many respects.

There are a lot of different things that we can do and deploy in recognition of the tradeoffs, in recognition of the costs that can supplement energy including more efficient use and so on. But the materials problems is a really big one.

Mr. COSTA. Mr. Chairman, I know my time has expired and the witness' time has expired, but I really think that as we address the challenges with this tragedy and this disaster, the larger question

at the heart of her comment is really focused in terms of where this country goes in the 21st Century.

And until we are willing to deal with that in a de-politicized manner that just involves common sense and how we get there, I am not so sure how we will ever have a comprehensive energy policy that tries to achieve the goals that I think in a larger sense many of us share in common.

The CHAIRMAN. The gentlelady from Wyoming, Ms. Lummis?

Ms. LUMMIS. Thank you, Mr. Chairman.

I find myself in the embarrassing scenario of having a meeting at 3:30 and I am just getting to questions, so please excuse me if I ask questions that I really want to read your answers to and then maybe bug out before we have a chance to hear your answers expressed verbally. But two questions for Mr. Gerard and Mr. Luthi, and then one specifically for Mr. Luthi.

What steps is industry taking right now to evaluate their OCS operations and technologies? And, further, is the industry generally, the oil and gas industry, opposed to stricter offshore safety standards? And can they make recommendations? Are they willing to participate in the discussion of additional safety standards that really do make sense?

Then my question for Mr. Luthi, I know that you were late in the game in the last administration regarding the MMS, but you came in at a time when the agency was in turmoil in terms of the public perception.

It has been acknowledged up here that when confidence is lost in an agency, it is difficult to restore, which may be some of the rationale behind breaking it up to where there is no longer such a thing as the MMS.

But do you find that the personnel rules and having unionized employees as we learned yesterday as true with the offshore inspectors is an impediment to making a dramatic change in a Federal agency when a dramatic change is warranted because of this lack of public or loss of public confidence?

So thanks. Those are my three questions.

Mr. GERARD. I will be very brief Congresswoman, and then I will give you a written answer to the rest if you would like.

Ms. LUMMIS. Thank you.

Mr. GERARD. What have we done within industry? Shortly after the tragic incident in the Gulf working with the Secretary of the Interior we established two industry task forces. We got the best minds together in the industry. We looked at two fundamental questions, the equipment we are currently using in the deepwater and our operating procedures.

We have made recommendations to the Secretary, and likely perhaps we will see some of that in the President's announcement today. I haven't seen the details of that.

We identified 9 or 10 key areas that we thought we could do that were not currently in the regulatory process that would improve and reassure the public, further redundancies, et cetera, that were operated in a safe fashion.

To your second question very quickly. The industry does not oppose safety standards. We take safety as a top priority as you have heard today from some of the others.

In fact, we lead with our standard-setting process and, in 1993, put together a comprehensive safety management program that has been updated three times—and recently has been under consideration by the Minerals Management Service to be adopted as their broader regulatory scheme in the industry practice.

I will get you a lot more detail if you would like to hear more about that.

Ms. LUMMIS. Thank you.

Mr. LUTHI. I am sorry. I will get closer. Should be on the forefront of recommending and the final key to that is again finding exactly what happened. Then that is going to help hone in on the, you know, what needs to be changed.

Personnel roles. Let me give you a quick example. MMS in 2005-2006 rumor started floating around about improper activity in the Denver office. MMS asked the inspector general to look at that and investigate that activity.

That investigation and report was not released until 2008, so you have a two-year period when basically—and you are also told, by the way, that you are not supposed to take administrative action, at least serious administrative action, until the report is complete and released.

So I have always felt that if you have a consequence close to the event it is certainly more effective. The same—so in 2008 when we got the report, within 30 days we had disciplinary action well started and on the board. Again, it was just somewhat frustrating.

You saw it again this week, events between 2005 and 2007. The report is completed in 2010. So if there were some way to make the ability of Federal managers to be able to provide that disciplinary action—and it needs to go through the channels to, you know, for proper safety and in terms of employee rights. But that would be one recommendation I would hope the Committee might want to look at.

Ms. LUMMIS. Mr. Chairman, thank you very much.

The CHAIRMAN. The gentlelady form the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. Thank you, Mr. Chairman, and thank you witnesses for your patience being here pretty much all day.

My first question would go to Mr. Luthi and Mr. Gerard, and I applaud your commitment to improving the safety going forward, the task forces that you have created and so forth.

But I happened to be watching Rachel Maddow last night, and she was flashing back over 20 years to another oil spill and the response, and that didn't seem—now, I am sure that this was edited for effect, but there didn't seem to be much difference in the response now to the response 20 or more years ago.

So could you give us a sense—I mean, the technology of the drilling, the depth of the drilling, all of that has really changed dramatically over that time.

Could you give us a sense of what National Ocean Industries Association and API have been doing in that period of time to improve the response, and the cleanup, and the safety?

Mr. GERARD. Absolutely. Thank you for the question. Secretary Salazar said something yesterday that wasn't expanded on, but I

think it goes to this point Congresswoman. It is a very important one.

He commented without the preparations that are the things industry's been doing over the past 20 years we wouldn't have the unprecedented response that we have today.

When the Oil Pollution Act was passed in the early 1990's, it established recovery organizations. Today, there are around the country over 140 oil spill recovery organizations.

These are funded by the private sector, and they have developed equipment, they have response capability, they train with the Coast Guard. Just recently I believe in New England they had a big training exercise with the Coast Guard surrounding the question of oil spill.

So within these organizations, within the API as a trade association, we established the Marine Response Corporation that was referenced by the earlier panel.

That has since been spun off into the private sector. That was one of the first responders that Lamar McKay mentioned to day in being out there on the front line with the capability of the boats, et cetera.

The only other point I would raise is as you are aware there is a per-barrel fee or tax on the industry that goes into the Oil Spill Liability Trust Fund. That currently has about $1.7 billion in it that has been paid into it by industry.

But over the course of the last 15 years or so, on an annualized basis, the Coast Guard and others take about $100 million out of that fund that industry pays for to equip themselves, to train. EPA has some for research and development on better practices, et cetera.

So when you put it all together, the industry has spent in the last 14-15 years just through this process about $1.6 billion to be prepared for oil spill incidents like this, and that doesn't count the individual companies and their research and development and their other investments to be ready to go.

Ms. CHRISTENSEN. Briefly so that I could try to get another—if you wanted to answer? OK. Because it just seems to me that we should have—and I think you said that, you know, the technology for the cleanup, and so forth, has really lagged behind the technology that we have developed for drilling.

But I wanted to also ask Mr. Gerard, you talked about the loss of jobs. Should we have a moratorium? Should we stop, cancel, some of the permits that have been let already.

But has API done an analysis comparing the jobs lost to the jobs that would be created with a new green economy, new renewable energy going forward, and Dr. Hirshfield, I would like you to respond to the job-loss issue from the ban also.

Mr. GERARD. I will be very brief, but thank you again for this question. It is a very important one.

First, the industry today supports 9.2 million jobs in the United States. 7.5 percent of all our gross domestic product in the United States is tied to the development of oil and natural gas.

Now, one statistic that might be surprising that goes to Congressman Costa's question earlier is between the year 2000 and 2008 the oil and natural gas industry invested in research and de-

velopment $58.4 billion to develop zero emitting and low emitting carbon technologies.

That is more than the Federal Government spent during that period of time and more than all the other private sector interest combined. That goes from our perspective to the issue of green jobs. Those are green technologies. Those are the energy forms of the future.

Back to Congressman Costa's question, the oil and gas industry is leading in the development of these alternative energy sources, and through those investments and others, it is deemed that we have created about a million jobs in the United States to develop to research green technologies.

Dr. HIRSHFIELD. Three quick points. First, there is a need to separate the jobs in the oil industry from production, ongoing operations, ongoing work, and whatever the jobs that might be associated with continuing the moratorium. There are some statistics that Dr. Foss had. This is one of those games that it is really easy to play.

Second, it is really important to remember the jobs that are lost, the communities that are destroyed by the oil in the water, and these catastrophic rare events are the ones that we have such a hard time dealing with.

And third, you know, if you can imagine 100 years ago Big Horse talking about the transportation infrastructure and the jobs associated with stables, raising horses, cleaning up horse poop, you know, all of blacksmithing, all of those jobs, you can imagine if they had the kind of clout that the industry has in our decision-making bodies, we might not have made that transition to the automobile.

Ms. CHRISTENSEN. Thank you, I think my time has expired.

The CHAIRMAN. The gentlelady's time has expired.

The gentlelady from Colorado, Ms. DeGette.

Ms. DEGETTE. Thank you, Mr. Chairman.

We have a graphic I would like to show on the screen. I don't know if the panel can see it, but what this shows is that in a 2007 MMS study, some of you I am sure are familiar with it, cementing problems were identified as the most significant factor contributing to blowouts.

Cementing was associated with 18 of 39 blowouts in the Gulf between 1992 and 2006 or nearly 50 percent. This was a doubling from the previous period where cementing was a factor in only 25 percent of the blowouts.

So Dr. Hirshfield I would like to ask you, given that cementing is the most commonly identified problem leading to blowouts, would you agree that companies should take extra care in assessing the integrity of the cement bond?

Dr. HIRSHFIELD. I think it is clear to everyone on this panel, off this panel, all around the country that extra care and attention needs to be paid to every aspect. Cementing clearly is a factor in this, but it is the whole—it is every step along the way.

Ms. DEGETTE. Right.

Dr. HIRSHFIELD. Somebody referred to multiple stop signs.

Ms. DEGETTE. Right. We were——

Dr. HIRSHFIELD. That is what would be——

Ms. DEGETTE.—talking about that on the last panel where it is true that there were just multiple systemic failures in this situation, but the problem is that while that is rare, it is so devastating when it happens that you have to put failsafes in place at every stage.

Mr. Gerard, I see you nodding in agreement. I think you are nodding in agreement.

Dr. HIRSHFIELD. Can I make one more comment on that?

Ms. DEGETTE. Yes, please.

Dr. HIRSHFIELD. Just yes that is the case, but in almost every major catastrophic rare disaster that is unprecedented, it is some unpredicted, unprecedented combination of human and technological failures. So our opinion is it is going to happen again.

Ms. DEGETTE. Well, yes. So do you think that a cement bond log test should be a standard requirement?

Dr. HIRSHFIELD. Yes, but we think——

Ms. DEGETTE. OK.

Dr. HIRSHFIELD.—it is time to get out of the offshore.

Ms. DEGETTE. You know, I agree with you what you are saying is there were multiple human errors here at every level, and the problem is that if you put all of those together it might be rare but it is devastating.

And Mr. Gerard, do you want to quickly explain your view?

Mr. GERARD. I was just going to respond Congresswoman.

Ms. DEGETTE. Go ahead.

Mr. GERARD. This particular report, as I recall, came from MMS.

Ms. DEGETTE. Yes.

Mr. GERARD. And shortly after this was determined, the longer term analysis showed that the number of blowouts had decreased significantly during this—to this decade. But what it did show, to your point, is that cementing was the number one issue.

Ms. DEGETTE. Right. Right.

Mr. GERARD. Immediately after this came out, the MMS approached us at API through our independent standards process, and you might be aware that we have worked on that with the department and have come up with a best practice——

Ms. DEGETTE. So do you think that a cement bond lock test——

T1Mr. GERARD.—has now been released.

Ms. DEGETTE.—should be a standard requirement?

Mr. GERARD. I am happy to share with you what that best practice is. I am not sure if it is included or not. I am happy to go back and——

Ms. DEGETTE. Well, do you think it should be given this level of failure?

Mr. GERARD. We had a number of technical recommendations to the department. This is——

Ms. DEGETTE. But you don't remember if this was one of them?

Mr. GERARD. I don't remember that but——

Ms. DEGETTE. If you don't mind supplementing your answer, I think that would be helpful.

Mr. GERARD. I would be happy to do that, and——

Ms. DEGETTE. Thank you.

Mr. GERARD.—I will get it to you today.

Ms. DEGETTE. I have another question, which is, I know the Administration is trying to improve the management at MMS and, of course, Mr. Luthi I remember quite well, being from Denver, the little troubles we had with the MMS in the Denver office a couple of years ago.

I would also say I am in complete agreement with you as a mother if nothing else if you don't have immediate consequences for the actions then it tends to get attenuated and people tend to forget what example the issues are.

So I want to ask you the question Secretary Salazar has as you know—it has been well publicized—suggested reorganizing MMS, and I am wondering if you believe that his proposed plan will effectively achieve a separation of enforcement and revenue functions.

Mr. LUTHI. Well, thank you, and I start off by saying you know the Secretary and the Administration is in the best position to decide, you know, how they want to handle MMS and the best way to do it.

I have offered some general just suggestions that as you look at an organization you want to make sure you have the communication ability——

Ms. DEGETTE. Right, but what do you think of Secretary Salazar's plan?

Mr. LUTHI. Certainly, if it restores the public trust in an agency that can——

Ms. DEGETTE. Do you think it will restore the or help improve the efficacy of the agency?

Mr. LUTHI. Individual behavior is often difficult to improve. I certainly hope so.

Ms. DEGETTE. Mr. Chairman, if you don't mind, I ran out of time before and I just want to put something on the record.

I have a document, which I will submit for the record, which is BP's application to MMS for a revised new well dated January 14th, 2010. One of the attachments to their application is a schematic of the blowout preventer, which I have. And the bottom most ram cavity is labeled VBR test ram.

The document shows that BP knew at least as of January that a test ram was installed in the blowout preventer, but the emergency ROV port remained connected to the test ram three months later making it useless as I discussed with the previous panel in the coming emergency.

Mr. Newman said in his testimony that it would be a simple matter of changing hoses to fix this, but this did not occur. So I just wanted to put—number one, I wanted to say on the record I think it is appalling that the hoses were not changed because they had all that time because clearly they had the knowledge and the time to do so.

And I would ask unanimous consent to submit BP's application and the attachments for the record.

The CHAIRMAN. Without object——

[NOTE: The application and attachments submitted for the record have been retained in the Committee's official files.]

Ms. DEGETTE. Thank you so much, Mr. Chairman.

The CHAIRMAN. The gentleman from Louisiana, Mr. Cassidy?

Mr. CASSIDY. Hey Dr. Hirshfield, I take it if you don't want drilling then you want more tankers, huh?

Dr. HIRSHFIELD. If we had had a tanker spill, we would be here talking about problems with tankers. We would be talking about how all the tankers were safer.

Right now we are going to have tankers for the foreseeable future. There is no question about it. I think it is time, as I said earlier, to stop our addiction to oil and start reducing tomorrow.

Mr. CASSIDY. But statistically, we know that tankers are more likely to result in oil in the ocean than drilling. Even given this one, statistically if you look at history, tankers are far more likely to spill, correct?

Dr. HIRSHFIELD. It is cold comfort to people in the Gulf that tanker spills in California or somewhere else are more likely than what they had.

Mr. CASSIDY. No, it is not cold comfort. I am just trying to focus upon the economic consequences of decisions we make. So if we make a decision not to drill, then we are making a decision to import more.

Thirty percent of domestic oil comes from the Gulf of Mexico. Lots of employment thereof. So if we make that decision that we are going to replace that 30 percent with imported oil, statistically we know we are going to have more oil in the ocean than if we had continued to drill.

Dr. HIRSHFIELD. We think that it is actually practical and, you know, a country that has the——

Mr. CASSIDY. Practical to do what?

Dr. HIRSHFIELD.—I was referred to the pioneering spirit——

Mr. CASSIDY. Practical to do what?

Dr. HIRSHFIELD.—practical to reduce our demand for oil. That is what——

Mr. CASSIDY. OK, so we are——

Dr. HIRSHFIELD.—that is what we need to do. We need to——

Mr. CASSIDY.—so how much do we import per—I mean, how many barrels do we use a day now in the United States?

Dr. HIRSHFIELD. Twenty million.

Mr. CASSIDY. We use 20 million barrels a day now, so we are now going to go to a system where we are going to have zero, or——

Dr. HIRSHFIELD. No, no.

Mr. CASSIDY.—we are going to have 28 minus——

Dr. HIRSHFIELD. Ramping down. We are not talking about stopping production.

Mr. CASSIDY.—so we would have to raise the costs, so your idea I presume, therefore, if we stop drilling that we will raise the cost and inherently in raising costs we will decrease demand?

Dr. HIRSHFIELD. Ultimately I think with BP and the oil companies as we talked about earlier, we have to put a price on carbon. We have to—we heard——

Mr. CASSIDY. I think that is a yes. I have limited time, so I don't mean to cut you off.

Ma'am, if we cut our—just take away the Gulf of Mexico, 30 percent of our domestic oil, 20 million a day, 20 million divided by one-third of 20 million—what would that do to the price of gasoline for the average working person who is trying to make a living?

Dr. FOSS. It would go up.

Mr. CASSIDY. How much?

Dr. FOSS. I can't tell you how much.

Mr. CASSIDY. So if you just did a back of the envelope—if you said we cut our supply of feedstock by a third, does that mean that the price of gasoline will go up at least by a third?

Dr. FOSS. It would probably go up at least five percent. I mean, it would increase. I mean, there is no way that it would not go up.

Mr. CASSIDY. And there will be a ripple effect, I presume, for everything because, you know, we have bottled water here. The plastic is made out of petroleum. I presume that there will be some consequence of the cost of every product that in some ways impacted by petroleum.

Dr. FOSS. Yes, sir.

Mr. CASSIDY. Including food since we know that farmers use a tremendous amount of petrol chemicals in order to create food.

I am also struck that if we are going to transition to a lower carbon economy, everybody speaks about using natural gas, but as it turns out natural gas the abundant supplies, Dr. Hirshfield, are coming from offshore. So what do we do about our desire to transition to natural gas as a lower carbon footprint if we are cutting off our ability to produce natural gas?

Dr. HIRSHFIELD. Again, what we are talking about is a halt to expand the drilling off of our coasts. There are other sources of natural gas, and it is clear that we can reduce the demand that would offset those new sources.

Mr. CASSIDY. So you would be in support of fracking, for example, which is the basically new supply of natural gas?

Dr. HIRSHFIELD. Fracking obviously has environmental consequences. I think they should be looked at closely and they should be addressed carefully.

Mr. CASSIDY. Mr. Gerard, I understand there are differences, I know you do, between non-deepwater, if you will, shallow water, deep, and ultra deep.

If we have a six-month moratorium or longer on this, will the supply industries with all the people whom they employ be able to survive? Can they survive on a current book of business without—with complete interruption of what is going forward?

Mr. GERARD. There is immediate impact, and there is long-term impact. The only thing I would add to that Congressman that is very important to remember of that 30 percent of oil that is coming out of the Gulf of Mexico, 70 percent of it comes out of the deepwater. The 20 most prolific leases producing oil in the Gulf of Mexico are in the deepwater.

Mr. CASSIDY. So again, if we rope that off we are telling ourselves we are going to import more from countries often that hate us. Since the marginal supply comes from OPEC nations, therefore, the additional supply won't come from Mexico and Canada. We are already maximizing what we can get from them.

The additional supply is going to come from the places where we have to tank it the farthest, which have the worst environmental records in terms of watching for carbon release, et cetera.

I have seen a big spill upon the coast of Nigeria. I gather that happens with regularity. And we will have to burn diesel to get it

here, and statistically we are more likely to have an oil spill from a tanker than we are from a rig.

Mr. GERARD. Yes.

Mr. CASSIDY. That is all facts. That is not making up. It is not rhetoric. It is not pie in the sky. It is what we know to be true, correct?

Mr. GERARD. Yep.

Mr. CASSIDY. Now, going back to the employment for those roustabouts, and for those pipe fitters, and for those boat builders in my state, the President is worried about tourism in other states.

I am worried about the roustabouts and the working people who don't their ways around the hall of power but nevertheless they are dependent upon jobs to feed their families, good jobs.

What is going to happen with a six-month moratorium if we do everything, near shore, intermediate, depth, et cetera? Will those supply companies be able to stay in business?

Mr. GERARD. They will be hit immediately. I mean, there are those out there now and those——

Mr. CASSIDY. When you say hit, that means layoffs? That means fewer people employed?

Mr. GERARD. That is right.

Mr. CASSIDY. Fewer working class people employed.

Mr. GERARD. If you stop the activity, if you stop the production, you are going to have fewer people going to work. And it has the economic multiplier effect that you have touched on that impacts the entire economy. It is much bigger than just those individuals employed by the industry. It ripples throughout the economy.

Mr. CASSIDY. My family moved to Louisiana so my dad could sell New York Life Insurance to people that were working in petrol chemical. I am proud of being Louisianan but I am there because of my dad selling insurance. I am very aware of that ripple effect.

Last question, Houma-Thibodaux had the lowest unemployment for a while. Even when everybody else was at 10 percent, it was at 2 percent. People were moving there to work in the shipyards.

Again, these weren't Ph.D.'s. These were people who didn't have college educations, but these are people because of this employment were able to feed their family, they had great health insurance, didn't need a government handout to generate such.

When you say there will be an immediate effect, what you are telling me is that those folks who have really few other employment options will almost immediately begin to feel the impact of being laid off.

Mr. GERARD. That is correct. There is another dynamic here we shouldn't forget. Many of those individuals that are employed in the offshore and the Outer Continental Shelf make almost twice what the average income is in most jurisdictions and in most states.

Mr. CASSIDY. Even though they don't have college educations, et cetera, et cetera, et cetera?

Mr. GERARD. That is correct.

Mr. CASSIDY. OK. I yield back. Thank you.

The CHAIRMAN. The gentleman from California, Mr. Costa.

Mr. COSTA. Thank you very much, Mr. Chairman. I will try to be brief. I know it has been a long two days here.

Dr. Hirshfield, the comment that you made with regards to how you would like to see us go forward, like, I guess poses a lot of questions in my mind, but what would you think would be the reaction of countries like Brazil that have done a good mix with ethanol but part of their balance is with new offshore discoveries; a lot of the other areas in which China has a foreign policy, and I am on the Foreign Affairs Committee, that is totally, totally in my view energy and mineral related anywhere around the world, that is China's foreign policy; other major countries like Russia whose entire focus for economic transition is energy related?

I think while well-intended, your vision—I don't see you indicating a way in which somehow those things are going to change.

Dr. HIRSHFIELD. I am not sure exactly what the question is, but I think it is pretty clear that we in the United States use an awful lot of oil. We use more oil per capita than just about anywhere else, and it is time for us to go on a diet.

Mr. COSTA. Well, I think energy conservation is one of the real important tools on our energy toolbox. I don't disagree. In California, as you know, we probably set more higher standards, and I have voted for those standards as a member of the California Legislature to ensure that the energy conservation tool in our toolbox is well-used.

Two more questions. Doctor Foss, how would you recommend to us in light of where we are now and your testimony where we go from here as policymakers? With the rhetoric aside, there is obviously a wide range of views in this Committee, as there is in Congress, and trying to strike a balance in terms of an interim and a long-term comprehensive energy policy has proved to be elusive.

What would you recommend to us?

Dr. FOSS. Patience.

Mr. COSTA. Well, for three decades we—we do patience very well. It is called kick the can down the road.

Dr. FOSS. Yes. Patience to be able to do what has already come up today, which is to investigate the situation, understand what happened, the reasons, the factual information, and then be able to use that to take the steps that need to be taken in order to improve safety, improve oversight, and be able to do that carefully with full information.

And so I guess that would be my first, and it may seem like a bit of a hedge, but at this stage of the game we don't have full—the information yet, and we need to know more.

The second thing that we need to do I think is maybe recognize some things. I realize that many people would like a national energy policy, but we are a country with many different regions, and lots of different resources, and different kinds of economies, and I think that there is a great deal of experimentation in different states and different regions, and we are all going to learn from that.

I think there are some things that are already happening that need to continue and maybe need to be accelerated, which is to review Federal R and D programs and see exactly where dollars are going and try to create a vision for how to direct those toward the most useful things, the most difficult problems that can be solved.

And I think some realism, some public education really needs to be done. Where do we get our energy? How do we use it? What can we expect to do in the future? What is the timing? Why are we so constrained? Why has it been three decades with no silver bullet? Why is this difficult? And get people better informed about that.

So those may seem not very exciting recommendations, but sometimes at times like this it is the mundane things that can actually make a difference.

Mr. COSTA. Well, and I think articulating a comprehensive but yet common sense policy in which all Americans have a vested interest and try to bring this country together on that point. I mean, we live in this world of 30 second commercials. We have been conditioned in color, now in high def, and we think every problem in America can somehow be solved in a 30 second commercial from your common cold, to refinancing your home, to your athletes foot or whatever.

Life is not that way. Life is not without risks. I mean, we have had 130 plus shuttle launches, and we have had two disasters. I mean, you talk about the risk assessment versus the risk management. We have had over 40,000 wells drilled in the Gulf. We do it so poorly—again, measuring risk assessment and risk management.

My last question to Mr. Gerard and Mr. Luthi. I have said it before. I will say it one more time. I am an advocate of using all of the energy tools in our energy toolbox, which includes using both oil and gas offshore as well as on because I think you have to transition.

I have articulated what I think has been lacking in that transition. This is a big, big—this tragedy, this tragedy is a big black eye for those of us who want to use all the energy tools in the energy toolbox.

I asked the question earlier today. I asked it yesterday. Under the lessons to be learned, how does the response from the private sector, the energy companies who obviously are trying to transition, trying to move with this, have a tremendous investment yet though in all of this, how do we come back and convey confidence to the American public that we can do this safely and that we have learned the lessons?

Because would that confidence, this effort that the President was attempting to pursue I think is going to be very difficult to implement when we are talking about all the energy tools in the energy toolbox. What is your response? What is your responsibility?

Mr. LUTHI. Thank you, Congressman. As everyone has said, it is not an easy, fast, quick answer, but I think the tough reality is that industry has to do it right, and it is going to take some time to regain that confidence.

In addition to, I think it is important as we talk about what happened. We have addressed that quite a bit today. What happened? Concentrate on making sure that whatever regulatory changes are necessary are made.

And then, I think, industry is willing to put some investment into that research and development area that appears to be—and I underline appears because we don't know that yet—that response maybe hasn't really kept up with the technology particularly in the

deepwater. It is going to take time. It is going to take some effort, and it is going to take transparency on our part as well.

In addition to, I think the industry as a whole as we use the Outer Continental Shelf can actually be part of that energy basket, wind, wave, and current are all available, and I certainly encourage our members and encourage more interest in attempting to develop all of that as you have so eloquently on more than one occasion indicated.

Mr. GERARD. Mr. Costa, I think in the short term and then in the long term two quick dynamics. The first in the short term, this is a tragic incident as we all know.

It is been a serious challenge for us within the industry, and I hope as Mr. McKay testified earlier today there have been over 90 companies who have responded with their assets and their resources. We view this responsibility much larger than just the companies involved. This is the responsibility of the industry.

And to Randall's first point, first stop it. Clean it up. Figure out the root cause, and then deal with that root cause quickly to make sure it never happens again to regain the trust and confidence of the public.

But as an industry, we also have a responsibility to go out and to be more transparent as we communicate what we do and how we do it. We assume too often that people understand this. That they assume—we assume they understand.

And when they get that affordable, reliable energy at the gas pump that they recognize there has been a lot of risk management. There has been a lot of effort. A lot of investment go into that.

So we have a responsibility as industry. We are already talking about this as to what we do to reach out to reassure the public and then make sure we do this in a safe fashion, that we drive the performance for the entire industry.

This isn't just one company. We recognize after this tragic incident we have all got to do it better.

Mr. COSTA. Do you think this is the opportunity for the President to really try to bring the country together to really go forward in a comprehensive energy policy that reflects the realities that we are facing today and reach some level of consensus that would be bipartisan that would have consistency and continuity over the long term?

Mr. GERARD. I think it could be, but I think the short-term responses will dictate whether or not that window of opportunity stays open.

Mr. COSTA. Do the rest of you want to comment?

Dr. HIRSHFIELD. I certainly hope so. This may be the ultimate teachable moment on this issue, and I think it is time for us all collectively to come together and figure out a way forward.

Mr. COSTA. Thank you, Mr. Chairman for what I think has been two days of very fruitful hearings, and obviously we have a lot of work ahead of us. But with your good leadership, I am ready to be a part with my colleagues to figure out how we work through this in the short term and the long term.

But thank you very much again for all your hard work and the staff's work on both sides of the aisle here for the last two days. And I thank our witnesses.

The CHAIRMAN. The Chair wishes to also thank this panel for being here. We know you have been here throughout the day, and it has been a long day.

This will now formally conclude our two-day oversight hearings on the Outer Continental Shelf oil and gas strategy and implications of the Deepwater Horizon rig explosion. This has been part one and two.

We will continue the examination of this explosion with future subcommittee hearings. There will be actually five subcommittee hearings we will have in the month of June that are designed to study in detail the many issues related to the incident from enforcement of safety regulations by MMS to the impacts of the spill on natural resources in the Gulf.

We know that our Committee has already been rigorously following the events and offering our assistance to other committees and requesting numerous documents from both the Administration and company officials, and we will continue to do that as the situation merits.

We have not yet had a formal CODEL to the region. I have felt such would only be interfering with those who are on the ground and in command and trying to stop the well immediately.

We have had staff on the scene on a nonpartisan basis. Both Doc Hastings and I have sent staff down there. At a future time, we may if it does appear that we can find something that will be helpful or offer our services in any way, we may have a future CODEL to the region.

So, with that, I want to thank the staff as well for the preparation of this hearing. We had good attendance, very good attendance on both sides of the aisle during these two days, and I thank my colleagues as well.

With that, we will conclude this hearing of the Natural Resources Committee. Thank you.

[Whereupon, at 4:11 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Mr. Miller follows:]

Statement of The Honorable George Miller, a Representative in Congress from the State of California

I have to say, as former chairman of this committee, and current chairman of the Committee on Education & Labor, I have seen this all before.

BP's Deepwater Horizon disaster in the Gulf of Mexico was not some "black swan" or "perfect storm" event. This was not something that could not have been foreseen. And this was not something that you can promise will never happen again.

There is a theme that now seems to weave though many of BP's decisions: trading off risks versus profits, and the costs are being shouldered by the families of the 11 dead workers, and the livelihoods of those who depend on the gulf.

An important question to answer now is whether BP should ever be allowed to drill a new oil well in U.S. waters again.

Just consider the history of BP taking risks to boost profits.

Texas City

- On March 23, 2005 BP's Texas City refinery exploded killing 15 and injuring 180 during the restart of gasoline production unit. A tower was allowed to be overfilled and caused a flammable liquid geyser to erupt from a stack. Critical alarms and control instruments failed to alert operators. BP had no flare to burn off the hydrocarbons despite 8 previous releases from this same stack. BP relied upon low personal injury rates as a safety indicator, while the Chemical

Safety Board found that, due to cost cutting, BP allowed its process equipment to "run to failure." OSHA fined BP $21 million for 300 "egregious willful" violations, and then in 2009, OSHA fined BP another $87.4 million for 700 violations that BP promised to fix after the 2005 explosion. In March 2010, OSHA issued a $3.0 million fine against BP's Toledo, Ohio refinery for process safety violations.

- BP commissioned former Secretary of State James Baker to head a panel which found that BP tolerated "serious deviations from safety operating practices," and concluded that material deficiencies in process safety "performance exist at BP's five U.S. refineries."

North Slope Pipeline

- In March 2006, BP spilled over 200,000 gallons of crude oil over Alaska's North Slope. In August 2006, BP found oil leaking from flow lines which were severely corroded with losses of 70 to 81 percent in the 3/8-inch thick pipe. BP had not done an internal pipeline cleanout and inspection for 14 years, despite warnings that is corrosion prevention program was being hampered by cost cutting. BP had to replace of 16 miles of pipeline.
- In November 2007, BP pled guilty to a single criminal misdemeanor for violations of the Clean Water Act, and paid $20 million in fines and restitution for this spill.
- This follows a $22 million fine paid in 2000 to settle criminal and civil violations from illegally discharging hazardous waste at its North Slope operations.

Risk versus profit

BP senior executives have a history of trading of risks vs profits, which has led to worker deaths and severe consequences to the environment and local economies.

Congressional investigations found that BP cut expenditures on corrosion control to save money, but the price was severely corroded pipes which spilled 200,000 gallons of oil on the North Slope of Alaska.

The Chemical Safety Board found that cost cutting and budget pressures from BP Group Executive managers impaired process safety at Texas City, which led to 15 deaths, 180 injuries and over $1.5 billion in property damage. **Requests for additional funding to BP in London were shot down.**

Now there are questions about whether BP traded off risks vs profits in the Gulf to speed up the completion of the well by using too few centering rigs, a well casing that increased risks of a blowout. Evidence is still surfacing, but it we know BP was spending $533,000 per day to lease this drilling rig, and there are questions about whether they had scheduled this rig to be put in a new location to begin a new project.

We are still learning what precisely happened in the Deepwater Horizon explosion, but we see from BP's internal investigation and other accounts that numerous things went wrong.

This all adds up to an **ongoing pattern of violations** and **a pattern of failure**:

- A failure to keep the oil and gas in the pipes.
- A failure to follow processes put in place to avoid the worst case scenario.
- And a failure to keep workers safe.

In the Gulf, this failure is having devastating consequences—in terms of loss of life, devastation to the marine environment, and untold billions of dollars in economic damage.

This history tells me that there is something terribly wrong with the culture at BP, and that safety is not the priority that it should be for BP executives.

And while I think it's a good sign that Transocean paid no executive bonuses last year after a poor safety record, I hope that your legal gymnastics to limit liability and deny responsibility for previous spills are not foreshadowing of the dodging and weaving that we can expect going forward in the case of Deepwater Horizon.

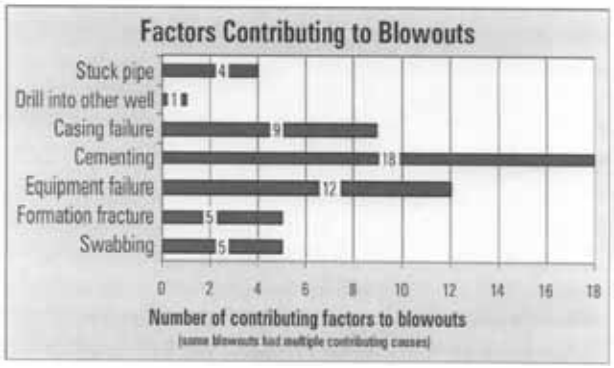
So again, we have this question to answer—does the pattern of safety violations and failure to protect workers and the environment and local economies disqualify BP from ever drilling for oil again in U.S. waters?

The documents listed below have been retained in the Committee's official files.

- CNN Article—"U.S. and BP Accepting Few Offers of International Help, Countries Say"
- DeGette, Hon. Diana, a Representative in Congress from the State of Colorado
  - Minerals Management Service, U.S. Department of the Interior "Application for Revised New Well"

- Chart—"Factors Contributing to Blowouts"
- Hirshfield, Michael F., Ph.D., Senior Vice President for North America and Chief Scientist, Oceana
  - GAO Report: "Offshore Oil and Gas Development—GAO-10-276
  - Letter to Secretary Ken Salazar dated May 19, 2010, submitted for the record by the Alaska Wilderness League; Center for Biological Diversity; Defenders of Wildlife; Earthjustice; National Audubon Society; National Wildlife Federation; Natural Resources Defense Council; Northern Alaska Environmental Center; Oceana; Ocean Conservancy; Pacific Environment; Pew Environment Group; Sierra Club; and The Wilderness Society
  - Article by William Yardley—"Arctic Drilling Proposal Advanced Amid Concern" dated May 19, 2010
  - Testimony by Ted Danson dated February 11, 2009
  - Testimony by Dr. Jeffrey Short dated March 24, 2009
  - Washington Post Article by Juliet Eilperin—"U.S. Agency Overseeing Oil Drilling Ignored Warnings of Risks "
- Miller, Hon. George, a Representative in Congress from the State of California
  - Reuters Article by Tom Hals—"Transocean Punished for Legal Tactics in Old Spill"
- Napolitano, Hon. Grace F., a Representative in Congress from the State of California
  - Article by Professor Robert Bea, UC-Berkley—"Failures of the Deepwater Horizon Semi-Submersible Drilling Unit"
  - AP Article by Don Joling and Mark Thiessen—"Gulf Oil Spill Brings Back Painful Memories in Alaska"
  - Mind and Body Examiner Article by Dr. KC Kelly dated May 6, 2010—"Will BP Oil Spill Have Same Profound Emotional Affect [sic] on Residents as Exxon Valdez Catastrophe?"

[A chart entitled "Factors Contributing to Blowouts" submitted for the record by Ms. DeGette follows:]



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