

OFFSHORE OIL AND GAS EXPLORATION

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS
SECOND SESSION

TO

RECEIVE TESTIMONY FROM THE ADMINISTRATION ON ISSUES RELATED TO OFFSHORE OIL AND GAS EXPLORATION, INCLUDING THE ACCIDENT INVOLVING THE DEEPWATER HORIZON IN THE GULF OF MEXICO

MAY 18, 2010



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OFFSHORE OIL AND GAS EXPLORATION

TUESDAY, MAY 18, 2010

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 11:04 a.m. in room SR-325, Russell Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. OK. Why don't we bring the committee to order.

Let me just, at the outset, indicate that Senator Murkowski is on her way from the airport. She had to be in Alaska last evening for the funeral of former Secretary of Interior Hickel, and she is on her way and will be here shortly—but has advised us to go ahead.

This is the second hearing on the continuing disaster in the Gulf of Mexico. The purpose of this and future hearings is to understand the cascade of failures that caused the catastrophic blowout of the oil well that was being drilled by the Deepwater Horizon rig, and to determine what Congress needs to do to ensure that it never happens again.

Last week, we heard from 2 distinguished technical experts, and also from the heads of the 3 industrial firms responsible for the disaster, on what some of those failures might have been. Next week, we will have a hearing on the issue of liability for damages.

But, today we have a chance to hear from the Secretary of Interior Salazar and his senior team in charge of responding to this catastrophic failure.

I'd like to focus the hearing on the role of regulatory failure in causing the catastrophe, along with the failure of technological systems and the failure by people who were operating those systems. Regulatory failure is one of the 3 key interlocking failures that I believe are at the heart of this problem.

There are several dimensions to regulatory failure. President Obama suggested one last week; he cited a cozy relationship between the Minerals Management Service, or MMS, and the industry it was regulating.

There are 3 other regulatory areas I think bear close examination at the hearing. I'm sure other members will have others, but the 3 I wanted to mention are whether we had the right technical standards in place to govern the drilling being undertaken by the Deepwater Horizon rig; second, whether we have been taking a sys-

tems approach to oversight of deepwater drilling operations with sufficient staff resources and training to match the complexity of what has been undertaken; and, third, whether we had adequate mechanisms to follow up on changes that are being made to the complex drilling operations of this well as the drilling was proceeding.

First of these forms of possible regulatory failure, failure to have the right technical standards in place, one example may be in the cementing of the well. It's possible that the extent of the cementing involved here was inadequate for this particular well, given the other designed features. However, the amount of cement appears to have met the MMS's technical standard. In some ways, having a prescriptive standard that is inadequate in certain systems might be worse than not having a standard at all.

Second form of possible regulatory failure is not having a proper systems approach. This could be a result of a limited and reactive role that MMS seems to have taken over the years toward these highly complex wells. Many MMS employees do have relevant expertise and are involved in research in key areas of well safety. In my view, they need to be more fully engaged with industry in reviewing the overall design and implementation of these challenging deepwater wells.

Finally, the third form of possible regulatory failure is exemplified by the lack of follow through on how approved plans are implemented, including the detection and response to unusual occurrences that might warn of bigger problems.

There appears to have been a number of changes in the well plan during its construction, including those involving the number of structural centralizers being used and the point at which the drilling mud was withdrawn from the well.

These decisions can be driven by cost and the desire to make up lost time in a drilling project. It's important to ensure that safety is paramount. This raises the important question of where the MMS was in this process. Was it consulted? Does it have an established role that ensures that it will scrutinize major changes to previously approved plans?

We know that the MMS inspectors visit rigs to review activities taking place on them. While the documentary record of inspections on this particular rig appears somewhat cloudy, it seems it was inspected approximately on a monthly basis.

Is this enough? How are unusual occurrences and abnormal events, which might indicate the need for more frequent inspections, communicated to the MMS in between those inspections? Are inspectors asking the right questions when they do these visits?

Obviously, our job also is to determine what we do next. No. 1, I believe we should find out all we can about the problem that existed in this Deepwater Horizon, whether these problems are present in other deepwater drilling operations in the Gulf.

No. 2, there should be a comprehensive and independent technical review of the precise drilling plan that was proposed for this well. I hope the Department of Interior will make the full drilling plan available for peer review by other industry experts.

Finally, we need a more thoroughgoing independent review of the safety and regulations of the Outer Continental Shelf oil and gas

operations, generally. We, as a country, have profited by such independent assessments after other major disasters, such as Three Mile Island and the loss of the Space Shuttle Challenger. I'm glad to learn that the President intends to establish such a commission, and we look forward to it beginning its work soon.

Since Senator Murkowski is not here for an opening statement, we will reserve her right to do that when she arrives. But, let me now invite Secretary Salazar to go ahead with his testimony and to introduce those who are here with him.

We welcome you. We appreciate your determined efforts to respond to this disaster and to address the regulatory issues raised by it. We look forward to working with you and learning from you at this hearing.

So, Mr. Secretary, welcome, and please proceed.

STATEMENT OF HON. KEN SALAZAR, SECRETARY, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY DAVID HAYES, DEPUTY SECRETARY; WILMA LEWIS, ASSISTANT SECRETARY OF LAND AND MINERALS; AND LIZ BIRNBAUM, DIRECTOR, MINERALS MANAGEMENT SERVICE

Secretary SALAZAR. Thank you very much, Senator Bingaman. Thank you to the Senators who are here. Let me say, Chairman Bingaman and members of the committee, friends that I see on both sides of the chairman, Democrats and Republicans, it is a solemn time in our country as we deal with this incident which the President has directed all of us to work on; not to rest until we get this whole situation under control.

I appreciate the opportunity to share some thoughts with you here this morning, and also to engage in the conversation which I am sure is to come.

First, what I thought I would do is give you a quick update, because I know this is something that all of you have been concerned about.

We have been working on this from day one to stop the blowout from continuing. I have been to Houston, along with the best science minds in the country, including Secretary Chu, to make sure that we are riding herd on BP and its efforts to make sure that this well is brought under control.

The latest report, as of this morning, is that the flow mitigation efforts, which are the efforts to contain the leak that is occurring, are underway. There are approximately 1,500 to 2,000 barrels a day that are being collected through the so-called "riser insertion tube." The efforts are intended to ramp up over the hours ahead on a sequence of about every 2 hours. We ought to have a better measure of what the flow is that is leaking from the well. So, that is with respect to the flow containment strategy.

Second, there has been what I call the "flow stoppage strategy," and that's the efforts to kill the well. They are complex, they are dynamic, they are data-driven. The best science minds of the world have been brought to focus on this problem. The alternatives that are being examined have led to a decision to move forward with what they call the "dynamic kill" of this well. The mechanisms have been built out over the last several weeks, and the expecta-

tion is that this Saturday or this Sunday the triggers will be pulled to try to accomplish the dynamic kill of the well.

Third, at the end of the day, the ultimate relief here that needs to be accomplished has got to be the sealing of the well. That is the drilling of two relief wells. Both relief wells are underway. One of the relief wells has reached a depth of over 8,762 feet from the sea floor. But, those relief wells are longer in coming. It will probably not be until August when they are completed. Hence, the importance of moving forward with respect to the flow containment strategy, which is underway, as well as the dynamic well-kill strategy, which is underway.

Second, let me say that, from day one, there has been a comprehensive command-and-control effort with respect to this national disaster and this oil response by Secretary Napolitano and the admiral in charge of this effort, the Commandant, Thad Allen, as well as the President of the United States. The President has directed all of us to make sure that we do not rest until we get this problem under control, that the problem is fixed, and that the lessons to be learned here are learned in a way that will be useful to this country as it moves forward with respect to its energy future.

I want to just make a few points that illustrate the extent of this effort. It is truly an army that is battling this war on all fronts. We have over 17,000 people, who are actually deployed out in the Gulf Coast, that are working on this particular issue. There are over 750 vessels. So, if you think about an armada of vessels that are out there battling the oil on the site of the explosion, as well as dealing with the oil slick which is occurring, that is a huge number of vessels that are being put out there to deal with the problem.

The President has directed the U.S. Government to make sure that no energy is being spared here, that all the energy that we have is focused in on this particular problem. I'm delighted to do that.

Before I make my last 2 remaining comments, I want to also just introduce the Deputy Secretary, David Hayes, who went to New Orleans the day after the explosion, on April 21, to take charge, along with the Coast Guard, of providing an effective response to this unprecedented problem; Assistant Secretary of Land and Minerals, Wilma Lewis, who has led many of the reform efforts in the Department of the Interior with respect to MMS and BLM and the other agencies under her jurisdiction, also joins me, to the left; and Liz Birnbaum, the Director of the Minerals Management Service, is to David's right.

Let me make just some overarching comments with respect to this particular incident. I think it is important for all of us to recognize that this is a matter where we all have collective responsibility, that the finger-pointing that could easily occur, and is already occurring, is not going to get us to where we want to get. Where we want to get, as the President has directed us to get, is to fix this problem now, and, second of all, make sure that this problem never occurs again. In order to do that, there's plenty of responsibility to go around. So, as we move forward, the President's directive to me, and my directive to my people in working with the

entire team that's responding to this matter, is that we move forward with that sense that we have a problem, and we have a collective responsibility to fix that problem.

That responsibility, I will say, starts first with the Department of the Interior and the Minerals Management Service. We need to clean up that house. It's an effort which we started back, now, some 15, 16 months ago, which included dealing with sex and drug investigations that had been underway. People who have been involved in those issues have been prosecuted and have been terminated and other personnel actions have been taken. There are other efforts that are important for us as we move forward with respect to MMS.

We eliminated the Royalty-in-Kind Program, because the Royalty-in-Kind Program had been an area as many of you on this committee know—which had been subject to some of these ethical lapses and problems. So, that Royalty-in-Kind Program was eliminated, at my direction.

We have instituted new ethics codes for the Department. We have the Inspector General involved with this in making sure that the employees of MMS are abiding with the highest ethical standards that are possible.

To be sure, this is just the beginning; there are more things that we have to do. A few days ago, I announced that we would be splitting up the Minerals Management Service's functions between the revenue collection functions, on the one hand, and the inspection and environmental enforcement functions, on the other.

In the days ahead, there will be additional announcements that I will make, as Secretary of the Interior, concerning the reorganization of the Minerals Management Service.

As I said, collective responsibility: yes, the Department of the Interior has its responsibility, but I would say this Congress also has its responsibility. I was proud to be a member of the Senate with, I think, everyone who currently is sitting in this committee today.

From this Congress I would expect that we would move forward and we would see thoughtfully crafted, organic legislation for the Minerals Management Service. Some of you—Senator Wyden—have pushed that effort for a while. I have supported that effort. It should be something that gets done. An agency the size of the Minerals Management Service that collects, on average, \$13 billion a year, that has these responsibilities for the Outer Continental Shelf, in terms of the energy production and future of the United States of America, should not exist by fiat of a secretarial order that was signed almost 30 years ago. It is important that there be thoughtfully crafted, organic legislation for the new agency to be created. I will continue to make the efforts that I can, within the authority that I have as Secretary, to redo the Minerals Management Service. But, at the end of the day, it's going to be important that Congress take up that responsibility.

In addition to that, when I speak about collective responsibility, it's also important for us to take a hard look at the laws that have governed the exploration and development of the Outer Continental Shelf. There has been much to-do in the news about the 30-day issue concerning the statutory mandate by the Congress, by the laws of our Nation, relative to acting on exploration plans. The 30-

day mandate has been there, my understanding is, since 1978, which essentially requires the Minerals Management Service to turn around and to approve an exploration plan within 30 days from the day that it is submitted.

So, those are the kinds of changes that I think we all need to look at, collectively. Congress will have its share of responsibility to make sure that, as we craft the new agency, and we take a look at the laws, that they are put in a place where we make sure we can achieve the goal of preventing this kind of accident from ever happening again.

Third, when I speak about collective responsibility, there is also a collective responsibility here that has to be put right at the feet of BP. It's not only BP, it is Transocean, it is Halliburton, it is Cameron, and a whole host of other companies that have some association with the incident related to the Deepwater Horizon.

The direction and the directive that we have given to BP, which it is carrying out, is that it has to do everything it can to stop this blowout. I gave an update on where their actions are today, and hopefully we will see that being effective in the days ahead.

In addition, we have made it clear from day one that BP is the responsible party to take care of all of the costs associated with this incident, including whatever damages might arise from this incident to natural resources, as well as to people and businesses and communities who might be affected by this incident.

BP has told me, orally, in meetings that I have had with Tony Hayward and others in my office, that that is what they will do. In addition to that, Secretary Napolitano and I sent a letter to BP to get their confirmation that they would live up to that responsibility, no matter what statutory caps are in place. They have confirmed that they will live up to that responsibility. So, our expectation, as the President has said from the beginning, is that, at the end of the day, every cent that is required to make the American people whole and to make the environment whole will, in fact, be there.

The fourth point that I wanted to make, Mr. Chairman, in terms of a collective responsibility, is that there's also a collective responsibility here, on the part of the American people and all of us who have a role in government, to address the energy future of the United States of America. From the beginning of this Administration, the President has pushed hard for comprehensive energy legislation that addresses the principles that you and I have worked on for so many years; the imperative of moving our country to energy independence; the imperative of stopping the transfer of over \$700 billion a year from our country to economies that, frankly, don't support the United States; the responsibility for us to tackle the great issue of the effects on our climate, which many of you have been working on for a long time. Those are issues that for far too long have gone unanswered because there has been a tepidness to approaching these larger issues of the energy future of this country.

One of the things that I hope happens as a result of this incident is that it's another wake-up call, to all of us who have this collective responsibility, to move forward with a new energy future for the United States of America.

Let me, finally, just conclude by saying that the employees at MMS, some 1700 of them, most of them are good public servants. There are some bad apples at MMS, and we have taken care of them, and, to the extent that MMS employees were involved in any kind of negligence here, or any other kind of failure, they will also be held accountable.

I went through some of the changes that we have made at MMS over the last year. One that I wanted to spend just a few seconds on has to do with opening up the renewable energy functions within MMS and the Department of the Interior. We work closely with the Governors in the States, Democrats and Republicans alike, to usher in a new effort on offshore renewable energy, especially along the Atlantic States. There's a whole host of opportunities there that can help us really grasp this new energy future. MMS and the agencies to be created from what we will be announcing in the days ahead will help us grasp that new energy future.

Finally, with respect to investigations. You have a lot of questions. I have a lot of questions. The President has a lot of questions. Everybody has questions. So, it's important that we get to the bottom of what the root causes were of this tragedy. It includes the questions, Chairman Bingaman, that you raised in your opening statement.

To that end, the President of the United States will be announcing his formation of a Presidential commission. When one looks at the investigations that occurred after the Challenger blew up in space or in the aftermath of Three Mile Island, I think there are some lessons to be learned from that. In the case of the Challenger incident, it essentially put the Space Shuttle Program on delay for about a 2-and-a-half-year period. In the case of the Three Mile Island investigation and the blow up of one of the reactors at Three Mile Island, it essentially shut down the nuclear industry for a period of 30 years. So, how we handle this issue is of the highest importance. The President's effort, by bringing together a national commission that will look at all of the facts and bring all these investigations together, will help us guide the energy future of the United States so that, with respect to the oil and gas portion of that energy portfolio—and there will be an oil and gas portion of that energy portfolio—it can be conducted in the safest way possible so that this kind of incident does not happen again.

I will briefly say there are a number of other investigations that are underway through a joint memorandum between Secretary Napolitano and me. We've directed the Coast Guard, along with MMS, to conduct an investigation as to root causes. That investigation is underway. I have asked the National Academy of Science's branch, the National Academy of Engineering, to also come in and provide us with an overview of the safety programs that ought to be in place to make sure that blowout preventers and cement and the rest of the aspects of drilling are, in fact, the safest in the world.

Finally, the Inspector General of the Department of the Interior, who many of you in this room know does not shy away from the inspector general's responsibilities, has also been tasked by me to take a look at whether or not there were any improprieties with respect to MMS activity on this particular matter.

With that, Mr. Chairman, I'd be happy to take questions and comments from all of you.

[The prepared statement of Hon. Salazar follows:]

PREPARED STATEMENT OF HON. KEN SALAZAR, SECRETARY OF THE INTERIOR

Thank you, Chairman Bingaman, Senator Murkowski, 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 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 all costs of the government in responding to the spill and compensation for loss or damages that arise from the spill.

In a letter to Homeland Security Secretary Janet Napolitano and me that we received this past weekend, 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 the United States and the affected Gulf Coast communities will be made whole. There should be no doubt about that. And while the investigations as to the cause 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.

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.

In addition, I have dispatched the top leadership from my natural resources and science team to the Gulf incident command centers, including the Assistant Sec-

retary 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. An agency with responsibilities of this magnitude should be governed by thoughtfully considered organic legislation.

I have already announced plans to restructure MMS to establish an independent safety and environmental enforcement entity. I have solicited the views of Members of Congress and my staff is working now to develop a proposal. In addition, we will aggressively look at broader options that may require new legislation.

We have made MMS a major part of our vision for a new energy future by balancing its 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.

In addition to changing the direction of MMS, we have 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. 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 had previously asked the National Marine Board, also within NAS, 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.

As I mentioned above, I intend to restructure MMS to establish a separate and independent safety and environmental enforcement entity. We will responsibly and thoughtfully move to establish independence and separation for this critical mission so that the American people know they have a strong and independent organization holding energy companies accountable and in compliance with the law of the land.

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 causes of the April 20th explosion, and will hold public hearings, call witnesses, and take any other steps needed to determine the cause 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.

Last week the National Academy of Engineering 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 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, such as Alaska's Bristol Bay.

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 very much, Mr. Secretary.

Before I start with questions, let me defer to Senator Murkowski for her opening statement.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman and Secretary.

I apologize for being late. I've been flying all night and came in about 20 minutes ago. But, it was important that I be here. I think you were made aware that I was attending the funeral of one of your predecessors at the Department of Interior, Walter Hickel.

It was under his watch, back in 1969, that the Department of Interior was faced with the offshore oil spill out in Santa Barbara. It's a reminder then, it's a reminder now, as you say, of the collective obligations that we have. The collective obligations today are that BP, all those that are involved, are held responsible, held accountable, and also of our collective responsibility, as Americans, to deal with an energy policy that puts us on a path of energy independence.

Wally Hickel was fond of saying that all of our resources are owned in common by the people. We've got an obligation to care for them in that manner.

I do have a lengthier written statement. I know our colleagues want to get to questions. We've got a vote coming up here at 11:45.

Senator MURKOWSKI. But, let me just state this, that you are very welcome here before the committee to help us gather these answers to try to understand what happened, whether the process leading up to it included failures of our own in the MMS, or wherever the failures may be. We need to pursue an understanding of how the Interior Department can rise from this tragedy and be stronger and more confident in its ability to deliver to the Americans their resources—their resources which are held in common—in a manner that is more safe and more environmentally responsible.

Deepwater Horizon is emerging as the reason that the Department of Interior has such a very difficult balance—or, difficult time in striking this balance. So, to gain in that understanding, there are a lot of tough questions. I appreciate that, as of yet, we don't have all of the answers. But, I think that hearings like this one—the debate, the markups, the floor time, the deliberation—all of these are ingredients that lend themselves to passage of a strong bipartisan legislation that can, hopefully, help to minimize the unintended consequences.

I think your job, as you recognize, has been made enormously more difficult in this past month. So, you are, again, welcome before this committee to help us identify the ways that we can be working together.

I thank you.

The CHAIRMAN. Thank you.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Good morning, Mr. Chairman, and thank you for convening this hearing. I apologize for being late but as it happens, I am just back from Alaska where I was sad to attend the funeral of Wally Hickel, who was faced with the last offshore oil spill of this magnitude, the Santa Barbara spill of 1969, as Secretary of the Interior. We will miss his wisdom and his experience in this time, and always.

It's now been 29 days since the Deepwater Horizon exploded after what may have been a catastrophic well failure followed by an equally catastrophic failure of the blowout preventer. As containment and recovery efforts continue with very what appears to be some meaningful success, the Gulf Coast and countless livelihoods are still threatened.

Secretary Salazar, you are very welcome here today to help us gather answers and understand how this happened and whether the process leading up to it included failures of its own. Central to our discussion is the Minerals Management Service, the MMS.

Today, we also need to pursue an understanding of how the Interior Department can rise from this tragic spill stronger and more confident in its ability to deliver Americans their resources in safer and more environmentally responsible ways. Deepwater Horizon is emerging as the reason why the Interior Department has such a difficult job in striking this balance.

To gain that understanding, there will be many tough questions today.

Hearings like this one, debate, markups, floor time, and deliberation are all ingredients that lend themselves to passage of strong bipartisan legislation that can minimize unintended consequences. Secretary Salazar, in the past month your job has become enormously more difficult. So you are welcome before this committee today to identify ways in which we can help.

Mr. Secretary, I'll take the first 5 minutes of questions.

Could you elaborate and give us any more information about this dynamic kill of the well that you referred to that you expect will occur as soon as this weekend? That sounds like something I was not aware was in the works, and I'd be interested in knowing any more detail on that that you feel you can give us at this time.

Secretary SALAZAR. I would be happy to answer that, Chairman Bingaman.

As I said, there are really 3 strategies. It's the flow mitigation, the full containment, and then the relief wells.

On this flow containment that essentially would kill the well, there are 3 options that are alive that are being reviewed and peer-reviewed by the best scientists in the world. One of them would basically come in and kill the well by putting in junk that would go into the blowout prevention mechanism. That would stop the flow of oil into the riser, where there are the two leaks that are taking place.

The second would be to forego the insertion of junk into this blowout prevention mechanism, which I think, from your testimony that you heard in this committee last week, you know, is a huge mechanism that weighs about 450 tons and is a very complicated mechanism at the bottom of the floor. It would forego putting the junk into the mechanism and, instead, put mud into the well itself

through devices that are being constructed and being deployed on the subsea today.

Then the third would be a dynamic kill option, killing the well through fluids and mud that would be inserted into the well itself.

The other options relate to removing the top of the blowout prevention mechanism, and, in its place, putting either another blowout prevention mechanism or putting in a valve that would close down the well.

The dynamic kill option, from the point of view of the scientists and the BP engineers and others who have been very involved in sorting out which is the best way to go, seems to be the best way to go, in large part because of some favorable pressure readings and good data that has come back.

I will say this, Mr. Chairman and members of the committee: this effort really has brought to bear the best science in the world, including that of the Federal Government. The Department of Energy, Sandia Labs, Livermore, Los Alamos have essentially been on the scene, helping bring to bear some of the best science with respect to gamma ray and X-ray and other kinds of efforts, the diagnostics that are taking place, so that when the trigger is pulled for the ultimate kill, we'll have the maximum chance of success. This something that we very much appreciate.

The CHAIRMAN. Thank you for that additional information.

Back, a week or 2 ago, on May 7, a statement came out of the Department of Interior saying that Secretary Salazar announces that, "As a result of this Deepwater Horizon explosion and spill, beginning April 20, the date of the explosion, no applications for drilling permits will go forward for any new offshore drilling activity until the Department of Interior completes the safety review process that President Obama requested." I think that's the 30-day safety review.

This morning, there's an AP story which has in it this sentence. It says, "Since a blowout on BP's Deepwater Horizon platform last month killed 11 workers and triggered a massive spill, the agency has approved at least nine deepwater exploration wells in the Gulf, with minimal environmental reviews."

I'd be interested in your comments on that. Is that accurate? Is it inaccurate? Does it contradict the earlier direction that you provided to MMS to cease approving these applications?

Secretary SALAZAR. I will ask David Hayes to amplify on this conclusion. But, I can tell you that, based on all of the information that has been provided to me, there is no deepwater well in the OCS that has been "spudded"—that means "started"—after April 20.

There is, in fact, drilling that was already going on through some of the 30 deepwater rigs that are out there in the ocean today. That drilling continues, because we were not going to have those things stop midway. So, there's an oversight program and a number of other safety measures that we have taken.

But, with respect to new permits on the OCS and deepwater, there is no well that has been spudded post-April 20. I'll have David amplify on some of these numbers.

I will note, before David does that, I think one of the most interesting things about this whole incident is how the facts and figures

and misunderstandings of what is going out there have been flying from all kinds of directions. I think that, as important as the energy future of the United States is, and as important as the appropriate response to this incident is, we have a responsibility to come up with the best information and the best facts with respect to all these issues.

David.

Mr. HAYES. Very quickly, Mr. Chairman, there were a few approvals, maybe close to a dozen, after April 20. They were suspended. Approximately May 6, the MMS issued an order suspending the APDs that had been granted for any deepwater drilling after April 20. So, no new deepwater APDs have been approved after April 20, or will be approved, until the safety report is provided to the President on May 28.

The CHAIRMAN. Thank you very much. My time is up.

Senator MURKOWSKI.

Senator MURKOWSKI. Thank you, Mr. Chairman.

There's been a lot of discussion about the relationship between MMS and the oil and gas industry, as it relates to the standards and establishing the standards for operation in the Gulf. But, I—as much as you will have those that suggest you should not have a relationship, I think we recognize that it is those within the industry that are out there operating everyday that have a level of expertise to offer. We're seeing that as we're dealing with this spill here.

The question to you this morning is, What is the appropriate role, if any, for the industry to play in the process as you work to communicate, from industry to the regulator, the standards that should be put in place?

Secretary SALAZAR. Senator Murkowski, it's a very good question. Let me just say that, first of all, there are obviously things that are inappropriate, and when you go back and you look at what happened back in 2008, relative to what was going on between MMS employees and industry and the personnel and criminal investigations that occurred from all that, that kind of behavior is absolutely inappropriate, and there has been, and there will be, zero tolerance of it while I am Secretary of the Interior. That's absolute.

On the other hand, it is important to recognize that some of the best expertise in the world with respect to what is happening, whether it's in the shallow waters or in the deep water, is coming from industry. It would be foolhardy for us, as a Nation, or for us at the Department of the Interior, to close the door and say that we will not receive input from API or other organizations that have tremendous knowledge. Receiving input from them, however, does not mean that they are the ones who are crafting the standard or the regulations. That ultimately is the responsibility of the Federal Government that has that authority under the law.

Senator MURKOWSKI. Let me ask about threshold requirements that may be in place within MMS to certify that those that are operating offshore with these lease parcels, whether they have the financial assets, the equipment that's necessary to meet their obligations as a leaseholder. As we're watching this continue to unfold down in the Gulf, the price tag, of course, the liability, of course,

mounts on a daily basis. What is the threshold to certify that these operators have the necessary assets?

Secretary SALAZAR. There are a number of aspects to the responsibility of the operator. But, it's a whole responsibility as the lessee of resources that belong to the United States of America. As I said, in this particular case, BP is the lessee; BP is the responsible party. Under the national legal framework, which has been adopted through many Congresses and through both Democratic and Republican administrations, it is that party that has the responsibility to deal with the consequences of this particular incident. That includes everything from shutting down the well, to spill response, to whatever damages might arise from this particular incident.

In terms of at least this incident, Senator Murkowski, when you think about what is happening today in the Gulf Coast, I think there's an enormous effort that is taking place. I cannot think of anything more that could be done today to try to deal with this issue. When you think about the armada of boats or the number of people who have been assembled or the preparations that have happened on shore, it is massive. It is perhaps the world's largest response ever to any oil spill.

So the requirements that were there from the Department of the Interior and MMS, with respect to the oil response plan and the capability, are certainly being seen actuated on a day-to-day basis in the Gulf.

Senator MURKOWSKI. Given the fact that this deepwater spill is at 5,000 feet, and all the focus that we have on operating in the truly deep water, do you envision a new, perhaps a more enhanced, set of spill containment and response that is directed specifically to the deep water as a consequence of this tragedy?

Secretary SALAZAR. Yes. Yes. The answer to that is yes, Senator Murkowski. I would envision that the 30-day report that we will deliver to the President will have a number of recommendations that deal with safety enhancements.

You know, I have been in the Gulf Coast many times since April 20, and in Houston, I think, on 3 occasions now, to the BP command center. But, one of the things I have already learned, simply by spending some time at places like Cameron, who manufactured this particular blowout prevention mechanism, and at another company by the name of Varco, is that there are significant enhancements that could be made to blowout prevention mechanisms.

So, there will be a number of recommendations that will come forth in our report to the President of the United States.

In addition to that, I would expect that the investigations that are underway that will determine the root causes of this particular incident will also inform us, relative to additional precautions that need to be taken.

The CHAIRMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Secretary, it is long past time to drain this safety and environmental swamp at the Minerals Management agency, which, of course, is the lead Federal agency over oil drilling. Now, my view is, is that this agency has been in denial about safety problems for years. As recently as last week, a 30-year veteran of the agency,

who just left in January, told this committee that the agency has been a safe—a effective and independent regulator of the oil and gas industry, and he questioned the agency's critics for shining a hot light on the agency.

So, let me start, in terms of safety, with blowout preventers. They're, of course, used because we have these blowouts frequently, and they're the last line of defense. But, despite this certainty, Minerals Management does not require blowout preventers that will ensure that the well can be shut down under accident conditions, such as having acoustic backup activation systems. In fact, again last week, Mr. Dannenberg, who is this veteran of the agency, said it was OK to rely on remotely operated vehicles as a backup, when, in fact, a study was done for the agency, saying that this approach was completely unreliable.

So, my first question is, Do you believe that Minerals Management has adequately regulated blowout preventers?

Secretary SALAZAR. No. The answer is no. I don't. I think that there is additional work that should have been done with respect to blowout prevention mechanisms. Obviously, there are multiple redundancies that are built in. This incident should never have happened, because of the fail-safe kinds of procedures and redundancies that are in place. But, it did happen.

When, Senator Wyden, you take a look at this blowout prevention mechanism itself, you will find that this mechanism has 3 pipe rams. It has a sheer ram, it has a blind ram, it has two annular rams. It has a number of different redundancies that were built in to keep this kind of incident from happening again. But, it should never even have gotten there, because the blowout itself should never have happened in the first place.

So, I think that the question that you raise is, Are there additional things that can be done to enhance the safety, not only of blowout prevention mechanisms, but cementing, perhaps practices on the drill rigs themselves? The answer to that is, absolutely yes. That will be part of what will be included in the report to the President.

Senator WYDEN. Now, what's happening in the Gulf is obviously an environmental disaster of huge proportions, yet Minerals Management didn't require an assessment of environmental consequences of an accident when it approved BP's drilling permit, or its lease. It didn't require BP to have an emergency plan for an oil spill if it lost control of the well. Minerals Management basically just accepted the assurances of industry here; that's what took place. Minerals Management accepted the assurances of industry that the chance of these kinds of accidents was too remote to worry about. Was Minerals Management right on that?

Secretary SALAZAR. Senator Wyden, with all due respect, there are huge efforts that the Minerals Management Service took with respect to the environmental reviews concerning this particular lease sale, this area. I will have David Hayes walk through what some of those are, just so you will see what the environmental reviews have been.

In addition to that, the conclusion that this is an unregulated industry is not correct. It is a very highly regulated industry. When you look at our regulatory mechanism here in the United States

and compare that to the rest of the world, we have one of the most regulated industries in the world. Now, that doesn't mean there isn't room for improvement, whether it's with the blowout preventers or other parts of the OCS development. But, the fact is that there are significant regulations in place.

Senator WYDEN. Mr. Secretary, the regulations—but they aren't adequate. My sense is that they aren't being enforced. Certainly—I appreciated your candor with respect to the blowout, you know, preventers, because clearly there were not adequate regulations of blowout preventers. But, for MMS to essentially take the industry's position that these accidents, that the prospect of these accidents, was just too remote—and people were writing articles that minimized the prospects of these accidents, as well.

My view is, is that they shouldn't have made those judgments. This is now going to be an opportunity for you to drain the environmental and safety swamp. I commend you for what you've done on the financial side. We have worked closely on that, because those practices were outrageous. But, we got to play catchup ball in a hurry, with respect to the environmental and safety area, because the regulations that are there have not been adequate. Minerals Management hasn't done its job.

Thank you, Mr. Chairman.

Secretary SALAZAR. If I may just respond to that. I do want David to respond to the notion that there were not environmental reviews here. There is a very robust regulatory mechanism in place. We have asked the Congress for additional inspectors, even in the budget that we submitted some time ago. There will be tremendous lessons to be learned here with respect to the mechanics of the drilling of the well, the cementing of the well, the blowout prevention mechanisms of the well, the multiple redundancies that are built in to those wells, and a whole host of other things. Those are required by law.

I won't get into the law itself in great detail, but I want to just say that when this investigation is completed, through the Presidential commission that will be looking at these issues, I think there will be a lot that will come out that will be of great interest along the lines that you're talking about.

David, would you just talk a minute about the environmental review?

Mr. HAYES. Sure, very, very briefly. There are really two aspects to the environmental review. There's the National Environmental Policy Act side, the NEPA side, and then there's the spill-response-plan side that comes from the Oil Pollution Act of 1990.

On the NEPA side, there's been a lot of discussion about the fact that there's a categorical exclusion at the end of the process, here, for the exploration plan. That's part of the problem—the governing statute only allows 30 days for approval of that. The President has requested congressional change of that.

Prior to that point, however, there were two environmental impact statements prepared that governed this particular lease.

But, that's not to say that Senator Wyden doesn't have a point. We will be doing a review of NEPA, with the Council on Environmental Quality, to see if those reviews are adequate, or not.

I will say, however, that with regard to the question of evaluating the impact of a spill, the spill response plan that comes out of the Oil Pollution Act of 1990 required BP to show that it had the capability to handle a spill of 250,000 barrels a day for 30 days. Frankly, it's because that spill response plan was so robust and was in place that we've been able to mobilize, in the Gulf, the effort that has been mobilized.

Senator WYDEN. Do you think the procedures are adequate, Mr. Hayes? That's really the question.

Mr. HAYES. The administration has suggested a change in the Outer Continental Shelf Lands Act with regard to the 30-day—

Senator WYDEN. Thank you, Mr. Chairman.

Mr. HAYES [continuing]. Review.

The CHAIRMAN. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Welcome, Secretary Salazar and all others.

Without a doubt, this spill a terrible tragedy. Not only is there the potential for vast ecological damage, but the livelihoods of the people that depend on the water of the Gulf of Mexico have been seriously jeopardized.

This is to say nothing of the human—the loss of human life that has already occurred. The family and friends of the 11 workers who were lost in the accident deserve our thoughts and prayers. As the investigation of what happened here gives us answers, we must hold those responsible accountable. Whoever made this mess has to clean it up. It is our responsibility, as lawmakers, to make sure that this happens.

However, with this in mind, we must keep in mind—this accident in perspective. Since 1969 Santa Barbara oilspill disaster, there have been tens of thousands of wells drilled in the Outer Continental Shelf. This is the first such accident in our waters in over 40 years. We need to keep that in mind when we deal with this crisis. It may not be ideal, but the United States depends on oil, and the OCS drilling is a domestic source of it. Simply put, at this time, the prosperity that Americans can expect cannot exist without it. We need to keep our heads cool and all of this in perspective as we move through this disaster.

With this in mind, I would like to ask this: How do you think the Federal Government can best move through this crisis while ensuring that this domestic energy supply continues to provide the energy that America needs?

Mr. Secretary.

Secretary SALAZAR. Senator Bunning, I think the response is twofold. First, we need to deal with the immediate crisis. We have a crisis on our hands—

Senator BUNNING. Yes, we know that.

Secretary SALAZAR [continuing]. We have not rested for a long time, and we are throwing everything at it to make sure that we protect the people and the Gulf Coast. So, we're doing that.

No. 2, I think that the President's directive to me from day one has been, we should make sure that we are transparent and that every lesson learned from this accident is learned. We'll learn that together. It will require reform, including reform of the legal framework that this committee deals with.

Senator BUNNING. I thought Senator Wyden kind of hit the nail on the head when he said, "Have we adequate controls over those who are drilling, presently, or are we waiving the law to allow a more expedited procedure?" I would like an answer. Maybe Secretary Hayes could give us an answer.

Secretary SALAZAR. I will answer that. Do the laws need to be changed? The answer is, yes. The administration has already sent up a proposal to eliminate the 30-day mandatory requirement under which exploration plans are approved. That's a change which needs to happen. I think that that is only the tip of the iceberg of what we have to deal with, relative to making changes to achieve the goal, Senator Bunning, which I know you care about.

Senator BUNNING. Did we get lax because we had no accidents over 40 years? Or what happened?

Secretary SALAZAR. Senator Bunning, in the Gulf alone, there have been over 36,000 wells that have been drilled—

Senator BUNNING. Yes.

Secretary SALAZAR [continuing]. Including many in the deep water. There had never been an incident like this. So, did the country, as a whole—the U.S. Congress, the Department of the Interior, the oil and gas industry, and everybody else who's affected by this decision—become lax? I would say yes. The answer is yes. That's why it's important that there be a collective and shared responsibility, relative to how we respond to the problem at hand.

Senator BUNNING. OK. Last question, because my time's almost up. Has—you are aware the sale of offshore drilling leases must comply with the National Environmental Policy Act and require detailed environmental impact studies. However, this law has proven to be extremely cumbersome. It can take years to get a permit, and this can be further complicated by litigation. In an effort to move things along at a reasonable rate, the Federal Government has provided waivers from the law, and BP was granted such a waiver for this project.

It would seem to me that this process is broken. Current law makes it too difficult to get new permits, so in some cases the law is waived, as it was for this project, resulting in this spill. It seems our policy is stuck between a law that is so bureaucratic that it paralyzes action and a practice of not using the law, which at this accident might show can possibly lead to tragedy. How can we find a way to solve this problem?

Secretary SALAZAR. Senator, there will be an extensive review, including the review that we are undertaking with the Council on Environmental Quality to determine what changes need to be made. I will say this, that with respect to the environmental analysis, Deputy Secretary David Hayes went through the different environmental impact statements that were related to this particular well and this particular lease sale. You know, the 30-day requirement on approval of an exploratory plan, I think, is an impediment, frankly, to being able to do the kind of assessment that needs to be done.

Senator BUNNING. Thank you.

The CHAIRMAN. Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you very much.

Mr. Secretary, thank you for being with us.

I don't know what to make of all this. It seems to me that there's a lax culture in some circumstances, and perhaps with some companies. I was just reading, this morning, that one of the companies involved in this moved its headquarters from Delaware to the Cayman Islands and now to Zug, Switzerland. It has a dozen employees located there and 1300 located in Houston, Texas. My assumption is, they, like other major corporations, have decided to avoid their tax obligations in the United States. You know, companies like this want everything America has to offer, but they don't want the responsibility to pay taxes.

I just observed that because I think there's a culture sometimes in companies that do the same things, here. From what I've read, we're talking about dead batteries, leaking hydraulic hoses, and perhaps, the blowout preventer not working. That just seems to me like sloppy management. Then the question about, "What are the requirements for inspection and equipment testing? Are those requirements adequate?" gets back to what Senator Bunning and Senator Wyden were referring to. Regulation is very important. Regulation is critical in these circumstances. Frankly, I think it's kind of jaw-dropping that those who are drilling offshore, particularly deep wells—but, those who are drilling offshore had no plans, apparently, for the worst-case scenario. The same, perhaps, can be said of the MMS. I just find—I think almost all of us would have thought, if someone had asked the question, "We're drilling offshore, in sensitive areas and so on," So "Is there a worst-case scenario plan—that is, to address the worst?" The answer, apparently, has been no.

Is that how you see it? I mean, let me ask another way. If the 1st of April—month and half ago—I had asked you, Secretary Salazar, Do you think this can happen? My guess is, you would have said, "No, I don't think it would happen, because sufficient safeguards are in place." So, are we worried that there's another rig out there today that might have exactly the same situation without an adequate worst-case scenario response plan ?

One final point. 60 Minutes did a piece, as is so often the case, that I thought was really interesting, interviewing Mike Williams, who was the chief electronics technician in charge of the computers and the electrical systems on that rig. I would encourage anybody to take a look at the transcript of what 60 Minutes learned from someone who was there. It is a scary thing to read.

Mr. Secretary, your response?

Secretary SALAZAR. I'll try to answer as many of the questions as I can. First, with respect to other rigs that are out there, and concerns about having another incident like this happen, we—those rigs are inspected, under the regulations, every 30 days. In addition, I ordered an immediate inspection of all those rigs right after April 20. We are conducting additional inspections, not only of those, but also of the production platforms out in the Gulf.

Secondly, in terms of worst-case scenario, the worst-case scenario under this oilspill response plan, as Deputy Secretary David Hayes said earlier, assumed a spill response capability of up to 250,000 barrels per day. The numbers, even though they have been dealt with at different levels, should not approximate that number.

Third, on inspections and their adequacy, you know, we have asked for additional inspectors, even before this incident happened. We will continue to ask for additional inspectors. We, in the President's proposal just a few days ago to the Congress, asked for additional money to be able to beef up the inspection function of the Department.

In terms of the conclusions at the outset, relative to bad batteries and a whole bunch of other things, I know enough to know that there were a lot of problems here. None of those problems should be glossed over. The President and I have been clear from day one, as you would want us to be, Senator Dorgan, that we will get to the bottom of the story. So, we will find out exactly what happened here. Those investigations are underway. It involves eyewitness testimony that is being presented. It involves understanding what happened with this particular well. There will be a story that will unfold that will tell us the truth. We are not afraid of the truth, and we will get to the bottom of it.

Senator DORGAN. Just quickly, do you believe there are more and difficult circumstances dealing with the safety and environmental stewardship with deep-well drilling, as opposed to the shallow-water drilling?

Secretary SALAZAR. The answer is yes. That's because of the difficulty of operating in the very deep waters. My day, for all you, my colleagues, here is a little longer than it used to be when I was a U.S. Senator, especially the last 30 days. But, you know, I start out very early in the morning, and have watched everything that is going on in the subsea with respect to responding to this particular incident. The ROVs, the robots, that are essentially trying to operate down at a mile below the surface of the sea, are operating in what is a very difficult environment. I would expect that the Presidential commission will take a very serious and hard look at the capacity to deal with issues when they occur at these very deepwater zones.

Senator DORGAN. Mr. Secretary, I know you'll come in for some criticism here and there, but I think that you've been very hands-on. You and some others in the administration have been pushing very, very hard to address these issues. I thank you for it.

Secretary SALAZAR. Thank you, Senator.

The CHAIRMAN. Senator Sessions.

Senator SESSIONS. Thank you, Mr. Chairman.

We've got a very serious problem. Mr. Secretary, I admire and respect you greatly, and I appreciate your attention to it.

My observation would be that the Federal Government was a bit slow in moving into this area. We didn't activate, sufficiently, the network of emergency communications that we do, like for a hurricane. The burdens fell on the Coast Guard. It was focused so much on trying to stop the spill and the leak. So, we had some problems.

But, our fundamental situation is what to do now. No. 1, I believe in offshore production of oil and gas. I believe that we must take every effort to make sure it's done safely. The companies who've made large profits from production of oil and gas have high responsibilities. I expect them, and I believe you agree, that they should pay for the damage that they've done.

I guess I'll ask you if that's their responsibility, as the responsible party, and will you join with the Congress in insisting that they pay every responsible damage that this spill has caused?

Secretary SALAZAR. Absolutely, Senator. We have done that administratively, through the executive branch, including Secretary Napolitano and myself, in meetings with Tony Hayward and the other executives of BP. We have communicated in writing and have their communication back, in terms of their assurances, and in terms of making sure that the legal framework is in place for the future, relative to any adjustments that have to be made.

Senator SESSIONS. Even Federal expenditures that your agency may spend will—some of that will be billed back to the company?

Secretary SALAZAR. All spill response costs, sir.

Senator SESSIONS. Now, let me ask you one more thing. While this is an environmental disaster, it's got to be addressed with the most effective way—in the most effective way. I am hearing, from my mayors—Gulf Shores, Orange Beach, Dolphin Island—that there's no oil on the beaches. They are losing a lot of reservations. People are canceling, afraid to come to the beach. So, at least at this point, the waters are as safe as ever and the restaurants are serving food. Hopefully, if people—hopefully, we won't have the kind of influx of oil anytime soon that would actually shut down those beaches.

With regard to this blowout, Secretary Salazar, can you tell us, was it a regulatory failure? Was it a technical decision that—erroneously made, somehow, in this process? Was it human error? Or was it something unexpected and not—and was unpredictable that resulted in this spill? Just fundamentally, what was the—what would you tell us about how it happened?

Secretary SALAZAR. Senator Sessions, I have spent a good deal of time trying to understand what could have happened here. I think many things obviously went wrong. It would be premature for me, today, to put the finger on exactly what went wrong and who was responsible, until the investigations are complete. You know this from your own time as a prosecutor. The facts are being discovered. When the facts are discovered, we will know the truth about exactly what happened and who was responsible, whether it was human error, whether it was problems relating to the cementing of the well in a number of different places, whether it was a problem relating to the blowout prevention mechanism, or whether there were problems relating to the actuation of that BOP, or whether it was problems relating to activities on the drill rig, or problems related to regulatory failures. That's the purpose of the Presidential commission, is to get to the bottom so that the American people know the truth about—

Senator SESSIONS. I appreciate that. I guess, from my perspective, just a fundamental perspective, we need to know that, sooner rather than later. I'm a little disappointed in—some of our previous hearings, that we hear from—on 60 Minutes what we couldn't hear from industry witnesses in this room. The point is that you've stopped new permits. I accept that and support that. But, fundamentally, we need to find out if this was something that could easily have been prevented, what kind of mistake was made? Because we don't want to place our area at risk. If it's something to-

tally unexpected and we need to do more research and to figure out how to prevent it in the future, then this is something we need to know also. So, could you tell me when you expect the commission to give us some—at least—the kind of fundamental questions about how this happened that could help us make plans for how we're going to proceed in the future?

Secretary SALAZAR. Senator Sessions, you raise very good questions, because 30 percent of our oil comes from just the Gulf of Mexico, alone. So how we deal with this issue is important. It's both a near-term issue and a longer-term issue.

I think in the near term, the report that we will present to the President will have recommendations on enhanced safety measures. I already know, just having been to blowout prevention manufacturers, that there are things that ought to be done to enhance some of those provisions. So, there will be a robust set of recommendations that the President has directed us to develop.

then, in addition to that, you know, the outcome of the investigations is several months away. That's because the evidence has to be gathered. It has to be analyzed. It has to have the eye of independence on it. Then judgments have to be reached. The judgments that will be reached will be very significant, I can tell you. No stone will be left unturned as we get to the bottom of what happened and hold those accountable for this environmental disaster.

Senator SESSIONS. Thank you. As a former attorney general, I know you'll get to the bottom of it.

Thank you.

Senator DORGAN. Senator Landrieu.

Senator LANDRIEU. Thank you.

Mr. Secretary, I'm pleased to have you before our committee. This is an extremely important line of questioning.

I want to start the way I've started every time you've appeared before this committee, to tell you how proud I am of you, how pleased I am the President appointed you to this position, because your character and integrity are unquestioned and our country needs a leader like this to help us figure out what—when—what happened, why it happened, and the way forward.

I also want to compliment you and the President for not running and hiding, for not retreating, and for restating the importance of this country continuing to press forward to identify the resources necessary for our economy to function and our Nation to be energy-secure. If there was ever an opportunity to run out the back door on offshore oil and gas drilling or expanded drilling, this was it. You have not.

You have taken the measured and right approach, in my opinion, to stop all permitting until a significant investigation can take place, and then find a way to move forward. I want to compliment you on that, and your team.

I also want to say, for the record, having witnessed the response in the Gulf, that it has been thorough, it has been comprehensive, not only from Minerals Management, but the Coast Guard. Unlike past disasters that have occurred when, not only mid-management wasn't sent, trainees were sent down, this President has sent his Cabinet, time and time again, for the last 3 and a half weeks. His

Under Secretaries in his Cabinet have been on the ground. The people of the Gulf Coast appreciate that.

One of my questions is—and I would ask the members of this committee, before they're so quick to criticize others, to think if the members of this committee have, themselves, been out on an off-shore oil and gas rig, either in the shallow water or the deep. I know this Senator has tried to take dozens, and have succeeded in taking dozens, of new appointees and Assistant Secretaries and Secretaries, myself, to see this industry, because of its importance to the Nation and its importance to be regulated correctly.

So, I want to just mention that and ask the members of the committee, if you haven't, yourself, to please take the opportunity to visit one of these massive platforms in the Gulf. There've been 50—42,000 wells drilled and over 2,000 deepwater wells drilled in the last 31 years.

My question, Mr. Secretary, is this. The people of Louisiana that support this industry, support this initiative off of our coast, we most certainly want it to be safe and more secure. We are horrified by this accident. We're also managing a delta, as you know, that loses, every 38 minutes, a coastal marsh the size of a football field. Decades of mismanagement, not only by inadequate regulation of this industry, but also lack of investment in the delta itself, has caused this to be one of the most pronounced ecological and human—humanitarian disasters. Oil being spilled on a marsh that is already fragile and weakened—you've flown over it many times yourself—the weakened marsh allows oil to penetrate more deeply, killing vegetation, destroying habitat. Once the marshy vegetation dies, the natural eroding forces of the ocean quickly churn soil into open water, eroding our natural levee system.

You helped me to pass the Domenici-Landrieu Gulf of Mexico Act, Mr. Secretary, that helped to try to begin to redirect some of the billions of dollars that are generated by taxes out in the Gulf to help Louisiana coast and the Gulf Coast.

I am going to request acceleration of revenue-sharing today. I would ask you for your comments about the needs for the Gulf Coast States to have the resources necessary to join in the protection of our marshes when and if situations like this occur. Will you give positive comments? Will you be able support that initiative?

Secretary SALAZAR. Senator Landrieu, I think that, at the end of the day, one of the things that will come out of this will be that there is the need to have an intense focus on what is happening in the Gulf. It is, in fact, if you will, the "Oil Bowl" of the United States of America, and the impacts on its coasts have been significant. You and I have flown over the coastal areas on many different occasions, and we see the erosion and the need for doing re-channeling on the Mississippi River to undo what happened in the past through the Corps of Engineers and the rebuilding of the marshes, et cetera.

That doesn't happen by itself. You know, I'm proud of the work which the President and his team have done, in terms of the Gulf Coast restoration, in terms of what has now become the template for ecosystem restoration on the Everglades. There is no doubt in my mind that one of those crown jewels of environment and restoration is, in fact, the Gulf Coast. So, we need to find a way of

moving forward. It is incredibly important to the entire Gulf Coast region.

Within the Department of the Interior, it is important to note that, yes, we have responsibility with respect to MMS and the issues that we are dealing with now, but, in addition to that, Senator Landrieu, in the Gulf alone, we have 40 national wildlife refuges and national parks, all of which contribute significantly to the wildlife mission of America, as well as to the national parks and recreation mission.

So, we look forward to joining with you and to working closely with the other Members of the Congress in finding a way forward with respect to Gulf Coast restoration.

Senator LANDRIEU. Thank you.

The final thing I'll say, because I've got to go to vote, but—I hope that this incident—I'm confident it will give us a new look at the issue. These are Federal resources. There's no doubt. This oil was 50 miles off the shore of Louisiana. Our State boundaries end at 6 miles. But, 100 percent of the risk is, right now, being absorbed by the States of Mississippi, Texas, Louisiana, Florida, and, if this oil travels up the Atlantic, also other coastal States. So, I hope this gives us not only a new vision to regulate more carefully, but also to share the risk and rewards of what we're doing more fairly with the States.

I thank you, Mr. Secretary. I have further questions, but I'll return after the vote.

The CHAIRMAN. Senator Barrasso.

Senator BARRASSO. Thank you very much, Mr. Chairman.

Secretary Salazar, I wanted to talk a little bit about the national response to this. The initial explosion occurred April 20. It's now May 18. The administration waited 9 days after the explosion to declare this a spill of national significance. The New York Times editorial board, not normally a critic of the administration, said the timetable is damning.

The American people have been watching this disaster unfold for nearly a month. Meanwhile, oil has been leaking into the Gulf at an estimated 5,000 barrels per day. Some scientists now put it at up to 25,000 barrels a day. Lives have been lost. People's jobs—economic livelihood are in jeopardy.

There's been a number of different ideas on how to stop the leak: the containment dome, the top hat, the junk shot, and now this undersea straw. It doesn't seem that anybody checked, beforehand, whether any of these things would actually work.

So, the American people aren't just furious at British Petroleum, the American people are also furious that the government has allowed this to happen, with no real plan in place.

The press reports reveal a litany of failures at the Department leading up to the explosion. An Associated Press investigation has shown that the rig that exploded was allowed to operate without safety documentation required by government regulations.

There was a story in the Casper Star Tribune yesterday—front page—"Feds didn't make inspections on rig, as claimed." Said, "Regulation is so lax that some key safety aspects of—on rigs are decided almost entirely by the companies doing the work." It went on to say that, "The Associated Press sought to find out how many

times government safety inspectors visited the Deepwater Horizon, and what they found in response: MSS [MMS] officials offered a changing series of numbers.”

So, if the Department can't keep track of inspections, how can they possibly believe that the Department is properly overseeing more 3500 active platforms in the Gulf? There are different reports, and this will all come out as time goes on, but, it seems that, as Senator Wyden said, policies and regulations serve no purpose if the administration doesn't enforce them.

Now, you now are proposing dividing Minerals Management Service into two different parts. The job may be too big for one person. Yet, you have a chief of staff. It's no easy job overseeing 6700 employees, but he's also serving as Assistant Secretary for Fish, Wildlife, and Parks, which is also a full-time job. When—I voted for his confirmation, but this Energy Committee questioned his ability, or anyone, to fulfill both jobs, during the confirmation process. It seems that those are both very big, full-time jobs.

So, I have 3 obvious questions: Was this oilspill response plan grossly inadequate? What needs to be changed to ensure that we respond more quickly in the future? Would the country be better served, and the Department more able to prevent disasters like this and provide better oversight, if you had—really separate those 2 jobs, the chief of staff from that of being the Assistant Secretary for Fish, Wildlife, and Parks?

Secretary SALAZAR. Thank you very much, Senator Barrasso. Let me just, at the outset, say unequivocally that the President and my colleagues on this Cabinet have been relentless from day one. Deputy Secretary David Hayes was sent, the day after the explosion, to New Orleans, Louisiana, without a change of underwear and without a toothbrush, because of the urgency that we brought to this matter. That urgency has continued from that day. It has included members of the Cabinet, including Secretary Napolitano, who is on this matter in the day, in the middle of the day, in the night, and is relentless, along with Admiral Allen and his leadership at the National Incident Commander, Secretary of Energy Steven Chu, whose scientific world is being brought to bear on the problem.

As you can see, with the massive deployment that is underway in the Gulf Coast, with an armada of ships and personnel and preparedness, there is not anything that is being spared to provide what is going to be, and has been, the most effective response possible in human history on this kind of an incident. So, the characterization of slowness is absolutely wrong and misplaced.

Secondly, with respect to reform efforts and inspection efforts, we have pushed hard, Senator Barrasso, not only in the Outer Continental Shelf and MMS, but, as you are very well aware, based on our communications and correspondence, very hard, as well, in terms of what we do on the onshore, the elimination of categorical exclusions and a whole host of other things that need to be done right. We need to have the right regulatory regime in place. We will work on making sure that that happens.

Part of the President's proposal that was sent up initially was to undo the 30-day statutory requirement, which requires an approval

within 30 days by the Minerals Management Service. So, those are the kinds of things that we need to take a look at.

I would say, as a footnote to that, Senator—you are my good friend and you are my former colleague—I would hope that one of the things that can happen with this kind of a national tragedy and national incident is that people can come together, as opposed to doing a blame game, and figuring out, first, how we fix this problem and, second, how we make sure that it never happens again. I very much look forward to working with you on that.

In terms of your last question concerning my chief of staff and the Assistant Secretary of Fish, Wildlife, and Parks, Tom Strickland, I will only tell you that he's an extraordinary human being, with the capability of probably producing the work of 4 ordinary human beings. His days and weeks are like mine—80- and 90-hour weeks and beyond. Along with the team that I have at this table, we have a bunch of workaholics who are doing a very good job at their assignments.

Senator BARRASSO. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Let me ask another question or 2, until other Senators who have not had a chance to ask questions return from this vote.

Mr. Secretary, one of the issues I alluded to in the opening statement that I made is this issue about MMS's ability to review modifications in the plan. Now, the way I understand this operates, a company that has a permit to drill—it submits a plan for what they're planning to do, and that is signed off on by MMS, and it has to meet whatever requirements imposed. Then, in the course of the drilling, sometimes changes are made in the plan—or the plan is not followed, as written.

I guess—you know, there are a lot of technical issues that have possibly contributed to this accident. Some of those you mentioned—cementing, the amount of cement that's used, the type that's used, the number of centralizers that are used to set the well, the absence of an inflatable packer to prevent annular gas leaks, displacement of drilling mud with seawater too early in the plugging, an abandonment process—a whole range of these things, some of which seem to me to be changes in the plan. To what extent is MMS involved in reviewing those modifications of the plan under the current regulatory system? Or does the current regulatory system need to change so that the MMS is involved before changes are made in the plan, if they're not currently involved?

Secretary SALAZAR. Chairman Bingaman, I'm going to have Liz Birnbaum, the Director of MMS, supplement this comment, but some of those changes that you talk about that occur, occur at different places. The exploratory plan, once submitted, essentially has its 30-day congressionally mandated requirement for action. But, once beyond the exploratory plan, there is a permit that is granted to drill, the so-called "APD." There are changes that occur once the drilling company starts to drill the well. They may come to a place in the formation where they have to make a change or they have to make some other kind of modifications. So, those kinds of modifications regularly occur.

In this particular well, for example, you're going down about a mile below the sea surface. Once you get to the sea floor, you go down an additional 3 and a half miles to tap the reservoir that was tapped here. So, there are changes that occur as you're going down.

I will have Liz comment a little bit more about exactly the process and how it works, relative to approval.

Liz.

Ms. BIRNBAUM. Thank you, Mr. Secretary.

As the Secretary said, we are involved in both the initial approval of a drilling plan and in reviewing revisions. Those have to be revisions that are relevant to our regulations. So, there are some things they might change that were plans that they had that weren't submitted to us as something we needed to approve with respect to our regulations. I think, of the list of changes you mentioned, we did approve some of them, and some of them were not actually approvable under our regulations.

We are doing a thorough review, as the Secretary said, of our regulatory scheme, and trying to figure out where there are gaps and where we might need to impose additional regulatory requirements. But, there were numerous approvals at various stages of this well, and approvals of changes.

The CHAIRMAN. I guess, obviously, the kinds of changes that I'm concerned about are when the company—when someone might make the judgment, "Look, we're behind schedule. We've got to get this done. We've got another well to drill. It's costing us a lot of money to continue with this, and therefore, we're going to replace the mud with saltwater before we should, or we're going to do—whatever else." Those are the kind of changes I'm worried about. Is it your view that MMS is consulted if those kinds of changes are made, or that they are not?

Secretary SALAZAR. Let me have Liz respond to that, Mr. Chairman, if I may. But, let me make an overarching comment, here, which I've said several times in this hearing. The facts here are still being investigated and developed, and what I can assure you, Mr. Chairman, is that those responsible will be held accountable at whatever level of the law is necessitated by the facts as they unfold in this particular incident and circumstance. We will know a lot more about that, obviously, as the investigations move forward and we pinpoint the different places that caused this particular incident to occur.

I will have Liz comment on the other part of the question.

Ms. BIRNBAUM. I'm not sure I can add a lot more than what the Secretary said. I will say that MMS does not make decisions about approving changes based on whether or not the company is in a hurry. Our engineers review any changes proposed, based on whether or not they meet regulatory and safety standards.

We do need to review all those standards, and we do anticipate there will be some changes as a result of this review. If I do find out that anybody approved a change based on the fact the company was in a hurry, that will be a major problem.

Thank you.

The CHAIRMAN. Senator Bennett has not had a chance to ask questions.

Go right ahead.

Senator BENNETT. Thank you very much.

Mr. Secretary, we welcome you here. Given the circumstances under which you come here, you might be wishing you were on this side of the dais again, but you asked for work when you got down there, and you certainly have it. I join with Senator Landrieu in welcoming you and praising you for your determination to take this job that has turned out to be perhaps more interesting and challenging than you might have thought.

I respect what you're saying about the facts not being fully available yet. I think we need to be careful not to jump to too quick a judgment in some situations, and applaud your effort to get those facts investigated and together.

Most of the questions that can and should be asked, with respect to the facts before us, have been. So, I'd like to just look out a little. I'm sure my line of questioning will not come as a complete surprise to you.

You made the reference to Three Mile Island in your opening statement, and how this country, in my view, made a very serious mistake, following Three Mile Island, to pull back on nuclear power. I hope we don't make a mistake with respect to developing our resources, here, because we need the oil. We need it domestically. The more dependent we become on imported oil, the more difficult many of our challenges are. So, let's talk about not only drilling—how quickly we can resume drilling offshore, but let's talk about what we can do to increase the amount of drilling onshore to replace the oil and energy facilities that will be lost while we're engaged in this investigation and while we've got a moratorium on any further, going forward, until we get all the answers to which you've referred.

You and I have had this conversation before about the regulations that, in my view, slow down looking for oil and gas opportunities here in the United States, particularly on public land. You've said to me that one of the reasons that royalties are down so dramatically in the State of Utah, and public-land States, is that the industry as a whole is—the price has gone down, and so, that's why people aren't drilling.

Since that—we've had that conversation, I've been to Texas, and I find that, on private lands, they're—they are drilling for energy resources. One of the obvious differences is, if people choose to drill on private land rather than public land, there is no royalty paid either to my State or to the Federal Government. Now, there's money that's paid in taxes, in terms of the profits that these companies made.

But, can I use this as a time to nudge you to try to speed up the process by which we can expand our search for oil and gas on public lands, onshore, that don't have the kinds of problems that you have in this particular challenge?

Secretary SALAZAR. Thank you very much, Senator Bennett. Thank you for your friendship and your hard work here in the U.S. Senate.

Let me respond in 3 ways to your questions and your comments.

No. 1, the status that we are in today is that we have hit the pause button. The President has been very clear with me, "Hit the pause button." We have hit the pause button with respect to OCS

development. That means we will make decisions in the days and weeks ahead about how, exactly, we will be moving forward on a panoply of issues relating to the OCS.

Senator BENNETT. I agree completely with that decision, that the pause button makes sense.

Secretary SALAZAR. OK. No. 2, with respect to oil and gas, we have been clear, from the beginning of the administration, that we see oil and gas as being part of the energy portfolio of the United States. It's necessary for us for energy security reasons, for economic security reasons, and without it, we essentially would have an economy that would shut down. So, we will have oil and gas as part of our energy future, I have no doubt.

No. 3, with respect to speeding up onshore development, Senator Bennett, you might remember, it was not all that long ago where I did the cancellation of the 77 lease sales in Utah, in large part—

Senator BENNETT. Yes, I remember that.

Secretary SALAZAR [continuing]. In large part because what I wanted to do was to make sure that it was being done right and responsibly with the right environmental review.

Deputy Secretary David Hayes will never forget his meeting in Vernal, Utah, where he came before a crowd of some 800 very angry people who were very concerned about the changes we were making. However, that has been resolved, and we're still working on a number of issues relating to that particular incident. I think it typifies what we have been doing as an administration, from the very beginning, and that is finding a way of doing business that brings balance to what we are doing with respect to oil and gas development. We believe that we need to develop oil and gas, but we also believe, strongly, that we need to develop it in a responsible way that respects both the environment and respects the ecological values that we are protecting.

That is equally true with respect to the robust effort, which has been a new change for the Department of the Interior, on embracing the new energy future, which includes solar and wind and geothermal.

I was in your State, in the last month, where the students at Milford, Utah, spoke about you in very positive terms, about what had happened in Milford, Utah. We are now moving forward there with 2 of the most extensive renewable energy projects in the country. This committee, at some point in time, Senator Bingaman, may want to actually go to Milford, Utah, to see what is happening there with respect to, first, a wind project, which will ultimately grow to about 1,000 megawatts of power; second, with respect to a geothermal plant, which is generating about 50 megawatts of power; and, third, with respect to a solar energy facility, which they are planning to propose there; and, fourth, what will be the newest expansions to transmission to get renewable energy from Milford, Utah, to places where it will be consumed.

So, there's a lot of work that we have done, a lot of work yet remaining to be done.

Senator BENNETT. I appreciate that. I'm sure you didn't expect to come here without my raising the issue of, What can we do about getting the oil and gas leases moving a little more rapidly?

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Udall.

Senator UDALL. Thank you, Mr. Chairman.

Good afternoon, to all of you.

Mr. Secretary, thank you for being here. I know you well. I know how serious you are about this situation. I know you're not afraid of the hard questions. You headed the Colorado Department of Natural Resources. You were the Governor's chief counsel—Governor Romer. You were the attorney general of Colorado. You've answered questions today in a forthright fashion. I thank you for that.

I was reminded, too, Senator Murkowski, of Secretary Hickel's tenure. It was many years ago; I was a lot younger back then. But, I remember he famously said, "The right to produce is not the right to pollute." Secretary, you put your finger on it when you said, "This is a collective responsibility." But, certainly those involved have an additional responsibility to clean up, and to provide the resources to make the people of the Gulf Coast whole.

So, again, thank you for being here.

I have a series of questions, as we all do. But, let me just start with the confusion about how much oil is leaking out of the well, Mr. Secretary. Seems like the BP estimates are based on satellite images of the surface. Why aren't we getting better estimates of the total amount of oil that's leaking out of the well? Can you elaborate and edify for us what you think is happening?

Secretary SALAZAR. I would be happy to, Senator Udall. First of all, I admire how fast you became the senior Senator for the State of Colorado.

But, let me just say, with respect to your question on the amount of oil that is leaking out into the ocean, that is a very fundamental question. There's been a lot of effort to try to estimate what is out there. The number that has been used for purposes of dealing with the issue, up to this point, has been 5,000 barrels per day. That may still turn out to be the right number. It may turn out to be a different number. But, there is currently underway an effort that involves the United States Geological Survey, NOAA, and other agencies, to try to get a serious quantification of what has spilled out into the ocean, so that you have a conclusion that is one that we can have confidence in.

Senator UDALL. I look forward to further information, and I encourage you to unleash all the experts we have. I, again, don't want to cast aspersions on BP, but certainly the fact that we get these different—differing reports draws me to the conclusion that we ought to ask BP what actually is happening there.

Let me—

Secretary SALAZAR. Let me just say—

Senator UDALL. Sure.

Secretary SALAZAR [continuing]. If I may—

Senator UDALL. Yes.

Secretary SALAZAR [continuing]. Senator Udall, to interrupt you. The role of BP and the role of the Federal Government is one that needs to be understood. It's the national framework that makes BP the responsible party. But, we, as the U.S. Government, have the responsibility to be the oversight party and to hold them account-

able. From day one, Secretary Napolitano, the National Incident Commander, Thad Allen, and others who are involved, have made that very clear.

Senator UDALL. I think Senator Barrasso referenced how many times MMS inspectors had been on the Deepwater Horizon rig. There was, I think, some reports that every month there is to be an inspection and a site visit. A 104 months the rig's been up. That would mean there should have been 104 inspections. Do you know the exact numbers in that regard, when it comes to the inspections that have occurred?

Secretary SALAZAR. Senator Udall, it's a very good question. With respect to the time that the Deepwater Horizon was on this particular drill site, I have the schedule, and it was inspected monthly, which is what the regulatory requirement is.

When you go back in time to the beginning of the Deepwater Horizon and its activities, inspections have occurred, of the Deepwater Horizon, 88 times since September 2001.

You have to understand, too, that there are times where, if the rig is simply not doing anything but just standing there, it is not inspected during that particular month. But, during the critical time period here, based on what MMS has given to me, it is my understanding that it was inspected monthly.

In addition to that, based at least on some preliminary information that I have seen on the inspections related to the blowout prevention mechanisms and other things, those did occur in accordance with the regulatory requirements.

But, I will say this, as well—that the investigations that are underway will give us a complete picture of exactly what did happen and what didn't happen, and whether or not there were any problems. At the end of the day, what the President and I strongly believe is, we will learn the truth.

Senator UDALL. Mr. Chairman, I, like all Senators, have many, many more questions. But, I'll submit them for the record.

Thank you again—

The CHAIRMAN. Very good. Let me just advise folks, the order we have here is Senator Sanders next, Senator Menendez, and then Senator Cantwell, unless Senator Johnson returns, in which case we'll insert him in.

But, Senator Sanders.

Senator SANDERS. Thank you very much.

Mr. Secretary, thank you very much for your hands-on efforts in dealing with this terrible tragedy.

I recognize, as we all do, that the immediate task at hand is to stop the flow of oil. We all recognize that. But, I think, as you indicated in your opening remarks, perhaps this is also a wake-up call, in terms of future policy—energy policy.

My questions, to begin with, is the following: As you know, in 2008, both Congress and former President Bush lifted longstanding moratoria on offshore drilling in the Outer Continental Shelf of the Atlantic and Pacific coasts. The Energy Environmental Administration studied the issue, and what they found was that new drilling in the Atlantic and Pacific would deliver to consumers a total savings, in the year 2030, of 3 cents a gallon. Three cents a gallon. Meanwhile, by going forward with stronger CAFE standards of 35

miles per gallon, in that same year we're going to save consumers a dollar a gallon.

Now, everything we do deals with risks and benefits. So, my question to you is, Would you recommend to the President that he reinstate the permanent moratorium on new drilling offshore in the Atlantic and Pacific and focus on saving oil through progressively higher fuel economy standards? In other words, is it worth it to expose ourselves to these risks to save 3 cents a gallon in the year 2030?

Secretary SALAZAR. Senator Sanders, thank you very much for your service and for your questions. Let me respond in 2 ways.

First, this administration, from the beginning that we have been involved in the energy debate—in fact, even during the campaign—we have made efficiency one of the highest orders of business, because we believe that that, ultimately, is critical for us to get to be—

Senator SANDERS. I know that you have.

Secretary SALAZAR [continuing]. A more energy-independent nation. The CAFE standards alone, based on what the Department of Transportation and what EPA have done with respect to their regulations, are going to exceed far and above and beyond whatever this Congress ever contemplated. That will save millions of barrels of oil. So, the savings measure in your message is well heard and is being executed by this President and his administration every day.

No. 2, on your question concerning the Outer Continental Shelf and bans on the Atlantic and the Pacific. If I may, Mr. Chairman, maybe I ought to take a few minutes and just give you more of an overview of that—since this question relates to the Outer Continental Shelf and what our proposal had been. It may take me a few minutes to do this.

Senator SANDERS. You guys supported the Bush administration in lifting the moratorium.

Secretary SALAZAR. Let me be specific on what our plan is with respect to the OCS. I will start with you, Senator Sanders, concerning the Atlantic, because I know that that's an important part of it.

But, let me back up and say, when I look at the Outer Continental Shelf, there obviously are the 4 major areas that have to be looked at. It's the Atlantic, it's the Gulf of Mexico, it's the area in the West, along California, Oregon, and Washington, and then, obviously, the Alaskan areas. The plan that we put together in March essentially was a coming together of what was a very thoughtful way forward, in terms of dealing with the Outer Continental Shelf.

So, in the area of the Atlantic, which I know you are concerned about, in the northern part of the Atlantic, we said we will not even do seismic up there. There will be no lease sales.

In the area of the Mid-Atlantic and the South Atlantic, because of different considerations there, including the strong support from the State of Virginia and the two U.S. Senators from the State of Virginia, what we said there is that we essentially would develop additional information. I still think that is the right thing to do, because we need to know what the facts are so that, if there's a debate about it, we know what we're fighting about. You know, no

one has done anything with respect to seismic out in the Atlantic for a period of 30 years.

With respect to the Virginia lease sale itself, that is something which is on the schedule from the current OCS plan. There are issues that are being considered in the environmental analysis, including conflicts with respect to the military.

With respect to the Gulf Coast, which I know Senator Landrieu and others—

Senator SANDERS. Mr. Secretary, I'm running out of time. But, you—

Secretary SALAZAR. OK.

Senator SANDERS [continuing]. Can you give me an answer to the question? Is it worth the risk? Is 3 cents a gallon in the year 2030 worth the potential risk of another disaster like this? Should we reinstate the moratorium?

Secretary SALAZAR. Senator Sanders, the reality of it is that we will be depending on oil and gas as we transition to a new energy future. When you look at certain areas, specifically in the Gulf of Mexico, that is where we know there are huge energy—oil and natural gas resources. You are not going to turn off the lights of this country or the economy by shutting it all down. So, it's important for us to.

Senator SANDERS. No, no one is talking about shutting it all down. We're talking about reinstating the moratorium that had been going on, existing for many, many years.

Secretary SALAZAR. You know, I think, Senator—

Senator SANDERS. From new drilling.

Secretary SALAZAR [continuing]. Senator Sanders, I don't mean to be argumentative with you, but I think what we need to do, as the President has done, and as we have done, is, to hit the pause button, OK? We will be evaluating a number of different issues and making decisions about how we are going to move forward.

Senator SANDERS. OK. Let me just conclude. Thank you, Mr.— I don't believe the risk is worth 3 cents a gallon in the year 2030.

The CHAIRMAN. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Secretary, you know, I have the highest regard for you, on a personal as well as a professional basis. I appreciate the effort that you have had in leading the response to this disaster. But, I personally believe that you and the country have been ill-served by the Mineral Management Service. I want to ask you, do you believe that MMS has underestimated the risks associated with offshore drilling?

Secretary SALAZAR. I would say that this effort, here, with respect to this particular incident, I think, demonstrates that there are safety issues which are very important for this country to consider. It raises the question of whether or not all the appropriate safety mechanisms are in place. I would say my initial read on that, Senator Menendez, is that there should be additional safety requirements.

Senator MENENDEZ. But, beyond the safety requirements, I'm asking, Has the Department underestimated the risks to offshore drilling?

Secretary SALAZAR. You know, I think that the risks that we are seeing here are still to be determined. We have, essentially, a well which has yet to be shut down, as I indicated in my opening testimony. There's nothing in life, or in any program or any Federal resource development effort, Senator Menendez, that is risk-free. There are risks. The question will be to have whatever program it is that we design for the Outer Continental Shelf achieving the highest safety standards possible.

Senator MENENDEZ. I appreciate that basically—is it fair to say, what you're saying is, the question is still open—judgment on that question I've asked you is still open? Is—

Secretary SALAZAR. That's why—

Senator MENENDEZ. Is there a yes or no to that?

Secretary SALAZAR. The answer is yes to that. That's why the pause button has been hit, so that we can do an evaluation and make a report to the President. We'll do that.

Senator MENENDEZ. Here's where I have a problem, Mr. Secretary. For those who suggest the Department has not underestimated the risks, then I'd ask, Why is it that MMS has repeatedly felt the need to overrule NOAA and allow drilling to move forward without proper permits? Why is it that scientists at MMS were regularly pressured—they said that they were regularly pressured by agency officials to change the findings of their internal studies if they predicted that an accident was likely to occur or if wildlife might be harmed? Why is it that, in September 2009, NOAA accused the Minerals agency of a pattern of understating the likelihood and potential consequences of a major spill in the Gulf, and understating the frequency of spills that have already occurred there? I look at all of that. I don't know if you had the chance to see the 60 Minutes, call it, "expose" of one of the people, the chief—I think it was—chief technology officer was his title, aboard the Deepwater Horizon, and how so many issues came up. There was a drive by BP to just get this open. Yet, all of those safety issues—the breaking of the—you know, the rubber seal around the—you know, the drill, and all of the rubber particles that were—subsequently came to the part, the drive to move in a different direction.

I look at all of this and I say to myself that we have dramatically underestimated—it doesn't mean that we won't—that there won't be a policy decision—but, we have dramatically—MMS has dramatically underestimated the potential risk here.

I look at—you know, we have the—in March, you announced the revised 5-year program for 2007 and 2012, which includes drilling off the coast of Virginia, less than 100 miles from the Jersey shore. We asked for that public comment period to be extended beyond May 3. Shouldn't we reopen that comment period until we can find out what happened here, and—or is it the policy of the administration to expand, not to just keep offshore drilling where leases have been let in areas have—are subject—but to expand offshore drilling, no matter what we find in this investigation?

Secretary SALAZAR. Senator Menendez, let me say, first of all, with respect to the March announcement and the 5-year plan, you know as well as I do what the history of that plan was. That is that, when we came into office, we essentially had a plan that opened up everything in the Outer Continental Shelf, with the ex-

ception of the small area near Florida that is subject to the congressional moratorium. Nothing else is under moratorium today.

So, we move forward to undo, essentially, what had been the 5-year plan of the prior administration, which would have opened up everything along the Atlantic, the Pacific, Alaska, the Gulf, the eastern Gulf, and everywhere else. We not only moved forward to make changes, but we also postponed the effectiveness of that plan, which we did by extending what was a comment period that had been mandated to be "60 days to 180 days" to half a year. We took additional time to come up with what we thought was the best thoughtful analysis of how to move forward with energy development in the Outer Continental Shelf. So, we have taken significant comment on that.

Let me, number 2, just say to you that with regard to the findings on the 60 Minute program, I've not, frankly, had a chance to watch television. I've been trying to get this incident under control. The facts will tell us a lot when these investigations are done, Senator Menendez. They will tell us about what happened, about whether or not there was negligence, gross negligence or other culpability here, and by whom—whether it was the companies, whether they were inspectors, whether there were other factors that were involved. But, we will get to the truth, and the truth will be given to the American people.

So, we'll learn the lessons from that. I'm certain that all of those lessons will be a part of what will inform what we do with respect to the future of the Outer Continental Shelf.

Senator MENENDEZ. Mr. Chairman, my time is up, but I do hope that the Chair will consider bringing some of these scientists and others, and NOAA and others, before the committee, because I think we need to know what MMS told their scientists to do, or not to do. I think we need to hear from NOAA about how they were consistently overruled. I have real concerns about that.

Secretary SALAZAR. If I may, Mr. Chairman, just on that point, we have made science the benchmark of our Department since I came on board. Frankly, if I find that there is someone within our Department that has ignored the science, their heads will roll. Their heads will roll with respect to this incident or with respect to anything else that we have done. That should not happen, and that will not happen.

The CHAIRMAN. The last person in this first round of questions is Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman.

Thank you, Mr. Secretary. I'm sure you have been working 1-hour days, and so we appreciate you being here. Obviously we are all concerned about things that we can do to reform our system, as well as making improvements right now. So, I wondered if I could just ask you several questions, part of which are about moving—about the future.

One of them is that the Coast Guard makes sure that vessels and drill rigs and undersea drill systems are approved by a third-party independent agency; in this case, the American Bureau of Shipping. Wouldn't it be smart to have an independent engineering expert provide the same kind of classification or certification for the drilling systems?

Secretary SALAZAR. I'm going to have the Assistant Secretary for Land and Minerals, Wilma Lewis, who is also a former prosecutor for the District of Columbia, U.S. Attorney and Inspector General for the Department, argue the question.

Ms. LEWIS. Thank you very much, Mr. Secretary, and thank you, Senator Cantwell—thank you very much, Mr. Secretary and Senator Cantwell.

I think one of the things that the Secretary has mentioned during the course of his testimony today is the importance of making sure that, as we move forward, we learn the lessons of this very tragic incident. That's one of the important parts or pieces of what we expect to be doing and what is ongoing at this point, in fact.

As a result of investigations that are being taken as a result of our own reviews, consultations with experts, consultations with individuals from industry, as well as outside of industry, and our own framing or screen through which we'll put all that information, we will be looking very hard at issues of the nature that you have just raised. That is to say, What are the current regulations? Oversight, management—should they be improved? To the extent that a third-party reviewer, which sounds like a very credible and good and legitimate suggestion, should be included in the review of equipment or otherwise, that's the kind of thing that we'll be examining.

I think that we really have to make sure that at the end of the day, we learn from this tragedy and we impose various procedures, processes, as we go forward, to make sure that this doesn't happen again.

Senator CANTWELL. I thank you for that answer. But, I think part of the issue is that—well, I'm definitely going to be drafting legislation in this regard, because I think it's clear that things as critical as blowout preventers that don't have third-party validators basically saying that they do work, is kind of missing the system. Why, basically, say that, you know, you approve the ship and you approve some of the drill system, but not the undersea drill part? Now, here we are without—you know, we have industry association hearings, all of these things, basically, with evidence that the blowout preventers weren't as fail-safe as people thought.

I have a second question. Mr. Secretary, you testified that you ordered a median inspection of deepwater oil and gas operations in the Gulf. Does that include the Atlantis?

Secretary SALAZAR. Senator Cantwell, there is currently an investigation underway with respect to the Atlantis.

If I may, with respect to your first question, the President has us been very clear and resolute in his direction to us, to develop a set of recommendations on the safety issues on the systems. We have already brought in the National Academy of Engineering, which is essentially at an equal par the National Academy of Sciences, to provide us this kind of input. So, you're on the right track.

Senator CANTWELL. Thank you. Thank you, Mr. Secretary.

Do you know—my colleague brought up this—well, he brought up the whole NOAA advice to MMS. Here is a letter, from September 2009, which talks specifically about the extensive science and management. Basically it was talking about the risk of impacts

in the draft proposed Outer Continental Shelf Oil and Gas Leasing Program. So, they basically were showing their concerns and identifying problems. Do you know if MMS responded to that letter, or can we get a copy of it if MMS—can we just get an answer, one way or another, whether MMS did respond to it, and can we get a copy of it?

Secretary SALAZAR. We will get you that response, Senator Cantwell.

Secretary SALAZAR. Let me just add a comment about the input that we did receive from lots of different sources; I think there were close to half a million comments that were made as we move forward with this very extended 180-day comment period and then beyond, taking a very thoughtful view what we were going to do.

It was precisely because of concerns related to the Arctic area, in the Beaufort and in the Chukchi Seas, that we ended up concluding that we would cancel 5 proposed lease sales—2 in the Beaufort, 2 in the Chukchi, and one in Bristol Bay. In the case of Bristol Bay, it's because of the ecological values that are there. In the case of the Chukchi and the Beaufort, as Senator Murkowski and Senator Begich were aware of and worked with us on this, there are concerns about oil spill response capability and other issues. So, that's why we landed at the place that we did with respect to the 5-year plan that we announced at the end of March.

Senator CANTWELL. One last question, just really quickly. I know my colleague asked you, in general, but why can't we get an answer to the amount of oil that basically is flowing into the ocean? I mean, can't we get that critical data from BP? The Woods Hole Oceanographic Institute have extensive expertise in sea floor vents, and offered their services to BP, but they've declined. So, are—is BP blocking this information?

Secretary SALAZAR. The answer to that is no, Senator Cantwell. The 5,000 barrels per day is what the estimate is. But, it is difficult to get to a quantum with complete certainty, at this point in time, because of the subsea conditions where the leaks are occurring.

I will say that Dr. Marcia McNutt, who is probably one of the best scientists in the United States of America and the director of the U.S. Geological Survey, is working with a team of scientist to come up with our own independent conclusion, relative to what the numbers are. We need to know what those flow numbers are, for a variety of reasons, including issues relating to natural resource damages and a whole host of other things. So, we will have our own independent number.

Senator CANTWELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

All Senators have had a chance to ask one round of questions. I've asked 2 rounds of questions. Let me just call on those who are still here if there are additional questions that they feel they need to pose at this time.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Secretary, I appreciate the fact that you have acknowledged that we're going to need oil from some time to come. Just suggesting that we can shut it all off is really not an option. I would

take this opportunity to follow on Senator Bennett's comments, that we have an opportunity, up north in Alaska, onshore with Anwar, where we have the potential of about 16 billion barrels of oil. Right now, within the Department of Interior, you are doing an assessment to make a determination as to expanded wilderness areas. I think it is, particularly at this time, shortsighted of us as a Nation to even think about putting Anwar into wilderness status and basically taking off the table our opportunity to explore and produce in an area 45 miles to the east of where we have been producing from Alaska's North Slope for decades.

So, I think the delegation has been pretty united in recommending that Interior save their money and respect the "no more" clause. But, we'll be working with you on that.

I just have one additional question that I would like to add. I had asked you about what you felt was the appropriate relationship between industry and MMS in establishing standards. I appreciate that answer. Do you—do we have, within MMS employees, whether in the permitting in the inspection offices that have substantial, direct, and professional experience, when it comes to well casing and cementing, and also in blowout preventer design construction and maintenance—recognizing that, in order for MMS to really be inspecting and to know clearly—and we keep going back to the science of this, which I absolutely appreciate—but, to really know what it is that we are inspecting—do we have this level of capability within the agency at this point in time?

Secretary SALAZAR. I'm going to have Liz respond to that. But, let me just take 2 quick stabs at answering a couple of your questions.

No. 1, with respect to the Alaska National Wildlife Refuge, the President has been clear, and I have been clear, that we will not drill in Anwar.

No. 2, there is a production component that is one which is potentially very robust in Alaska. We're working through some of those issues with you and your staff, as well. We see production as being very much a part of our agenda; oil and gas will continue to be a part of our agenda.

No. 3, with respect to our expertise, I've been dealing with a lot of MMS engineers and scientists, and there is a robust capability there. But, I will have Liz respond more specifically to your question.

Ms. BIRNBAUM. Thank you, Mr. Secretary.

Senator Murkowski, we have at MMS a number of employees with a wide range of experience with respect to all aspects of drilling engineering.

You asked specifically about inspecting, and I think that there is a question the degree to which that expertise carries over into inspections. We will be, as we look at a reorganization of MMS, evaluating what qualifications we need to make sure that all inspections are carried out with that full range of expertise.

Senator MURKOWSKI. So, it would be your intention, then, to make sure that they have, again, what I'm calling substantial, direct, and professional experience in these various areas.

Ms. BIRNBAUM. We will ensure that the inspection staff has all the expertise necessary to evaluate all of the facilities that they're inspecting.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator WYDEN. Thank you, Mr. Chairman.

Thank you, Mr. Secretary.

About a couple of hours ago, I asked you whether you thought that, in the past, Minerals Management had adequately regulated blowout preventers; and to your credit, you said, "No." You gave a candid answer, and an answer I happen to think is accurate. So, what I want to do with this one question is just walk through how that constructive answer would, in effect, beef up safety under the reform proposal that you have outlined. Let me be very specific here.

In the reform proposal, you advocate splitting the agency and creating a separate enforcement—an inspection agency; in effect, a new cop on the beat, a cop on the beat who'd do enforcement. What I'm concerned about, however, is that the problem starts before you get the cop on the beat involved. The problem starts, as your answer to me indicated, with respect to inadequate regulation of these blowout preventers—the problem starts with respect to getting strong safety standards. So, my question to you, Mr. Secretary, is, How would your reform proposal work to make sure that we get the strong safety rules that your new independent agency would then enforce?

Secretary SALAZAR. That's a very good question, Senator Wyden. You're correct that, first, we have had an effort underway, including in our budgets of the last 2 years and this current year, to get more cops on the beat. That's essential. We may even need more than what we have asked for. But, we will have those cops on the beat.

The question you ask here is fundamental, and that is the safety standards that are place with respect to the blowout prevention mechanisms. That is why Deputy Secretary of Interior David Hayes and I have worked directly with the National Academy of Sciences and National Academy of Engineers to help us develop what those standards will be.

So, they will be independent standards. I have no doubt, knowing what I know today, that you will have significant enhancements with respect to those standards, as well as with respect to the manufacturing of these blowout prevention devices.

Senator WYDEN. I want to work very closely with you, Mr. Secretary, in going forward with this reform proposal. I appreciated your comments. Early on, you know that I introduced a bipartisan proposal. I think you'll have bipartisan interest.

I think the central question is, to get the maximum value out of your new enforcement effort, we've got to attack the problem at the outset. Clearly, in a number of these areas, which you have identified in response to my questions and colleagues' questions, we've got safety problems that need to be addressed in order to make sure that the enforcement arm which you propose is really going to make a difference.

So, I look forward to working with you. I know we'll have a bipartisan effort here in the committee.

Secretary SALAZAR. Mr. Chairman, may I ask my Deputy Secretary to just give a short—

The CHAIRMAN. Of course.

Secretary SALAZAR [continuing]. Comment on this issue, as well, since he's working on it relentlessly?

Mr. HAYES. Senator, we're focusing right on this specific question in connection with the reorganization. We actually have under consideration the idea that the independent enforcement arm would also be the folks who develop the safety standards. They would not be the folks who do the leasing and that type of activity, precisely to your point. The safety standards should be developed independent of the leasing activity and the commercial activity.

The CHAIRMAN. According to the order of arrival here, I'm advised Senator Menendez is next, and then Senator Landrieu.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Secretary, the administration has indicated that they support an effort to raise the liability cap that exists right now. I have legislation to raise it to \$10 billion. I'm wondering, Where is the administration at, in terms of quantifying or supporting where they're ready to lift the liability cap to?

Secretary SALAZAR. You know, the administration's position, Senator Menendez, is that the liability cap does have to be lifted. We look forward to working with you and with other members of the Senate to determine what would be the appropriate liability cap. We did not put out a specific number. But, I do believe that the current number is inadequate.

Senator MENENDEZ. So, how—what process are we going to work toward to try to determine what the liability cap should be? There are some who suggest there should be unlimited liability.

Secretary SALAZAR. I think that's something that does need to be worked through. You know, in this particular case, you have BP, which is, I believe, the third largest company in the world, making profits last year at \$16 billion. There is a willingness, on the part of the chairman of the company and their executives, to say these liability caps will not apply to this incident. So, that's important to recognize for this incident, which is where my focus has been.

With respect to the future, it is important that we be thoughtful, relative to that—what that cap will be, because you don't want only the BPS of the world to be the ones that are involved in these efforts, there are companies of lesser economic robustness. But, having said that, it ought to be high enough so that we make sure that the responsible party will be able to live up to whatever consequences result from their activities.

Senator MENENDEZ. That's—

Secretary SALAZAR. I don't have a specific number.

Senator MENENDEZ. I want to take off the last part of your answer, because there have been some, as we've tried to move this, who suggest that, "Well, not everybody's a BP." I understand that. But, even independent entities have a \$40-billion worth and—you know, so, it's—the range is quite significant.

The question becomes, Regardless of your size, if you could create the potential risk that we have in this spill, and you could be the

cause of this spill, does the size matter? Because, in essence, we'd be saying, "If you're smaller, you should have less liability." I don't think the American taxpayer would believe in that, as a proposition.

So, at some point, the suggestion that too high a cap, or an unlimited cap, will hurt all of these other entities—well, that simply means that if you're smaller, you can get away with taking the same risk, but having less liability. That certainly wouldn't be the administration's view.

Secretary SALAZAR. No, not at all. People will be held accountable and responsible. We want the environment restored and people to be compensated. So, we will work with you and other Members of the Congress at getting to a number that makes sense and is not an arbitrary number.

Senator MENENDEZ. One final question. BP certified to MMS that it had the, quote—this is on page 7-1 of its exploration plan for the lease sale that is the subject of the spill—it had, quote, "capability to respond to a worst-case discharge resulting from the activities proposed in our exploration plan." Do you really think—do you really think that BP was capable or had a real plan for the worst-case discharge? What I have seen is a series of unprecedented techniques, trying to figure out what might or might not work. Some have failed; others having partial success, it seems. You know, do we really think that they had a plan B for the worst-case scenario? Or are they going from pillar to post, trying to figure out how they respond to this?

Secretary SALAZAR. I'm going to have David comment on the specifics of the exploration plan. But, I will just say this.

There is a herculean effort underway today, Senator Menendez, that I don't think this Nation has ever seen. It's unfolding 5,000 feet below the sea, and it's unfolding onshore, with lots of people and lots of effort.

Senator MENENDEZ. But, if an entity tells you they are "capable of responding to the worst-case discharge," I don't think anybody reasonably would believe that BP had a plan for the worst-case discharge—

Secretary SALAZAR. There is actually a very coherent answer to that question, with respect to the regional response effort and the numbers, but I think I will have David respond to it.

Why don't you go ahead, David.

Mr. HAYES. Senator, I think there are 2 aspects to your question, really. One is, Was there a plan in place if the blowout preventer failed and there was an inability to stop the leak? Certainly, that has not been a happy story, in terms of the ability to stop that leak.

The broader question, though, in terms of a worst-case: the spill-response plan that's in place anticipated the resources available to cover a 250,000-barrel-per-day spill over a 30-day period, which is actually larger than the current spill. So, in terms of spill response, there was and is a robust plan that is now being implemented.

But, I think your question went to the other issue, about the technology issues, which we are giving significant attention to today.

The CHAIRMAN. Senator Landrieu.

Senator LANDRIEU. Thank you.

Just a final point and question following up on some colleague's comments about risk. When we view offshore drilling in isolation, it does appear risky. The fact, Mr. Secretary, is that it is risky. But, I think the fairer question is, Is it riskier to import 100 percent of the oil this country needs or to try to drill more safely at home? What would the answer to that question be? Is it riskier to import 100 percent of our oil, because we're importing close to 70 percent, or is it less risky to try to drill more safely at home?

Secretary SALAZAR. You know, Senator Landrieu, I think it's a very good question. That is why the President's comprehensive energy plan contemplates that oil and gas, as well as nuclear, will be part of that future energy portfolio. We need to have a balance. But, we also need to break the addiction that this country has had to oil for so many decades. Again, I know you and Senator Bingaman have been involved in bipartisan efforts to move forward the President's comprehensive energy plan; you have your plan.

You know, this is probably a time for this country to come to grips with the risks associated, with our current energy consumption. You are putting your finger on what one of those risks is, and that is the national security of the United States, and the fact that we are importing our oil from places that don't have the best interests of this country in mind.

Senator LANDRIEU. Finally, Mr. Chairman, thank you for your patience in extending this committee by almost 30 minutes, but it's also important, this liability issue. The people of Louisiana and the Gulf Coast want to know and have confidence that BP is going to do everything that they are required to under the law, and more, to pay for any damage to individuals, to businesses, et cetera.

I want to submit to the record a letter* that was received by BP to the other committee that I sit on, Homeland Security, in that regard.

But, the question of this liability issue, going forward, I want to commend you for taking your time to decide on the right answer, because if we don't do this correctly, we could put independents and smaller companies, that employ 1.8 million people in this country, at risk if this issue isn't handled correctly.

So, with all due respect to my colleague, who I have the utmost admiration for, Senator Menendez and others that are calling for unlimited liability, it will put out of reach the possibility for insurance, which is extremely important for this and any industry to have to operate. So, it has to be done in the right way. I thank you for taking your time on the details of that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Secretary, thank you for being so generous with your time. Thank you for the aggressive approach that you and David Hayes and all of your team have taken in response to this terrible circumstance that we have in the Gulf of Mexico.

But, that will conclude our hearing, and we will continue to work with you to find solutions.

[Whereupon, at 1:29 p.m., the hearing was adjourned.]

*Document has been retained in committee files.

APPENDIX
RESPONSES TO ADDITIONAL QUESTIONS

RESPONSES OF HON. KEN SALAZAR TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. I understand that about 90 exploratory or development rigs are currently operating in the Gulf of Mexico, about 40 of them in deep water. These rigs by definition are not producing oil, so suspension of those operations would not affect near-term supply. Have you considered suspending these operations until we know the cause of this accident? What have you done to ensure that the issues raised by this accident are not present on any of these ongoing rig operations?

Answer. Immediately after the explosion, we carried out inspections of all deepwater oil and gas drilling operations in the Gulf of Mexico and issued a safety notice to all rig operators in the Gulf. A second Notice to Lessees requires operators to submit information in their exploration plans regarding blowout scenarios- reversing a long standing exemption in a 2008 NTL that resulted from too much reliance on industry to self-regulate.

In July 2010 the Department of the Interior announced temporary suspensions of deepwater drilling on the Outer Continental Shelf. These suspensions, which were lifted on October 12, were essential to protect communities, coasts, and wildlife from the risks that deepwater drilling then posed and provided us with the time for investigation and implementation of some of the needed new safety, containment and oil spill response capability measures. The decision to lift the deepwater drilling suspensions was based on information gathered in recent months, including a report from Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) Michael Bromwich on October 1 that shows significant progress on reforms to drilling and workplace safety regulations and standards, increased availability of oil spill response resources since the Macondo well was contained on July 15 and killed on September 19, and improvement in blowout containment capabilities.

Question 2. I understand that you have ordered post-accident inspections of all off-shore rigs, and that the inspections of the exploratory rigs are complete. Is that correct? We also need to know what you inspected for. Were these inspections the same inspections your officials perform monthly on these rigs? Or were they instructed to pay particular attention to the blow out preventer and to the list of issues that have been raised as possible causes for this accident? Without that, how can we be sure that these inspections will have any effect in ensuring safety and lessons learned from this accident?

Answer. Following the explosion of the Deepwater Horizon drilling rig, inspections were ordered of all 29 deepwater oil and gas drilling operations in the Gulf of Mexico with subsea blowout preventer stacks in the Gulf of Mexico. The operation consisted of targeted inspections that followed an inspection protocol to specifically address issues potentially raised by the Deepwater Horizon event.

The inspections began on Tuesday, April 27, 2010 and were completed on May 4, 2010, with Incidents of Non-Compliance found on two rigs. Those violations were corrected and no other violations were found. A copy of the inspection report from this effort can be found at: <http://www.doi.gov/deepwaterhorizon/upload/05-11-10-MMS-Deepwater-Horizon-Rig-Inspection-Report.pdf>.

Question 3. As you know, questions have been raised by experts about a number of technical issues that are possible contributors to the Deepwater Horizon accident. These include: cementing—both the amount and type used; number of centralizers used to set the well; absence of an inflatable packer to prevent annular gas leaks; displacement of drilling mud with seawater too early in the plugging and abandonment process; failure to react to anomalous pressure data; and multiple design and maintenance issues with the blow out preventer.

Question 4. I'd like to discuss the regulatory issues with you with these technical areas in mind. Does the current regulatory system give you the ability to review

the well design as a system and ensure its integrity? Does it give you the ability to review modifications to the plan made on the rig? Would you say we need to look at enforcement of the existing regulatory system or reform of the system or both?

Answer. While we await the results of the investigations into this tragedy, we have undertaken reviews of key systems and made recommendations in our 30-day Safety Report to the President, issued in May 2010, that are intended to result in sufficient redundancy in the blowout preventers, better well control, and facilitation of a culture of safety. Specifically with regard to well integrity, these recommendations include:

- additional review and certification of well design by a professional engineer;
- new training requirements for casing and cementing operations that help focus industry and rig personnel on the importance of proper casing and cementing operations;
- additional operational requirements for casing installation and cementing operations that will add new assurances that adequate barriers are in place before continuing on to new drilling activities; and

Most of the recommendations in the Safety Report have been codified in an interim final rule that BOEMRE published in the Federal Register on October 14.

In the months since the Deepwater Horizon rig exploded in the Gulf of Mexico, the Department has been carrying out the most aggressive, advanced, and rapid offshore drilling reforms ever implemented, building a program with a focus on worker and environmental safety, administered by an agency that has the authorities, resources, and support to provide strong and effective regulation and oversight. We have put industry on notice that their OCS oil and gas operations will be held to the highest standards.

Question 5. Would you support the creation of an independent scientific panel to support the Interior Department in its regulatory and permitting work on offshore development on an ongoing basis?

Answer. While the results of the ongoing investigations may require additional reform efforts in the offshore program, the comprehensive reforms we have been implementing at the Department have put science back in its rightful place in decisions about offshore oil and gas development.

The science resources available at the Department are some of the most robust in the United States and include thousands of scientists in the United States Geological Survey, the United States Fish and Wildlife Service, the National Park Service and BOEMRE. The various programs in the USGS and the science and research programs within BOEMRE also play key roles in providing scientific information concerning impacts from offshore energy and mineral exploration.

Science Advisor and USGS Director Dr. Marcia McNutt is a world-class scientist whose professional expertise and leadership qualities continue to be invaluable in guiding the USGS. She played a key role in the impressive government team that was instrumental in monitoring and in ensuring the successful killing of the Macondo well. In support of government efforts during the spill, the USGS filled a key role in estimating the oil flow rate of the well; providing geospatial support; providing sampling data for water, sediment, and biota as we work to establish baseline conditions of our resources; and in reviewing relevant scientific information. We will lean heavily on the scientific expertise of the USGS as we move forward with our offshore planning.

BOEMRE's Offshore Energy and Minerals Management Program manages research associated with renewable energy, oil and gas operational safety, and oil spill response. That program administers the National Oil Spill Response and Renewable Energy Test Facility, located in Leonardo, New Jersey, which provides oil spill response testing, training, and research opportunities to government, industry, academia, and private organizations on a reimbursable basis. BOEMRE also has an Environmental Studies Program that has a broad mandate, covering fields as diverse as oceanography, atmospheric sciences, and social sciences. Through this program, BOEMRE spends tens of millions of dollars collaborating with other federal agencies, educational organizations, and private entities to carry out research and synthesize available environmental and social and economic science information to support decision-making related to development of offshore energy and mineral resources.

Question 6. Do you believe that current law requires industry to use best practices in the design of offshore wells and their systems in all cases? In reviewing applications for permits to drill does MMS consider cost factors in well design, or are best practices required in all cases regardless of cost?

Answer. Under existing offshore regulatory processes, operators are required to use the best available and safest drilling technology where economically feasible,

practicable, and the benefits are found by the Secretary to outweigh the costs. 30 CFR 250.107; 43 USC 1347. The Department reviews an operator's exploration or development plans and Applications for Permits to Drill to verify use of these technologies. The Department subsequently inspects the operations to verify the use of approved equipment and its maintenance. Upon completing the engineering review, the Department may approve the APD with conditions if warranted, return it to the operator for modifications, or deny it. If the applicant makes changes to the drilling application, the Department must grant approval before the applicant performs its work.

The Deepwater Horizon spill has underscored the point that, as drilling activity has moved into deeper water, it is important to reevaluate whether the best practices for safe drilling operations developed over the years need to be bolstered to account for the unique challenges of drilling in deepwater. As a consequence, our 30-day Safety Report issued in May makes recommendations for new inspection and verification requirements to ensure that both operators and the BOEMRE are using the most up-to-date best practices. Many of the recommendations in that report have been addressed in the Interim Final Drilling Safety rule and the Safety and Environmental Management System rule.

Question 7. Your current Departmental Manual (effective since May 2004) provides that exploration, production and development plans and applications for permits to drill offshore oil wells are generally "categorically excluded" from NEPA analysis. This means that these operations are assumed to have no significant environmental impact and no environmental reviews need to be done. Will you continue to use categorical exclusions as currently set out in your NEPA plan pending review of procedures by the Council on Environmental Quality?

Answer. We are committed to full compliance with both the letter and the spirit of National Environmental Policy Act, and agree that our decision-making must be fully informed by an understanding of the potential environmental consequences of federal actions permitting offshore oil and gas development. In August, the Council on Environmental Quality issued its report on the NEPA process for environmental reviews in the offshore program. The report found that the Minerals Management Service had conducted numerous levels of extensive environmental reviews, relying on the "tiering" process in which prior reviews should be incorporated into subsequent, site-specific analyses. The report also offered several recommendations, which BOEMRE has committed to using as guideposts as it continues its reform and reorganization activities. On August 18th the Department and BOEMRE announced that the use of categorical exclusions for offshore oil and gas development would be restricted to activities involving limited environmental risk while the Department carries out a comprehensive review of its NEPA process and the use of categorical exclusions for exploration and drilling on the Outer Continental Shelf.

Question 8. What is your access to industry data, documents and witnesses? Have you or other agencies moved to secure all relevant evidence in this accident? When was that done? At what point did the Federal government have access to witnesses? Were you able to secure witness statements near in time to the date of the accident? Do you have sufficient statutory authority to insist that you have full access to all evidence and that all evidence be preserved?

Answer. Several investigations of this event are still underway. For purposes of this response the most notable is the one being carried out by the Department, through the BOEMRE, and the Department of Homeland Security, through the U.S. Coast Guard, pursuant to authority in the Outer Continental Shelf Lands Act and in accordance with a pre-existing Memorandum of Agreement. The team was convened on April 27, 2010. Hearings began shortly thereafter on May 11th, and are continuing.

The public hearing portions of the investigation are being convened under Coast Guard Marine Board of Investigation procedures, the highest level of investigative effort following a maritime casualty. These investigations are intended to determine the probable causes of the casualty to the fullest extent possible, promote safety of life and property at sea, and obtain information for the purpose of preventing or reducing the effects of similar casualties in the future. The board has the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter to answer questionnaires, and require relevant industry data and documents and any other evidence to be submitted. It is also a transparent process. All relevant evidence was secured immediately following the event and continues to be secured as it is collected. Witness statements were obtained by US Coast Guard and MMS inspectors from offshore personnel rescued from the Deepwater Horizon rig while they were enroute to shore.

Question 9. NEPA environmental review, while very important, was not designed for, and is not sufficient to ensure the safety of the well design or the adequacy of

measures to deal with a spill, would you agree? Do you agree that your agency has at least two areas of responsibilities here—to fully implement the required environmental reviews and to design and implement a regulatory structure to ensure operational safety?

Answer. As noted in the response to question 7, the Department is committed to full compliance with both the letter and the spirit of NEPA, and we agree that our decision-making must be fully informed by an understanding of the potential environmental consequences of federal actions permitting offshore oil and gas development.

Regarding the need for operational safety, since April 20th we have embarked on substantive and systematic reforms that address the failures that we have seen and the shortcomings that we have identified in the offshore program. We are creating a strong and independent agency with the resources, tools and authority it needs to hold offshore operators accountable to the law. We have raised the bar on industry's safety practices and equipment. We are ensuring that companies that want to drill better explain to us how they will deal with catastrophic blowouts and oil spills. And we have put science back in its rightful place in decisions about offshore oil and gas development. As the results of the ongoing investigations become available, we will continue to build on these reforms.

Question 10. Do you believe that prescriptive requirements can and should be written for the key aspects of well design and fail safe mechanisms that will insure system integrity and safety over a range of different wells and areas? Will such prescriptive requirements be sufficient, or should the regulations be written to take a systems approach to well design?

Answer. As we noted in our 30-day Safety Report, in our review and while developing the recommendations contained in that report we were guided by the principle that feasible measures that materially and undeniably reduce the risk of a loss-of-well-control event should be pursued. For that reason, some of the measures that are recommended in the report are necessarily prescriptive. We also committed in that report to working on a rulemaking that would require operators to adopt a systems-based approach to safety and environmental management. Many of the recommendations in the 30-day Safety Report for new inspection and verification requirements to ensure that both operators and the BOEMRE are using the most up-to-date best practices have been implemented through the Interim Final Drilling Safety rule, while the SEMS rule requires operators to have a Safety and Environmental Management System in place to reduce human and organizational errors as the root cause of work-related accidents and offshore oil spills. The results of the ongoing investigations may require additional reform efforts in the offshore program.

Question 11. Many of the specifications and practices in the Department's regulations that are applicable to OCS operations are industry-developed standards incorporated by reference into the regulations. Do you view this as an inherent conflict of interest? How can you ensure that best practices are required under these circumstances?

Answer. The Department follows a standard process for developing regulations that includes a comment period that allows industry, other government agencies, private individuals, and other groups to provide input. In some instances, standard industry practices are developed through industry organizations, and the Department may incorporate recommended practices and standards from industry associations and technical standard setting groups, such as the American National Standards Institute, American Petroleum Institute standards and recommended practice documents, and National Association of Corrosion Engineers documents, by reference. After reviewing these practices, or engaging an independent third party to review and confirm the validity of the standards, BOEMRE may incorporate some or all of the suggested standards, either as written or with modifications to make them more stringent.

Question 12. I understand the President will soon announce the creation of an independent commission to investigate this accident and make recommendations on regulatory structure going forward? At least one bill to do that has been referred to our Committee. How soon will the President act, or should Congress begin work on legislation to establish this Commission?

Answer. The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling was established on May 21, 2010, when President Obama signed Executive Order 13543.

Question 13. There have been reports that MMS approved OCS leases and permits without the proper consultation with the National Oceanic and Atmospheric Administration (NOAA), particularly regarding the Endangered Species and Marine Mammal Protection Act. Please state your understanding of the requirements for

MMS consultation with NOAA during the 5-year planning process, the lease sale process, the exploration plan approval, and approval of applications for permits to drill on the OCS. Please state your understanding of the requirements of the Endangered Species Act and the Marine Mammal Protection Act as applicable to the above MMS processes. Please state whether any leases, exploration plans, or permits to drill have been approved since January 2009 without obtaining the required permits or without the required consultation with NOAA.

Answer. The reports referenced above are not accurate. In fact, BOEMRE regularly coordinates with National Oceanic and Atmospheric Administration in regards to the development of the five-year oil and gas program and the development of environmental analyses and approvals under NEPA, the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA).

With regard to the ESA and MMPA, BOEMRE is coordinating closely with NOAA, primarily through NOAA's National Marine Fisheries Service, in regards to the approval of oil and gas activities under our purview. However, we are reviewing our ESA and MMPA compliance as part of our examination of BOEMRE's environmental review processes.

BOEMRE is also in the process of coordinating with National Marine Fisheries Services (NMFS) and the Fish and Wildlife Service (FWS) to evaluate effects of the Deepwater Horizon spill on protected species. On July 30, 2010, BOEMRE requested re-initiation of consultation under Section 7 of the ESA with NMFS and the FWS given that the Deepwater Horizon spill exceeded the spill volumes and scenarios considered in the original consultation. On September 24, 2010, BOEMRE received a response letter from NMFS requesting further information. A similar letter was received from FWS on September 27, 2010 along with a request for a meeting in early 2011. BOEMRE is in the process of responding to these requests for additional information.

Question 14. Please provide complete copies including appendices and drawings for all documents approved by MMS related to the Macondo well. Please include all permits for the well design and any approvals of modifications to that design. If any portions of those documents are viewed by MMS as business confidential, please provide any agreement with industry that in your view requires such confidentiality. Please explain, for any documents withheld as business confidential, why in your view the public interest is served by entering into such agreements, and why in your view waivers of such confidentiality would not be warranted in the circumstances of a catastrophic failure such as the Deepwater Horizon accident.

Answer. Responsive material will be forwarded under separate cover.

Question 15. Please identify any changes to any permits approved by MMS that were given oral as opposed to written approval by MMS. Please identify the MMS employees who provided such approval and indicate the changes that were approved.

Answer. We understand that this issue is being looked at as part of the ongoing investigations.

Question 16. Will BP or any other operator be allowed to re-enter the reservoir that was penetrated (and was the origin of the hydrocarbons in the blowout) at the Macondo well? Will they be allowed to develop the field for eventual production?

Answer. BOEMRE will not approve reentry into the same well, but other substantive decisions related to the underlying lease have not been made and depend upon the results of the ongoing investigations which will provide us with a more complete picture and will help inform future decisions and actions.

RESPONSES OF HON. KEN SALAZAR TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. Has your department or the Administration conducted an economic analysis on what the potential impact could be if a \$10 billion economic cap were put in place? Similarly, has your department or the Administration looked at the impacts to domestic production if there are fewer companies in the OCS and what the revenue impacts would be on the treasury?

Answer. The Administration is looking at a number of factors, including how changes in liability will impact industry structure and markets. However, we have also stated that the current liability caps are inadequate to deal with the potentially catastrophic consequences of oil spills and need to be updated. The Administration strongly supports the repeal of the limit on damages liability for offshore drilling and increasing the liability caps for other activities that could result in a spill. Regardless, in this instance 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.

Question 2. If not, could you please provide the committee with that analysis and have OMB provide a score on the proposal?

Answer. As noted in the response to the previous question, the Administration is currently looking at this issue.

Question 3. When will the Department be able to make a determination as to what activities will be permitted in the OCS going forward?

Answer. Immediately after the explosion, we carried out inspections of all deepwater oil and gas drilling operations in the Gulf of Mexico and issued a safety notice to all rig operators in the Gulf. A second Notice to Lessees requires operators to submit information in their exploration plans regarding blowout scenarios- reversing a long standing [NTL2008 G-04] exemption that resulted from too much reliance on industry to self-regulate.

In July 2010 the Department of the Interior announced temporary suspensions of deepwater drilling on the Outer Continental Shelf. These suspensions, which were lifted on October 12, were essential to protect communities, coasts, and wildlife from the risks that deepwater drilling then posed and provided us with the time for investigation and implementation of a number of new safety, containment and oil spill response capability measures. The decision to lift the deepwater drilling suspensions was based on information gathered in recent months, including a report from BOEMRE Director Michael Bromwich on October 1 that shows significant progress on reforms to drilling and workplace safety regulations and standards, increased availability of oil spill response resources since the Macondo well was contained on July 15 and killed on September 19, and improved blowout containment capabilities.

Question 4. In your decision to re-organize MMS you spoke of dealing with perception issues. In your opinion, would having three separate agencies have prevented the Deepwater Horizon accident?

Answer. Conclusions about the root cause of the explosion and spill will not be drawn until all key investigations are completed and the results are published. However, the reorganization plan we announced in May is based on the premise that the activities formerly carried out by the Minerals Management Service must be clearly defined and distinct from one another in order to eliminate both real and perceived conflicts within the organization. Another key objective of the restructuring is to establish necessary checks and balances in the relationship of the three new entities, but to also ensure that critical linkages among the three organizations are maintained to provide a predictably administered program. The plan balances the imperative to move quickly with the analyses and planning required to effectively achieve the identified objectives.

A major step in this reorganization was realized on October 1, 2010, when the Office of Natural Resources Revenue was formally established. The creation of the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement will continue to move forward as the reorganization is implemented.

Question 5. Did your political team feel "pressure" to force permit approvals, waive laws or not do inspections?

Answer. The Administration's focus on offshore oil and gas development has been to do it right, based on science, and in the right places.

Question 6. Will the new MMS divisions have strong inter-division communication systems in place prior to establishment?

Answer. Communication is an important aspect of both the early development and ongoing processes of these new entities. It is important to engage employees in the process of structural change as we move to implement this reorganization. Once established, strong cross-communication between entities is critical to ensuring that key linkages among the three organizations are maintained.

Question 7. Will you be seeking to make the heads of these new agencies Senate confirmed?

Answer. We are in the process of implementing the administrative reorganization and we do not anticipate at this time that these positions will be Senate-confirmed.

Question 8. How much should Interior rely on Congress for the creation of these new agencies?

Answer. Reorganization is an essential element of a broader program that includes major new safety requirements, investigation of the Deepwater Horizon accident, legislative and regulatory reform, and programs to enhance enforcement and inspection activity. We have supported the need for organic legislation for the functions performed by the former MMS, and agree that an organization with such important responsibilities should be governed by a thoughtfully considered organic act. Moreover, it is important for organic legislation to provide the Secretary with the discretion to implement the administrative details of a reorganization as complicated as this.

Question 9. You spoke of cleaning up the mess at MMS. My understanding is all of the personnel actions related to the scandal at MMS was handled under the Bush administration. Did Interior take additional personnel action against the career employees involved?

Answer. The vast majority of people in the Department, including in BOEMRE, do their work every day and do it ethically and well. Many have been working long hours as we have moved through this crisis, and have devoted significant time and energy to various investigations and inquiries that are and have been carried out, and to the ongoing reorganization and reform.

Since the beginning of this Administration, the reform agenda of the Department has been a high priority. Specifically, with respect to the former MMS, we moved forward with an ethics reform program in the Department to address indiscretions that had been identified, and the findings of the Inspector General have been appropriately addressed. We also moved forward with the reform agenda by terminating the royalty-in-kind program, which had become a kind of magnet for ethics lapses and scandalous behavior. These reforms, along with BOEMRE Director Michael Bromwich's leadership and commitment to integrity ensure that OCS oil and gas operations in the Department will be held to the highest standards.

Question 10. Did civil service laws prevent you from firing individuals or holding people more accountable than you would have preferred in that scandal?

Answer. Please see the response to question 9.

Question 11. Does MMS have employees in its permitting and inspections offices with substantial, direct, and professional experience at well casing and cementing?

Answer. Rather than focusing on a single component of the process, the bureau's inspectors, engineers, geologists, geophysicists, physical and environmental scientists, and vital support staff include personnel with considerable experience performing and supervising the overall components of planning, permitting, and drilling wells. This experience is evidenced by the thousands of inspections of facilities and operations on the OCS that BOEMRE staff carry out every year, including coverage of tens of thousands of safety and pollution prevention components to prevent offshore accidents and spills and to ensure a safe working environment. Inspections of all oil and gas operations on the OCS are performed annually to examine safety equipment designed to prevent blowouts, fires, spills, and other major accidents. For example, in 2009, inspectors completed approximately 27,000 compliance inspections.

And we are working to improve this program. As part of our reform agenda, an OCS Safety Oversight Board established by the Secretary issued its report in September. Discussed in more detail in the response to the next question, the report provides recommendations to strengthen inspections and enforcement, and BOEMRE has formed an internal team that has begun reviewing, revising and reforming our inspections program.

Question 12. Does MMS have a program in place to recruit inspection and permitting personnel with substantial, direct, and professional experience at well casing and cementing?

Answer. The President's 2011 budget amendment, released on September 13, 2010, includes an additional \$100 million for BOEMRE reform efforts, including funding for more inspectors and engineers. Our restructuring of the OCS program will require additional resources to implement the aggressive reforms we are pursuing, and these amendments will provide this necessary funding. We are currently hiring an additional 12 inspectors and taking other actions that are outlined in the 30-day report to the President. Our restructuring of a more robust OCS regulatory and enforcement program will dictate the need for engineering, technical, and other specialized staff. The President's enacted supplemental request includes \$27 million to fund near term resources for these activities. We are also working to implement recommendations made in the OCS Safety Oversight Board's recently-issued report, available at <http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&PageID=43677>, which provides recommendations to strengthen inspections and enforcement, among other things.

Question 13. Does MMS have employees in its permitting and inspections offices with substantial, direct, and professional experience at blowout preventer design, construction, and maintenance?

Answer. Please see the response to question 11.

Question 14. Does MMS have a program in place to recruit inspection and permitting personnel with substantial, direct, and professional experience at blowout preventer design, construction, and maintenance?

Answer. Please see the response to question 12.

Question 15. As you begin to cut MMS into two agencies, will personnel within the inspections and permitting arm or will personnel in the leasing arm conduct NEPA work?

Answer. One of the key premises of the reorganization is that the activities formerly carried out by the MMS must be clearly defined and distinct from one another in order to eliminate both real and perceived conflicts within the organization. We are working diligently to define the most effective structures and processes for the new bureaus and will keep Congress informed as the reorganization proceeds. A major step in this reorganization was realized on October 1, 2010, when the Office of Natural Resources Revenue was formally established. The creation of the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement will continue to move forward as the reorganization is implemented.

Question 16. Will any new/additional career staff need to be hired to support either new agency?

Answer. As previously noted, the President's 2011 budget amendment, released on September 13, 2010, includes an additional \$100 million for BOEMRE reform efforts, including funding for more inspectors, engineers, environmental scientists, and other key staff. The amendment also proposes raising inspection fees from \$10 million to \$45 million. Our restructuring of the OCS program will require additional resources to implement the aggressive reforms we are pursuing, and these amendments will provide this necessary funding. We are also currently hiring an additional 12 inspectors and taking other actions that are outlined in the 30-day report to the President. The creation of a more robust OCS regulatory and enforcement program will dictate the need for engineering, technical, and other specialized staff.

Question 17. Will any new/additional political appointments be necessary to support either new agency?

Answer. The final details of the reorganization of the functions to be carried out by the Bureau of Safety and Environmental Enforcement and the Bureau of Ocean Energy Management are under development. As noted in the response to question 7, however, we anticipate that none of the leadership positions in these new, administratively-created agencies will be Senate-confirmed.

Question 18. How much funding can you redirect for purposes of cutting MMS into two new agencies without awaiting reprogramming through the Congressional appropriations process?

Answer. We are working diligently to implement the BOEMRE reorganization within the resources currently available, which include base funding under the Continuing Resolution, carryover balances, and a portion of the \$29 million provided to DOI as part of the FY 2010 Supplemental Appropriations Act. A major step in this reorganization was realized on October 1, 2010, when the Office of Natural Resources Revenue was formally established. The creation of the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement will continue to move forward as the reorganization is implemented. However, as noted previously, we will require additional resources to implement the aggressive reforms we are pursuing. The President's 2011 budget amendment, released on September 13, 2010, includes an additional \$100 million for BOEMRE reform efforts, including funding for more inspectors, engineers, environmental scientists, and other key staff. The amendment also proposes raising inspection fees from \$10 million to \$45 million to help offset these added costs.

Question 19. If there is a delay in reprogramming through the Congressional appropriations process, what effect will this have on the proposal to cut the agency in two?

Answer. We are continuing to responsibly and thoughtfully move to establish these strong and independent organizations, and realized a major step in this reorganization on October 1, 2010, when the Office of Natural Resources Revenue was formally established.

Question 20. What threshold requirements does MMS have in place to certify that those bidding on offshore lease parcels have the equipment and financial assets to meet their obligations as leaseholder?

Answer. Oil Spill Financial Responsibility amounts are assessed based on worst-case oil-spill discharge total volumes associated with the covered offshore facility. Although a mobile offshore drilling unit (MODU) is classified as a vessel while in transit, a MODU is classified as an offshore facility under the Oil Pollution Act of 1990 while it is in the process of a drilling operation on the OCS. For facilities located wholly or partially in the OCS, the applicable amount of financial responsibility to be assured ranges from \$35 million for worst case oil spill discharge volumes of over 1,000 to up to 35,000 barrels to \$150 million for worst case oil spill discharge volumes of over 105,000 barrels of oil.

In addition, the Act provides that parties responsible for offshore facilities must establish and maintain financial responsibility for those facilities according to methods determined by the President. Responsible parties must demonstrate as much as \$150 million in financial responsibility if the bureau determines that it is justified by the risks from potential oil spills from covered offshore facilities. Parties responsible for more than one covered facility must demonstrate coverage for the highest amount that applies to any one of the facilities. Certification must be by surety bond, insurance, self-insurance or guarantee, and coverage must be continuously maintained by the responsible party for all its leases, permits, and rights of use and easements.

For each OCS lease, 30 CFR 256.53(d) and (e) provide the Regional Director the authority to require additional security in the form of a supplemental bond, based upon a calculation of the potential decommissioning liability and an evaluation of the lessee's ability to carry out present and future financial obligations in this regard. Each lease, right-of-use and easement, and right-of-way with determined liability must be covered by a supplemental bond unless at least one lessee or holder of a right-of-use or right-of-way demonstrates to the satisfaction of BOEMRE that it has the financial ability to ensure that wells can be plugged and abandoned, platforms removed and the drilling and platform sites, including pipeline corridors, cleared of all obstructions, per BOEMRE regulations. Supplemental bonds may additionally be required to satisfy other lease obligations, as determined by the Regional Director.

Question 21. Please state the inspection record for the Deepwater Horizon's blowout preventer over the 6 months leading up to the April 20th explosion.

Answer. Regulations require that documentation of blowout preventer inspections be made available to BOEMRE during rig inspections. Operator inspections of the blowout prevention mechanisms occurred in accordance with the regulatory requirements. The results of the investigation will provide us with a more complete picture, but bureau documentation provided after the explosion shows that BOEMRE inspections occurred on the Deepwater Horizon rig in November 2009 while on location in Mississippi Canyon Block 727 and monthly after it moved to the Macondo well location in February 2010.

Question 22. The International Association of Drilling Contractors has "formally" requested your Department lift the temporary ban on new well permits for shallow water operators (under 1000 feet.) Have you made a decision on this request, and if not when will you have done so?

Answer. The temporary suspensions, which were lifted on October 12, 2010, were applicable only to deepwater drilling activities.

Question 23. Should individual activities on federal lands be examined by individual Environmental Impact Statements?

Answer. We are committed to full compliance with both the letter and the spirit of NEPA, and agree that our decision-making must be fully informed by an understanding of the potential environmental consequences of federal actions permitting offshore oil and gas development.

In August, the Council on Environmental Quality issued its report on the NEPA process for environmental reviews in the offshore program. The report found that MMS conducted numerous levels of extensive environmental reviews, relying on the "tiering" process in which prior reviews should be incorporated into subsequent, site-specific analyses. The report also offered several recommendations, which BOEMRE has committed to using as guideposts as it continues its reform and reorganization activities. On August 18th we announced that we are undertaking a comprehensive review of BOEMRE's NEPA process, including the use of categorical exclusions, for exploration and drilling on the Outer Continental Shelf.

Question 24. Do you believe a ninety-day period for making a decision on the Deepwater Horizon in 2009 would have led MMS not to permit this well?

Answer. It would not be appropriate to speculate on this issue given the outstanding investigations into the root cause of the explosion and spill. However, the Department and the Administration have recognized the significance of extending the time allowed under the OCSLA for review of oil and gas exploration plans from 30 to 90 days, and have proposed legislation to make this change.

RESPONSES OF HON. KEN SALAZAR TO QUESTIONS FROM SENATOR MENENDEZ

Question 1. Secretary Salazar, in the hearing you indicated it is still "an open question" whether the Department of the Interior and the Minerals Management Service (MMS) underestimated the risks associated with offshore drilling. There have also been recent reports that MMS scientists were pressured to underplay offshore drilling risks and that leases were approved without appropriate environ-

mental permits. Given that you do not have complete confidence in your Department's assessment of these risks and since MMS has come under fire for these same assessments, doesn't that bring into question the recent announcement to expand offshore drilling? After all, this Administration has made reliance on science a core value. If the decision to expand offshore drilling was made based on inaccurate information shouldn't this decision be reconsidered? Or is the policy of this Administration to expand offshore drilling no matter what is found out in this investigation?

Answer. The Department's proposed 2012–2017 offshore oil and gas program reverses the plans of the previous administration and provides a new approach to oil and gas activities on the OCS aimed at promoting the responsible, environmentally-sound, and scientifically-grounded development of oil and gas resources on the OCS. We made it clear that we will require full environmental analysis through an Environmental Impact Statement prior to any decision to lease in any additional areas, such as the mid- or south-Atlantic, and we launched a scientific evaluation, led by my Science Advisor and Director of the USGS, Dr. Marcia McNutt, to analyze issues associated with drilling in the Arctic. We introduced a new emphasis on both science-based decision-making and public outreach, and we will carry this emphasis through as we move to develop the final plan.

Regarding the science resources at the Department, they are some of the most robust in the United States and include thousands of scientists in the USGS, the FWS, the NPS, and BOEMRE. The various programs in the USGS and the science and research programs within BOEMRE also play key roles in providing scientific information concerning impacts from offshore energy and mineral exploration.

Question 2. Secretary Salazar, on page 7-1 of BP's exploration plan for the lease sale in question, BP certified to MMS that it had the "capability to respond . . . to a worst-case discharge . . . resulting from the activities proposed in our Exploration Plan." Do you think BP was truly capable of responding to this spill? If it was capable, why has it had to try so many unprecedented techniques to address the spill such as domes, applying hundreds of thousands of gallons of toxic dispersants, and what has been termed a "junk shot"?

Answer. We are awaiting the results of the ongoing investigations into the root cause of this tragedy. However, we must acknowledge that this extraordinary event has caused all parties to reexamine the processes they manage. At the Department, we are and have been actively working to determine the best strategies to ensure enhanced health and environmental safety standards for offshore operations, including an evaluation of how oil spill response planning has to change.

Question 3. BP's lease sale received a categorical exclusion from the NEPA process last year. How could such an inherently dangerous activity not undergo thorough environmental review? I understand that it was announced that the process of granting categorical exclusions is being reformed. Does that mean Interior has committed to ending the practice of granting any categorical exclusions for offshore oil wells?

Answer. We are committed to full compliance with both the letter and the spirit of NEPA, and agree that our decision-making must be fully informed by an understanding of the potential environmental consequences of federal actions permitting offshore oil and gas development.

In August, CEQ issued its report on the NEPA process for environmental reviews in the offshore program. The report found that MMS had conducted numerous levels of extensive environmental reviews, relying on the "tiering" process in which prior reviews should be incorporated into subsequent, site-specific analyses. The report also offered several recommendations, which BOEMRE has committed to using as guideposts as it continues its reform and reorganization activities. On August 18th the Department and BOEMRE announced that the use of categorical exclusions for offshore oil and gas development would be restricted to activities involving limited environmental risk while the Department undertakes a comprehensive review of its NEPA process and the use of categorical exclusions for exploration and drilling on the Outer Continental Shelf.

Question 4. Secretary Salazar, I know you and dozens of other employees at Interior have had to drop what you were doing and head to the Gulf to help oversee the spill response. Each employee has incurred their own travel costs, lodging, and meals. I feel quite strongly BP should be on the hook for all response costs, including these sorts of incidental costs to the American taxpayer. I sent a letter on May 17, urging all federal departments to keep records of all expenses associated with mobilizing personnel and resources to clean up BP's mess. As far as I am concerned Mr. Secretary, if you recently had a cup of coffee in Louisiana, BP should be paying for it. Do you agree? Are all of these expenses carefully tracked and recorded?

Answer. The Administration is committed to holding those responsible accountable for all eligible costs associated with the Deepwater Horizon spill, and the De-

partment is tracking all spill-related costs. As of early September, the Administration had sent six bills to BP and other responsible parties for oil removal costs. The first five of those bills have been reimbursed in full by BP.

Costs which fall within the statement of work under the Pollution Removal Funding Agreement (PRFA) the Department has with the U.S. Coast Guard are being reimbursed through a coordinated department-wide process. Every bureau and office with a Deepwater Horizon related PRFA is tracking these costs according to the USCG's PRFA reimbursement guidance. Currently efforts to prepare and process reimbursement packages for costs incurred from April 21, 2010 to June 30, 2010 within the various PRFA agreements throughout the Department are underway. These packages will be prepared and submitted to the USCG on a regular basis until all Deepwater Horizon work is complete and expenses under the PRFA's are reimbursed.

The Administration regularly bills responsible parties for oil removal costs, and has sent seven bills, to-date, of which the first six have been paid in full by BP, totaling \$518.4 million. More information about oil spill costs and the reimbursement process - including copies of the bills that have been sent to responsible parties—is available here: <http://www.restorethegulf.gov/release/2010/10/13/oil-spill-cost-and-reimbursement-fact-sheet>.

Departmental costs that are not currently being reimbursed through one of the various PRFAs are being tracked in accordance with interagency guidance and will be provided to DOJ.

RESPONSES OF HON. KEN SALAZAR TO QUESTIONS FROM SENATOR CANTWELL

Question 1. When blowout preventers experience failures, malfunctions, or failed tests, are those failures required to be reported to the Minerals Management Service? If so, what is the regulatory basis and scope of that requirement and what is the Minerals Management Service's process for responding to those reported failures?

Answer. The regulations in 30 CFR 250 govern important drilling operations on the OCS. Subpart D covers all aspects of the drilling operation including permitting, casing requirements, cementing requirements, diverter systems, blowout prevention systems, drilling fluids requirements, equipment testing, and reporting.

Fatalities, injuries that require the evacuation of the injured person, losses of well control, fires and explosions, and other similar significant events must be reported immediately via oral communication to the BOEMRE District Manager. Beyond whatever immediate action may be necessary to respond to a significant event, a written follow-up report is required within 15 calendar days. Oral presentation of information for events required to be reported is limited to information that can be transferred quickly due to a potentially ongoing emergency, and includes the date and time of occurrence, name and contact data, lease and block data, the name of the facility involved, and the type of incident and injury or fatality. Written reports, however, require submittal of data that has been verified after the response, and involve discussion of any corrective actions taken and data on monetary damage.

The Secretary, the Secretary of the Army, and the USCG have the authority to pursue civil and criminal enforcement actions against persons who violate the Outer Continental Shelf Lands Act, the regulations created to implement the OCSLA, and the terms of any lease, license, or permit issued under the Act. The Department maintains a National Potential Incident of Noncompliance (PINC) List to help inspectors carry out enforcement actions: it contains a checklist of requirements for specific installations or procedures and prescribed enforcement actions consisting of written warnings, shut-in of a component, including wells, equipment, or pipelines, or shut-in of an entire platform if noncompliance with the National PINC is detected. If the violation does not impose an immediate danger to personnel or equipment, a warning Incident of Noncompliance (INC) is issued. An INC must be corrected within 14 days from the time specified on the INC, and the operator may not continue the activity in question until it has corrected the INC.

Question 2. Does the Minerals Management Service have a record of any reported failures, malfunctions, failed tests or other problems with the blowout preventer at issue in the Deepwater Horizon incident prior to the April 22nd blowout and explosion? If so, please detail those reported problems, how those reports of problems were handled by the Minerals Management Service, and whether any waivers were granted that allowed the operator to continue drilling without fixing those reported problems with the blowout preventer.

Answer. Regulations require that documentation of blowout preventer inspections be made available to BOEMRE during rig inspections. Operator inspections of the blowout prevention mechanisms occurred in accordance with the regulatory require-

ments. The results of the investigation will provide us with a more complete picture, but bureau documentation provided after the explosion shows that BOEMRE inspections occurred on the Deepwater Horizon rig in November 2009 while on location in Mississippi Canyon Block 727 and monthly after it moved to the Macondo well location in February 2010.

Question 3. Based on the shocking “60 Minutes” report this past Sunday, it looks like other offshore oil rigs like the “Atlantis” may be woefully out of compliance, with engineering drawings and schematics that are inaccurate and not approved by engineers. Why is MMS allowing the Atlantis oil rig to continue operating without a full and complete set of engineer-approved drawings and schematics?

Answer. In April of 2009, a whistle blower filed a complaint under the federal “False Claims Act” alleging that BP falsely certified safety records relating to BP’s Atlantis Project. The parties agreed to a dismissal of that suit in January 2010. On May 13 the whistle blower asked the court to reopen the case; the government did not object to the request. In the meantime, BOEMRE launched its own investigation into safety operations on the Atlantis. That investigation, which also responds to Congressional requests, is nearing completion and a report is being finalized. The BOEMRE Director will be providing the report to the requesting and interested Members of Congress.

Question 4. Who specifically is charged with investigating the allegations about the Atlantis oil rig?

Answer. The investigation is being led by BOEMRE’s new Investigation and Review Unit with support from BOEMRE’s Office of Field Operations in the Gulf of Mexico Region.

Question 5. What is your expected time-line for the ongoing investigation into the Atlantis oil rig? Do you anticipate that a formal, publicly-released report will result from the investigation?

Answer. As noted in the response to question 3, the BOEMRE investigation, which also responds to Congressional requests, is nearing completion and a report is being finalized. BOEMRE Director Bromwich will be providing the report to the requesting and interested Members of Congress.

Question 6. Has the Department of Interior received any allegations of wrongdoing with respect to the Thunder Horse oil platform? Are there currently any investigations into safety, compliance, or other issues with respect to the Thunder Horse oil platform?

Answer. On November 13, 2009, the New Orleans District office received an e-mail from a former BP employee stating that BP had safety violations ongoing at the Thunderhorse MC 778 A platform. On November 19, 2009, two inspectors arrived at the Thunderhorse facility to investigate. The inspectors were unable to substantiate the reported safety violations.

Question 7. It seems that an uncontrollable oil well blowout and multi-week or multi-month oil leak is not typically considered to be the worst-case scenario in risk and environmental analyses for offshore oil drilling. The worst-case scenario is often stated to be much less severe in magnitude. Do you believe that future risk and environmental analyses should consider an uncontrollable well blowout and multi-month oil leak to be the worst case scenario, rather than setting the ‘worst-case scenario bar’ at a lower and more optimistic level?

Answer. The Department, through BOEMRE, is evaluating how oil spill response planning has to change after the Deepwater Horizon tragedy. This extraordinary event has caused all relevant federal agencies to reexamine their processes. For example, it may be necessary for operators to demonstrate the ability to respond in a shorter timeframe than in the past; faster containment also seems to be the most effective tool in open water response. From deepwater spill containment to use of ocean booms, we are working to ensure that sufficient resources are available to contain spilled oil before it spreads beyond our capability to recover it.