BOEMRE/U.S. COAST GUARD JOINT INVESTIGATION TEAM REPORT: PARTS 1 AND 2

OVERSIGHT HEARINGS

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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CONTENTS

CONTENTS

OVERSIGHT HEARING ENTITLED "BOEMRE/ U.S. COAST GUARD JOINT INVESTIGATION TEAM REPORT": PART 1

Thursday, October 13, 2011
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:05 a.m., in Room 1324, Longworth House Office Building, The Honorable Doc Hastings [Chairman of the Committee] presiding.

Present: Representatives Hastings, Duncan of Tennessee, Bishop, Fleming, Thompson, Duncan of South Carolina, Gosar, Southerland, Flores, Harris, Landry, Markey, Holt, Grijalva, Boren, and Sarbanes.

Also present: Jackson Lee.

Mr. HASTINGS. The Committee will come to order. The Chairman notes the presence of a quorum, which under Rule 3[e] is two, and so we exceed that.

The Committee on Natural Resources is meeting today to hear testimony on an oversight hearing on BOEMRE/U.S. Coast Guard Joint Investigative Team Report. Under Rule 4[f] opening statements are limited to the Chairman and the Ranking Member. However, I ask unanimous consent that any Member that wishes to have a statement in the record have it to the Committee before the end of business today, and without objection, so ordered.

I will now recognize myself for five minutes.

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

The CHAIRMAN. First of all, I want to thank all of the witnesses for being here today. Although I was greatly frustrated by the events that led to the delay and the repeated scheduling of this hearing, I am pleased that today we will hear testimony from the investigative Co-Chairs who conducted and oversaw extensive interviews, depositions and document review. This Committee will also hear from the three companies named in the report.

The primary purpose for originally scheduling this hearing was to hear directly from the actual front line investigators about their official workings and findings. As the Committee responsible for overseeing the agencies and laws responsible for offshore energy production, it is our duty to get the full facts regarding the *Deepwater Horizon* explosion and oil spill and the findings of the report.

At our very first hearing this year this Committee heard testimony from the Co-Chairs of the President's own commission that he selected and he appointed, and it is only logical that we give the same attention to this official report. I have said from day one that we need all the facts and information regarding this spill before rushing to judge or to legislate. This report is an important piece

of the puzzle that gives us deeper insight and greater clarity as to what caused the explosion that tragically took 11 lives and led to an oil spill that caused widespread impacts throughout the Gulf.

The JIT investigation is unique and important in many ways. While there have been several investigations and reports issued, this is the only investigative team that had subpoena power. This is the only investigative team comprised of technical engineers and experts, and this is the only investigative team that actually examined the blowout preventer. Members of this investigative team were on the ground from day one and had the necessary tools to complete a thorough and comprehensive investigation. They had access to information that others didn't and it is important for this Committee to hear directly from them on their report and their conclusions.

In short, this report finds that the disaster was the direct result of multiple human errors and technical failures. While the report makes a number of recommendations, it is interesting to note that it includes no specific recommendation for congressional action.

I have repeatedly stated that the top priority of this Committee is to make offshore drilling the safest in the world. Over the past 18 months there have been significant changes and reforms to improve offshore drilling and response. It is important that Congress, the Administration and the industry continue to respond appropriately. I stress that reforms must be done thoroughly and done right. We have no other choice when the stakes are this high. Offshore drilling must be done safely, but we cannot afford to make it impossible through overregulation.

Yesterday this Committee heard from people and businesses in the Gulf who continue to suffer one year after the Obama Administration lifted the official moratorium in the Gulf of Mexico. Their livelihoods are linked to U.S. energy production, and for that matter so is our nation's. Our national economy, American jobs and our national security are all dependent on the safe and reliable U.S. energy production. We must move forward with offshore energy production in a safe, timely and efficient manner.

So I look forward to hearing today from our witnesses and learning more about the months of on-the-ground work from the JIT investigators. America owes both of you and your teams our appreciation for your service to our nation.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Chairman, Committee on Natural Resources

In May 2010, shortly after the tragic Deepwater Horizon explosion and oil spill, the Obama Administration placed a moratorium on all deepwater drilling in the Gulf of Mexico. This official moratorium lasted for nearly six months and was lifted on October 12, 2010—exactly one year ago today.

This official moratorium, unfortunately, was followed by a *de facto* moratorium that still did not allow businesses and their employees to return to work until the first permits were issued in February of this year. The Obama Administration's inability, or refusal, to issue permits in a timely and efficient manner after the official moratorium was lifted resulted in lost jobs and significant economic pain.

Since the moratorium was imposed, this Committee has heard directly from businesses and local community groups about the economic impacts. Today, one year later, this hearing is an opportunity to follow-up and listen to those from the Gulf about what economic conditions are like there today.

While I recognize that some permits indeed are being issued, there are facts and data that demonstrate recovery is moving at a pace that continues to hamper job creation and the economy.

First, permitting activity in the Gulf has dramatically declined under the Obama Administration and has operated at lows that equate to hurricane-induced slowdowns.

Additionally, permitting activity has not returned to pre-Deepwater Horizon levels. The average number of permits issued in the six-months prior to the Deepwater Horizon incident was 71 per month. The average number for the past six months is 52 per month. That's a 27% decrease, which directly affects jobs and the local economy.

Second, instead of looking at the number of permits issued, we should also look at production levels. This chart shows how production has declined. The top line is what production in the Gulf was projected to be before the spill and the President's moratorium. The bottom line represents actual production.

Third, the time it takes to get approval for permits and exploration plans is much longer today. Director Michael Bromwich has frequently stated that there is not a backup of offshore drilling permits waiting for approval. . .and that this proves there is no *de facto* moratorium. This chart actually helps highlight what Director Bromwich is referring to. It shows the number of days it took specific explorations plans to be accepted and approved in order to receive a permit to drill. As you can see from this chart, these plans are being approved in a relatively short time-frame. But that is only part of the story.

This next chart shows how long it actually took companies to get their plans approved–sometimes nearly 300 days. The biggest delay in the process, as shown here, is getting the Interior Department to accept the exploration plan and declare it 'deemed submitted.' Companies are submitting plans and getting stuck in a back and forth limbo with the Interior Department that can drag on for months. This is the step the Obama Administration doesn't talk about.

Keep in mind, companies can't apply for permits until its exploration plan has been submitted and approved. That's why it's disingenuous to only refer to pending permits and approved permits—as the Interior Department likes to do—because the log jams occurs before companies even get to that point. It's a slight of hand to make the process look much more efficient.

Fourth, 11 deepwater rigs have left the Gulf of Mexico for foreign countries such as Egypt and Brazil. Every time one of these rigs leaves, it takes away good-paying American jobs. In addition, 84 offshore support vessels have also departed the Gulf.

The livelihood of communities and businesses throughout the Gulf depend on safe and responsible offshore energy production. It's been a year and a half since the Deepwater Horizon incident, and a year since the President's moratorium was officially lifted. It's time to get people back to work and get the Gulf's economy growing again.

Mr. HASTINGS. With that, I recognize the distinguished Ranking Member.

STATEMENT OF THE HON. EDWARD MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. Thank you, Mr. Chairman.

More than one year has passed since BP's blown out well finally stopped spewing oil into the Gulf of Mexico, but Congress has not enacted a single legislative reform in response to the worst environmental disaster in American history. And what has been the reason for this delay?

The Republican Majority has blocked all legislative action because they said they wanted to wait until all the facts were in before taking action to respond to the spill. Well, we have now heard from the independent BP Spill Commission. We have seen the forensic examination of the blowout preventer, and the government's Joint Investigation Team has now issued its findings and recommendations. The facts are in and it is well past time for this

Committee and this Congress to enact comprehensive legislation to ensure that we prevent a similar disaster in the future.

The government's investigation reached many of the same conclusions as the independent BP Spill Commission. The report says that this disaster was preventable, not inevitable. It says that corners were cut, bad decisions were made and that stronger safety standards and more emphasis on worker training could have helped prevent this disaster.

Today we have before us the government investigators who looked long and hard into this disaster. We will also hear from representatives of the oil companies responsible for the spill. While it is good that this Committee is finally hearing from some of the companies involved in this disaster, I feel compelled to note that the Minority was not notified that these additional witnesses would testify until very late on Tuesday, less than two days before this hearing. The testimony of the oil company representatives was not made available until yesterday afternoon. I am worried that the effect of this process could be to shield these companies from proper scrutiny or hamper the ability of Members and staff to fully review and analyze the companies' testimony. It has also prevented Democrats from being able to exercise our rights to call Minority witnesses.

For this reason, a majority of the Democratic Members of the Committee have signed a letter to you, Mr. Chairman, exercising our rights, pursuant to Rule XI of the House, to call witnesses to testify at a second day of hearings on this subject.

However, regardless of how we arrived here today there will be many questions at this hearing, and after today we should have the answers we need to finally move forward with comprehensive reform. It is time to hold these companies fully accountable for this spill. In fact, late yesterday the Interior Department officially issued seven violations of Federal regulations against BP and four a piece against Halliburton and Transocean.

Unfortunately, even in a worst-case scenario for BP, these violations that resulted in the nearly 5 million barrels of oil spilling into the Gulf would cost the company a total of $21 million, not billion, million.

Considering what we know about what caused this disaster, BP should stand for "bigger penalties". BP is on pace to make more than $25 billion this year; $21 million represents a little over seven hours of profits for this oil giant. That fine, obviously, does not even begin to approach the amount needed to be a deterrent against a repeat of this tragedy. That fine is nothing more than a slap on the wrist.

The Transocean Company has already announced that it plans to appeal the fines, and it seems that once again Transocean is trying to transfer blame. We need to ensure that there are sufficient financial incentives in place to deter oil companies from cutting corners. We need to enact legislation to dramatically increase civil penalties for oil companies who violate Federal regulation to increase the liability cap for companies responsible for a spill.

As the Democratic spill response bill would do, we need to hold these companies responsible for their actions, and we need to ensure that the agencies here today are working to implement the

safety reforms recommended by the Joint Investigation Team. After this hearing I hope the Republican Majority will end their push to revert to the same speed over safety mentality that led to this disaster and join Democrats in pushing for real reforms to protect the economy and the environment of the Gulf.

I yield back the balance.

[The prepared statement of Mr. Markey follows:]

Statement of The Honorable Edward J. Markey, Ranking Member, Committee on Natural Resources

Thank you.

More than one year has passed since BP's blown out well finally stopped spewing oil into the Gulf of Mexico. But Congress has still not enacted a single legislative reform in response to the worst environmental disaster in American history.

And what has been the reason for this delay? The Republican Majority has blocked all legislative action because they said that they wanted to wait until all the facts were in before taking action to respond to the spill.

Well, we have now heard from the independent BP Spill Commission. We have seen the forensic examination of the blowout preventer. And the government's Joint Investigation Team has now issued its findings and recommendations.

The facts are in. And it is well past time for this Committee and this Congress to enact comprehensive legislation to ensure that we prevent a similar disaster in the future.

The government's investigation reached many of the same conclusions as the independent BP Spill Commission. The report says that this disaster was preventable, not inevitable. It says that corners were cut, bad decisions were made, and that stronger safety standards and more emphasis on worker training could have helped prevent this disaster.

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It is time to hold these companies fully accountable for this spill. In fact, late yesterday the Interior Department officially issued seven violations of federal regulations against BP, and four apiece against Halliburton and Transocean. Unfortunately, even in a worst-case scenario for BP, these violations, that resulted in the nearly five million barrels of oil spilling into the Gulf, would cost the company a total of $21 million.

Considering what we know about what caused this disaster, BP should stand for Bigger Penalties.

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And Transocean has already announced that it plans to appeal the fines. It seems that once again Transocean is trying to transfer blame.

We need to ensure that there are sufficient financial incentives in place to deter oil companies from cutting corners. We need to enact legislation to dramatically increase civil penalties for oil companies who violate federal regulations and increase the liability cap for companies responsible for a spill, as the Democratic spill response bill would do. We need to hold these companies responsible for their actions.

And we need to ensure that the agencies here today are working to implement the safety reforms recommended by the Joint Investigation Team. After this hearing, I hope the Republican Majority will end their push to revert to the same speed-over-safety mentality that led to this disaster, and join Democrats in pushing for real reforms to protect the economy and the environment of the Gulf.

Mr. HASTINGS. I thank the gentleman.

Before I recognize the panel just let me respond. The Minority certainly has every right to exercise whatever authority they have to have hearings. I respect that. But I do want to say, and I alluded to this in my opening statement, I too am very, very frustrated with how this all came about, but nevertheless it is here, and we are going to have this hearing, and I think hopefully we will shed some light on what we are looking at, but let me make an observation.

When the gentleman referred to Minority witnesses, in this hearing today there are no Majority or Minority witnesses. As a matter of fact, the first panel is made up of Co-Chairs of the Joint Investigative Team and then representatives from the Department of the Interior, DOE, BOEMRE and then also the Coast Guard. And the second panel is simply made up of those that are referenced in the report. So in this case, we don't have a situation of Majority and Minority witnesses. It simply does not exist with this panel.

Nevertheless, the Ranking Member and the Minority have every right to ask for an additional hearing. We will certainly take that into consideration.

Our first panel today——

Mr. MARKEY. Will the gentleman yield just briefly?

Mr. HASTINGS. Sure, I will yield to the gentleman.

Mr. MARKEY. And it is to say that there was no consultative process on the second panel whatsoever.

Mr. HASTINGS. Well, reclaiming my time on that, I privately mentioned to the gentleman on the Floor of the House, if he recalls, that it was always my intention to have representatives from the companies here. Now I know the gentleman has requested CEOs. If I had my way, every time we have a hearing here and have a member of the Administration here I would like to have the Secretary of the Interior here. That obviously doesn't work. In fact, it would be even better if we had President Obama here on every one. So we asked for representatives of the company. They sent executives. They had chosen the ones that could best respond to what we I think need to learn through this hearing.

But I do want to say, and this goes back to my original observation, I was very, very frustrated that we had to postpone this for three weeks, and by the time we got confirmation of having the panels here we made that announcement. It is nothing more complicated than that, so this isn't ideally how I would have wanted it, but this is the hand that we are dealt with, so with that——

Mr. MARKEY. If the gentleman would just yield?

Mr. HASTINGS. I would be more than happy to yield.

Mr. MARKEY. And I thank the gentleman very much.

I am trying here to divide the question and by that I mean that, yes, we do want representatives from the companies to testify. The point that we are making here is that we were not notified until 4:00 on Tuesday afternoon that at a 10:00 meeting on Thursday

morning that there would be a second panel. We had no idea that there was even going to be a second panel, much less who was going to be testifying.

So the issue that we are really raising here is one of the consultative process. We are going to disagree obviously on the issues, but in terms of the notice that the Minority gets in order to prepare for a hearing in order to make in a timely fashioned request for a witness or even to have a discussion as to whether or not a Minority witness is necessary was not provided, so that is the point that we are making even as we are just trying to construct something here that makes it easier for the Minority to be able to raise their concerns in a timely fashion.

Mr. HASTINGS. And reclaiming my time, and I appreciate the gentleman's response. I just simply want to say that in a private conversation that the two of us have had it was always my intent to do so. We didn't get confirmation until late that the representatives would be here. I thought this was precisely the right venue in order to have if you will an investigative report followed by representatives of the companies here, but I appreciate the gentleman's point, and I understand that. I was in his place before. I am disappointed, he said we don't agree on everything, I thought that we did agree on everything, but at any rate, I thank the gentleman for his remarks.

Our first panel today, I am very pleased even though we had frustrations of putting it together that all of you are here. We have Captain Hung Nguyen, Co-Chair of the Joint Investigative Team from the U.S. Coast Guard; Mr. David Dykes, Co-Chair of the JIT Team, he is a former BOEMRE staffer. We have Vice Admiral Brian Salerno, Deputy Commander for Operations of the U.S. Coast Guard and of course The Honorable Michael Bromwich, Director of the Bureau of Safety and Environmental Enforcement.

For those of you who have not been here, Director Bromwich has, so he knows the rules very well and I know that he will not exceed his five minutes because he knows how touchy I am on that regard, but the way the lights work there. I would like you to have your oral remarks confined to five minutes, and your full statement will appear in the record. When the green light is on, it means you are doing very, very well. When the yellow light comes on, it means you have one minute left, and when the red light comes on, it means the five minutes are over. So I would ask you to try to confine your remarks to that time because your full statement will appear in the record.

So, Captain Nguyen, we will start with you and you are recognized for five minutes. Welcome to the panel.

STATEMENT OF CAPTAIN HUNG NGUYEN, CO-CHAIR OF THE JOINT INVESTIGATION TEAM, U.S. COAST GUARD

Captain NGUYEN. Good morning, Chairman Hastings, Ranking Member Markey and distinguished Members of the Committee. I am honored to appear before you today to discuss the Coast Guard Joint Investigation. Immediately following the loss of the *Deepwater Horizon*, the Department of Homeland Security, DHS, and Department of the Interior, DOI, convened a formal joint investiga-

tion for the purpose of examining the circumstances surrounding this incident and to make recommendation to prevent recurrence.

On April 26, 2010, Rear Admiral Kevin Cook, Director of Coast Guard Prevention Policy, informed me that I would be designated as the Coast Guard Co-Chair for the Joint Investigation. In addition to me, there were three other Coast Guard members only assigned to the Joint Investigation Team, JIT, including Captain Mark Higgins, the Atlantic area Staff Judge Advocate, Captain Retired Gerard Whitley, Sector San Francisco Senior Investigation Officer and Lieutenant Commander Robert Butts, a Training Center Yorktown instructor. Lieutenant Commander Jeff Bragg, a headquarter Staff Judge Advocate, served as the Coast Guard attorney for the JIT.

The DHS/DOI convening order identified Mr. David Dykes as the Bureau of Ocean Energy Management, Regulations and Enforcement, BOEMRE Co-Chair. I thank Mr. Dykes and the other JIT BOEMRE members for their cooperation and support.

The *Deepwater Horizon* casualty demanded transparency and needed to be systematically investigated. Consequently, in early May 2010, in collaboration with BOEMRE investigators, we developed an initial investigation program which was posted on our internet website in June 2010. As new issues of concern were identified, the roadmap was updated to include additional public hearing sessions and parties in interest. We closely followed the roadmap.

As the hearings progressed and the number of parties in interest increased, the number of objections increased significantly. It was determined that the addition of members with a legal background would assist the Co-Chair with handling objections and enable the investigator to focus on technical matters subsequent to the hearing sessions. Retired Federal Judge Wayne Anderson and Captain Mark Higgins were added to the JIT. While the Co-Chairs did preside over the hearing, the addition of Judge Anderson and Captain Higgins have moved the investigation forward.

The Coast Guard investigation focused on the factors on board the *Deepwater Horizon* that might have contributed to the explosion, fire and subsequent sinking of the vessel. We examined the firefighting, evacuation and search and rescue efforts.

By the beginning of January 2011, JIT Coast Guard members began to conduct our causal analysis. With no access to the damaged sunken vessel, we relied on witness statements, testimonies and documentary evidence. Based on the obtained information we identified facts and developed our conclusion and recommendations. The findings, conclusions and recommendations of the Coast Guard Investigative Team are in Volume 1 of the final report which was released in April 2011.

With the exception of the five-year dead weight error in conclusion 4L, which does not change the related recommendation 4-H, JIT Coast Guard members stand by our conclusions and recommendations.

The Coast Guard Marine Investigation Program is a system of checks and balances. Our investigators get to exercise their judgment and report as they think appropriate. Once the report of investigation is complete, it is transmitted to Coast Guard head-

quarters for the final agency action. JIT Coast Guard members do not participate in the development of the Commandant's final agency memorandum. Again, thank you for the opportunity to testify before you today. I am pleased to answer your questions.

[The prepared statement of Captain Nguyen follows:]

Statement of Captain Hung Nguyen, Co-Chair, Deepwater Horizon, United States Coast Guard/Bureau of Ocean Energy Management, Regulation and Enforcement

Good Morning Chairman Hastings, Ranking Member Markey, and distinguished members of the Committee. I am honored to appear before you today to discuss the Coast Guard's contributions to the Deepwater Horizon Joint Investigation Team Report.

Immediately following the April 20, 2010 distress notification of an explosion and fire onboard the Mobile Offshore Drilling Unit *DEEPWATER HORIZON,* a coordinated preliminary marine casualty investigation was launched. Investigators from both the U.S. Coast Guard (USCG) and the Minerals Management Service (MMS) (predecessor to the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)) were dispatched by helicopter and ultimately boarded the Offshore Supply Vessel (OSV) *DAMON B. BANKSTON,* where they initiated interviews of the surviving crew and witnesses. The investigators also began gathering documentary and physical evidence.

On April 27, 2010, the Department of Homeland Security (DHS) and the Department of the Interior (DOI) determined that a joint investigation was the best strategy for determining the events, decisions, actions, and consequences of this marine casualty and entered into a Statement of Principles and Convening Order. The Convening Order stated that a Joint Investigation was to be conducted and Co-Chaired by equal representation from both the USCG and MMS. This endeavor was classified under 46 U.S.C. 6308 and the governing rules for both agencies and was defined as a Coast Guard Marine Board of Investigation within the meaning of 46 C.F.R. § 4.09 and a Panel Investigation within the meaning of 30 C.F.R. § 250.191.

The Commandant of the U.S. Coast Guard convenes a Marine Board of Investigation when necessary to promote safety at sea or when in the public interest. This formal process includes maintaining a record of the proceedings and the transcription of witness testimony. The Convening Order directed that the public hearing portions of the investigation follow the policies and procedures of a Marine Board of Investigation. Where the procedures of a Marine Board of Investigation differed from those of a Panel Investigation, the Convening Order further directed that Marine Board of Investigation procedures govern.

A Joint Investigation Team (JIT) was then formed and tasked with carrying out the investigation. The team used the combined investigative powers and authorities afforded to the USCG and MMS. Personnel from each agency were assigned to the JIT based on their background and experience in order to facilitate the most effective and efficient collection of evidence, to conduct public hearings and inquiries, and to coordinate forensic testing. Pursuant to 46 U.S.C. § 6304, the JIT held subpoena authority that was consistent with that of a U.S. district court in civil matters, and could administer oaths.

The agencies operated under the 2009 Memorandum of Agreement (MOA) that identifies responsibilities of the MMS and the USCG. The USCG and MMS entered this agreement under the authority of 14 U.S.C. § 141—USCG Cooperation with other Agencies; 43 U.S.C. §§ 1347, 1348(a)—the Outer Continental Shelf Lands Act (OCSLA), as amended; 33 U.S.C. § 2712(a)(5)(A)—the Oil Pollution Act of 1990 (OPA); 43 U.S.C. §§ 1301–1315—the Submerged Lands Act (SLA), as amended; and the Energy Policy Act of 2005, Pub L. 109–58, 119 Stat. 594 (codified in scattered sections of 7 U.S.C., 15 U.S.C., 16 U.S.C., 26 U.S.C., and 42 U.S.C.).

Additionally, the USCG and MMS had formerly signed a Memorandum of Understanding (MOU) to delineate inspection responsibilities between both agencies. The MOU is further broken down into five MOAs: OCS–01 Agency Responsibilities, OCS–02 Civil Penalties, OCS–03 Oil Discharge Planning, Preparedness and Response, OCS–04 Floating Offshore Facilities and OCS–05 Incident Investigations. OCS–01 established responsibilities for each agency and clarified overall responsibility where jurisdiction overlapped.

Under the MOAs, BOEMRE, as MMS's successor, is responsible for investigating incidents related to systems associated with exploration, drilling, completion, work over, production, pipeline and decommissioning operations for hydrocarbons and other minerals on the Outer Continental Shelf (OCS). The USCG is responsible for

investigating marine casualties involving deaths, injuries, property/equipment loss, vessel safety systems, and environmental damage resulting from incidents aboard vessels subject to U.S. jurisdiction. The MOA assigns responsibility in joint investigations according to these responsibilities. Volume I of the JIT report addresses the areas of USCG responsibility and Volume II addresses the areas of BOEMRE responsibility.

The joint investigation was conducted under the April 27, 2010, Statement of Principles and Convening Order which ensured that the investigative process was rigorous, comprehensive, independent and transparent. The JIT was composed of four lead members and supporting technical staff from each agency. The JIT held seven public hearings governed by the policies and procedures for a Marine Board of Investigation contained in 46 C.F.R. § 4.09 and the USCG Marine Safety Manual, Volume V. The JIT recorded the testimony of more than 80 witnesses; conducted multiple interviews with more than 25 individuals: received, processed, and analyzed hundreds of thousands of pages of documents; and maintained custody of hundreds of pieces of physical evidence, ranging from small rock samples to the actual blowout preventer that had been in place at the Macondo wellhead. Taking into consideration their status as the Flag State, the Republic of Marshall Islands Maritime Administrator was accorded the rights of a Party in Interest in addition to certain procedural rights. The JIT also designated Parties in Interest, who were afforded their statutory rights specified in 46 U.S.C. § 6303. Those rights are to: (1) be represented by counsel; (2) cross-examine witnesses; (3) introduce evidence; and, (4) ask the Board to call witnesses on their behalf.

On April 22, 2011, the USCG members of the JIT submitted Volume I of their report of investigation to the Commandant, USCG for their comments on the findings, conclusions and action on the JIT's safety recommendations. Additionally, Volume I of the report was disseminated to the Next of Kin of those lost in the marine casualty, members of Congress, all Parties in Interest, and the general public via the internet on or before that date.

As prescribed by Coast Guard policy, Volume I, which is the Coast Guard portion of the investigation, was submitted to the Commandant for review, endorsement, and determination of Final Action. The Commandant took Final Action on Volume I on September 9, 2011. Also on September 9, 2011, the Commandant and Director Bromwich of BOEMRE signed a joint cover memo on the Joint Investigation Team Report of Investigation. Volume I, as accepted by the Commandant's Final Action, and Volume II together provide a comprehensive assessment of the incident and comprise the completed joint report of investigation.

Thank you for the opportunity to testify today. I look forward to your questions.

Mr. HASTINGS. Thank you very much, Captain Nguyen, for your testimony. I will now recognize Mr. David Dykes, who was Co-Chairman of the JIT team. The gentleman is recognized for five minutes.

STATEMENT OF MR. DAVID DYKES, CO-CHAIR OF THE JOINT INVESTIGATION TEAM, FORMER BOEMRE STAFF

Mr. DYKES. Thank you, Mr. Chairman, Members of the Committee. For the record, my name is James David Dykes. For the last 17 months I served as Co-Chair for the Joint Marine Board of Investigation. My written testimony presented and my oral statement given here this morning is from my very best recollection of the facts as I know them. In preparing the written testimony I had limited access to evidence due to my resignation from the Bureau back in September. It came from web information and it came from my own recollection of the information.

My written testimony attempts to address the investigation as it was conducted, what was discovered during the investigation and what the investigation findings showed.

On the morning of April 21, 2010, Investigator Kirk Malstrom, the Houma district manager, Bryan Domangue, and I were in Houston when we learned of the *Deepwater Horizon* incident. Upon

hearing of the news we immediately began both the investigation phase and the response phase in BP's office in Houston while other personnel in the MMS office in New Orleans were ramping up their operations there.

The Coast Guard was preparing to dispatch investigators to the offshore location to start interviewing surviving crew members. We dispatched MMS investigators to Houma, Louisiana, to rendezvous with the Coast Guard investigators and to travel to the offshore location.

The investigators intercepted the motor vessel *Damon Bankston* en route to the beach and began conducting interviews and collecting statements. Within the first few days MMS was coordinating with the Coast Guard on areas that needed to be explored. I met with Coast Guard personnel from the Morgan City Marine Safety Office and representatives from the Republic of Marshall Islands to determine what information was in hand and what information needed to be collected. At this time preservation orders were issued to both BP and to Transocean.

The Joint Investigation issued more than 90 subpoenas and collected over 400,000 pages of evidence over the course of this investigation. These documents encompass everything from company safe work practices and drilling program procedures and permits to employee performance reviews and master service agreements.

The JIT held seven public hearings and called over 80 witnesses. Some witnesses refused to testify however, perhaps due in part to the announcement of a criminal investigation by U.S. Attorney General Eric Holder on June 1, 2010.

In closing, the findings from the investigation revealed that additional barriers are needed to reduce the probability of similar events of this magnitude from happening again. Recommendations for additional research and regulatory provisions as well as rig design revisions along with changes to well control and emergency response will add these barriers. However, they cannot guarantee that the human element in the equation will perform as intended. This specific issue is one issue that will haunt the oil and gas industry and every other industry where personnel are required to make decisions based on raw data.

This concludes my opening statement. I will be happy to answer any questions. Thank you.

[The prepared statement of Mr. Dykes follows:]

Statement of James David Dykes, Co-Chair, USCG/BOEMRE Joint Investigation Into the Deepwater Horizon/Macondo Well Blowout, Formerly with the U.S. Department of Interior, Bureau of Ocean Energy Management, Regulation and Enforcement

Opening Oral Summary Statement

Ladies and Gentlemen of the Committee, my name is James David Dykes. For the last 17 months, I served as co-chair for the Joint Marine Board of Investigation. My written testimony and my oral testimony here today are given from my best recollection of the facts as I remember them. In preparing the written testimony, I had very limited access to the evidence due to my resignation from federal employment back in September of this year. The information presented has been gleaned from the final published report, my own recollection, and from published information available on the web. My written testimony attempts to address the investigation as it was conducted, what was discovered during the investigation, and what the findings of the investigation show.

On the morning of April 21, 2010, Investigator Kirk Malstrom, Houma District Manager Bryan Domangue and I were in Houston when we learned of the Deepwater Horizon incident. Upon hearing of the incident, we immediately began both the investigation and MMS response phase in BP's Houston office while other MMS personnel were ramping up in our New Orleans office. The Coast Guard was preparing to dispatch investigators to the offshore location to start interviewing and gathering witness statements from the surviving crew members. We dispatched MMS investigators to Houma, LA to rendezvous with the Coast Guard investigators and travel to the offshore location. The investigators intercepted the M/V Damon Bankston enroute to BP's Fourchon, LA dock and began conducting interviews and collecting statements

Within the first few days, MMS was coordinating with the Coast Guard on areas that needed to be explored. I met with Coast Guard personnel from the Morgan City, LA Marine Safety Office and representatives of the Republic of the Marshall Islands to determine what information was in hand and what information needed to be collected. At this time, preservation orders were issued to both BP and Transocean.

The JIT issued more than 90 subpoenas and collected over 400,000 pages of evidence over the course of this investigation. These documents encompassed everything from company safe work practices and drilling program procedures and permits to employee performance reviews and master service agreements.

The JIT held seven public hearings and called over 80 witnesses. Some witnesses refused to testify, however, perhaps due in part to the announcement of a criminal investigation by U.S. Attorney General Eric Holder on June 1, 2010.

Outside experts were retained to conduct focused studies and analyses in areas where the JIT did not possess the necessary experience and skill sets.

In closing, the findings from this investigation revealed that additional barriers are needed to reduce the probability of similar events of this magnitude from happening again. Recommendations for additional research and regulatory revisions as well as rig design revisions, along with changes to well control and emergency response training will add these additional barriers; however, they cannot guarantee that the human element in the equation will perform as intended. This specific issue will haunt the oil and gas industry and every other industry where personnel are required to make decisions based on raw data.

Thank You.

Personal Background

At the time of the event, I was Chief of the Office of Safety Management for the Minerals Management Service (MMS), Gulf of Mexico OCS Region. I have approximately 27 years of combined industry and regulatory experience in the oil and gas arena. I started out as a roustabout in 1984 working production operations for Diamond Shamrock Exploration and Production Co. I was fortunate enough that Diamond Shamrock had an education tuition assistance program which allowed me to obtain my college degree at Nicholls State University while working offshore. Over the next fifteen years and several mergers, acquisitions, and downsizes, I worked my way up through the ranks to the Safety Manager position with Taylor Energy Company. I joined the MMS in 1999, and worked as a safety and environmental management specialist, civil penalty reviewing officer, and accident investigator before becoming the Chief of the Office in 2007. My career has allowed me to obtain a wealth of knowledge in accident investigation techniques including root cause and causal factor analysis. I have attended Conger & Elsea's "Mishap Analysis and Prevention System" safety training as well as System Improvements "TapRooT"® Root-Cause Analysis training. For a brief period, I also taught accident investigation and causal factor/root cause analyses. During my tenure as an accident investigator, I served as the MMS lead investigator in the MMS/USCG joint investigation of BP's Thunder Horse facility's ballast control failure incident following the passage of Hurricane Dennis in 2005; and I also served as the MMS lead investigator in the MMS/USCG joint investigation of Chevron's Typhoon facility's mooring failure incident following the passage of Hurricane Rita in 2005.

Initial Investigative Actions

On the morning of April 21, 2010, Investigator Kirk Malstrom, Houma District Manager Bryan Domangue and I were in Houston when we learned of the Deepwater Horizon incident. We were already in Houston conducting a whistleblower investigation into allegations that BP did not have proper drawings necessary for the safe operation of its Atlantis facility. We immediately began both the investigation and agency response phase in BP's Houston office while other agency personnel were ramping up in our New Orleans office. The Coast Guard had been conducting

search and rescue operations since the night before and was preparing to dispatch investigators to the offshore location to start interviewing and gathering witness statements from the surviving crew members. We dispatched MMS investigators, Randy Josey and Glynn Breaux, to Houma, LA to rendezvous with the Coast Guard investigators and travel to the offshore location. The investigators intercepted the M/V Damon Bankston enroute to BP's Fourchon, LA dock and began conducting interviews and collecting statements from everyone. Approximately 115 statements were collected from both the DWH crew and the crew of the Damon Bankston. Attorneys for Transocean later complained that we should not have delayed the Damon Bankston in its journey to the shorebase and further, that we should not have interviewed the witnesses without company legal representation present. Those allegations aside, these witness statements were critical to the investigation in that they provided the basis for identifying fact witnesses because of their location on the rig at the time of the events and they also helped to determine the location of those crewmembers who did not survive. Additionally, several of these statements were the basis for our conclusions regarding timing of certain events and the most probable ignition sources of the hydrocarbons.

Within the first few days, the agency was coordinating with the Coast Guard on areas that needed to be explored. I met with Coast Guard personnel from the Morgan City, LA Marine Safety Office and representatives of the Republic of the Marshall Islands to determine what information was in hand and what information needed to be collected. Preservation orders were issued to BP and to Transocean. Facility and equipment tours were scheduled with Cameron (manufacturer of the BOP stack) to get personnel up to speed with what we would be dealing with. Visits were made to BP's Fourchon, LA dock to begin inventorying and cataloging debris and any other evidence as it was recovered from the offshore site.

The Convening Order

The joint investigation was formally established with the signing of the Joint Statement of Principles and Convening Order, by USCG Commandant Allen, MMS Director Birnbaum, and Secretaries Salazar and Napolitano on April 27, 2010. The scope of the Deepwater Horizon investigation was to determine the cause of the fire, pollution, and sinking of the mobile offshore drilling unit, Deepwater Horizon. The convening order identified Captain Hung Nguyen and myself as co-chairs of the joint investigation; outlined the process and procedures by which the investigation would be conducted; designated the Republic of the Marshall Islands (flag state of the vessel) as a "Party In Interest and afforded all rights associated with such status; and stated a deadline for the final report. This deadline was nine months from the date of the convening order. The fact that the well was still flowing uncontrollably rendered witnesses who were devoted to containment efforts and some witnesses unavailable for months, and the original deadline became impossible to meet. Most of the information as to why the blowout preventer (BOP) stack did not seal the well was with the BOP stack 5000 feet beneath the surface of the Gulf of Mexico. Until the BOP stack could be pulled, certain questions could never be answered. On April 29, 2010, Chris Oynes—Associate Director for Offshore Energy and Minerals Management, designated the following MMS personnel to the JIT:

Glynn Breaux, Office of Safety Management, GOM OCS Region
John McCarroll, Lake Jackson District, GOM OCS Region
Jason Mathews, Accident Investigation Board, Office of Regulatory Programs
Kirk Malstrom, Regulations and Standards, Office of Regulatory Programs

The MMS/BOEMRE members concentrated on the well-related activities. These activities included the source and path of the hydrocarbons causing the blowout, the practices on the Deepwater Horizon leading to the blowout, the cause of the explosion, and the failures of the blowout preventer stack.

The Coast Guard members focused on the fire-fighting, life-saving, and evacuation efforts onboard the Deepwater Horizon, the search and rescue efforts by the USCG and assisting vessels, the International Maritime Organization (IMO) compliance areas, the fire-fighting efforts of the assisting vessels, and the stability of the Deepwater Horizon.

Potential Flow Paths

The investigative team began reviewing all well information that the agency had in hand. The team quickly narrowed down the potential flow path of hydrocarbons to three possible scenarios;

- The first possibility is that the casing cement shoe at the end of the production casing at 18310 feet failed and allowed the flow from the bottom of the wellbore.

- The second possibility was that the production casing leaked or the casing collapsed at the crossover joint within the wellbore.
- The third possibility was that the production casing moved or "floated" inside the wellbore causing the production casing seal assembly to fail.

Hearings

The JIT issued more than 90 subpoenas and collected over 400,000 pages of evidence over the course of this investigation. These documents encompassed everything from company safe work practices and drilling program procedures and permits to employee performance reviews and master service agreements.

The JIT held seven public hearings and called over 80 witnesses. Some witnesses refused to testify, however, perhaps due in part to the announcement of a criminal investigation by U.S. Attorney General Eric Holder on June 1, 2010. The BP drilling engineers responsible for the design of the Macondo drilling program and one of the BP Wellsite Leaders exercised their Constitutional rights and refused to speak with the JIT.

The JIT held the first hearing the week of May 10, 2010, in New Orleans. This hearing solely concentrated on search and rescue efforts, fire-fighting responses, and the industry oversight of MMS, U.S. Coast Guard, and the Republic of the Marshall Islands.

The second hearing was held the week of May 24, 2010, in New Orleans. The JIT wanted to better understand the prior surveys conducted on the DWH by ABS and DNV. The JIT also wanted to get a foundation of the events on the rig during the blowout. Based on the written witness reports we called most of the rig crew who had the best recollection of the incident and surrounding events.

The third hearing was held the week of July 19, 2010, in New Orleans. This hearing focused on reviewing the activities a few hours prior to and through the incident by analyzing the Sperry-Sun that had been subpoenaed from BP. The JIT wanted to better understand the operational and design specifics for the well, including BP's procedures for running the Lock-down sleeve, and the down-hole equipment and design. We also wanted to know the details and involvement of the wells team leader, John Guide.

The fourth hearing was held the week of August 23, 2010 in Houston. This hearing was to find out the circumstances surrounding BP's upper management and their interactions/decisions with contracting companies, other management teams, and rig personnel. Witnesses also included VIP persons who were on the rig and their actions.

The fifth hearing was held the week of October 4, 2010 in New Orleans. This hearing focused on gathering facts about salvage plans, bridge activities, DPO alarm systems, rig logistics—flight manifests, and supplies—centralizers. We also questioned John Guide again.

The sixth hearing was held the week of December 6, 2010 in Houston. This hearing focused on collecting information regarding international safety management systems, BP's AFE budget for the Macondo well, and Transocean's command center involvement and response.

The seventh and final hearing held the week of April 4, 2010, in New Orleans. This hearing focused on gathering information and feedback related to the recently released BOP stack forensic report completed by Det Norske Veritas (DNV).

BOP Stack Recovery and Forensics

In July 2010, the JIT began a search for a third party expert capable of performing a forensic examination of the BOP stack. Because the BOP stack was oilfield equipment and not a marine apparatus, the JIT determined that BOEMRE, in coordination with the Department of Justice (DOJ), would take the lead on identifying experts qualified to perform this forensic work. The contracting team prepared a statement of work and circulated it for review by JIT members, BOEMRE and Coast Guard personnel and counsel, and DOJ representatives from both the civil and criminal divisions. BOEMRE also conducted market research into potentially qualified forensic examiners.

On September 2, 2010, Det Norske Veritas (DNV) was contracted to undertake a forensic examination of the blowout preventer stack (BOP), its components and associated equipment used by the Deepwater Horizon drilling operation.

The objectives of the forensic examination were to determine the performance of the BOP system during the well control event, any failures that may have occurred, the sequence of events leading to failure(s) of the BOP stack and the effects, if any, of a series of modifications to the BOP stack that BP and Transocean officials implemented.

The set of activities undertaken by DNV included:

- Establishing a base of operations at the NASA Michoud facilities for receiving and testing the BOP stack and associated equipment;
- Building a temporary enclosure to house the BOP stack to facilitate the forensic examinations;
- Recovery of and assessment of drill pipe, rams, fluids and other material from the BOP stack and recovered drilling riser;
- Function testing of the hydraulic circuits, mechanical components and control systems of the BOP stack;
- Visual examination of evidence and additional analysis using laser profilometry;
- Mechanical and metallurgical testing of pieces of drill pipe;
- Coordination of activities with other stakeholders through the JIT and the Technical Working Group (TWG);
- Review of documents and Remotely Operated Vehicle (ROV) videos;
- Mathematical modeling of the mechanical damage and deformation of drill pipe; and,
- Developing possible failure scenarios.

The BOP stack consists of the BOP and lower marine riser package (LMRP). The stack can be separated into the two individual components with each weighing approximately 360,000 pounds. The components, when combined, are contained within a framework that is approximately 14 feet square and stands approximately 60 feet tall and can only be transported by a marine vessel. The sheer size of the BOP stack limits the availability of facilities that can handle anything of this magnitude. After extensive efforts to locate an acceptable facility to host the examination that was both secure and accessible to marine transport, the JIT, in close consultation with DOJ, determined that the NASA Michoud facility in New Orleans was the best option. The Michoud facility provided a secure location with marine transport access; however, the dockside facility could not handle the weight of the BOP and LMRP without additional preparations. Site preparation activities included constructing a test pad capable of supporting the 360-ton BOP stack, mobilizing a heavy-lift crane to transfer the BOP and LMRP to the dock, obtaining environmental containment equipment, and the erection of a temporary structure to house the BOP and LMRP. Additionally, other accident evidence was already being stored on site at Michoud under an ongoing lease between the Coast Guard and NASA.

Security measures for the BOP stack were developed and implemented in close coordination with DOJ and the FBI Evidence Recovery Team (ERT) to preserve the integrity of the forensic work and evidence.

On September 4, 2010, the BOP stack was retrieved from the Macondo well by Helix Energy's mobile offshore unit, the Q4000. JIT personnel, along with DOJ, FBI –ERT, were on location with DNV personnel to oversee the retrieval and the execution of the short-term preservation procedures in preparation for transfer to the NASA Michoud facility. The BOP and LMRP were then transported by barge to the Michoud facility.

The JIT, in consultation with DOJ and DNV, formed a technical working group to provide DNV with technical support and expertise as DNV conducted the forensic examination. On November 1, 2010, the JIT selected a six-member technical working group which included one expert each from Cameron, Transocean, BP, DOJ, CSB, and an expert representing the plaintiffs in the multi-district litigation suit. Additionally, a controlled access file transfer protocol site was established for the purpose of sharing photo, video, and other documentary media that was being captured during the forensic examination, with the technical working group members.

Contracted Services

In addition to DNV, the JIT also needed experts to conduct focused studies/analyses in areas where the JIT did not possess the necessary experience and skill sets. The following outside entities were retained:

- Dr. John Smith was contracted to review the Sperry-Sun log data and the IADC reports to identify key issues during the last 24 hours on the rig.
- Keystone Engineering was contracted to conduct a casing buoyancy analysis to determine the potential for the casing to "float" inside the wellbore.
- Oilfield Testing and Consulting was contracted to conduct the Macondo well cement blend analysis. This work was similar to the cement analysis conducted by Chevron for the National Commission.

Findings and Conclusions

As stated earlier in this document, the MMS/BOEMRE members of the JIT focused on determining the root causes/causal factors in three areas:

- How (source and flow-path) and why did the Macondo well blow out?

- What ignited the hydrocarbons once they reached the rig?
- Why did the BOP stack fail to seal the wellbore?

How (source and flow-path) and why did the Macondo well blow out?

As stated earlier, the JIT identified three possible flow paths for the hydrocarbons to travel up the wellbore. Forensic work conducted by the Development Driller II under the direction of the JIT and the Unified Area Command, determined that the casing did not float and there was no failure in the casing string. By the process of elimination, the JIT determined that the only possible path was directly from the bottom of the well through the casing shoe. The JIT concluded contamination or displacement of the shoe track cement, or nitrogen breakout or migration, could have caused the shoe track cement barrier to fail.

Next, during the conduct of the negative test, the rig crew (including BP, Transocean, and Sperry-Sun personnel) failed to detect the influx of hydrocarbons until the hydrocarbons were above the BOP stack. Additionally, the crew's collective misinterpretation of the negative tests was a critical mistake that would escalate into the blowout, fire and eventual sinking of the Deepwater Horizon.

Once the hydrocarbons reached the rig floor, the rig crew began taking necessary steps to attempt to control the flow. Understand that the most important part of well control is early kick detection. For deepwater operations utilizing a subsea BOP stack, this task becomes even more critical. Once hydrocarbons are above the BOP stack, options become limited for appropriate well control response actions.

What ignited the hydrocarbons once they reached the rig?

The JIT concluded that there were two plausible ignition sources at the time of the blowout: 1) engine rooms number 3 and/or number 6 (including the associated switchgear rooms); and/or 2) the mud-gas separator located near the rig floor. Witness statements and testimony from crewmembers that were in the engine control rooms support the conclusion that the ignition sources were in the engine rooms. Witness statement and testimony from members of the crew of the M/V Damon Bankston and rig crew members on the aft weather deck support the conclusion that it was the mud-gas separator.

Contributing causes of the ignition include the rig's engine air intake design, the operating philosophy of a dynamically positioned rig, the vagueness in the Transocean Well Control Manual regarding use of the mud-gas separator, and the design of the mud-gas separator vent system.

Why did the BOP stack fail to seal the wellbore?

Within moments of the loss of well control, explosions likely damaged the Deepwater Horizon's multi-plex cable and hydraulics, rendering the crew unable to activate the blind shear rams or the emergency disconnect sequence of the BOP stack. These conditions should have triggered the automated mode function (also referred to as the "deadman" function), which should have activated the blind shear rams in the event of loss of communication between the rig and the BOP stack.

The forensic examination concluded that the drill pipe had become trapped in a position between the upper annular BOP component and the upper variable bore ram BOP component. The JIT concluded that either the hydrocarbons that were blowing out of the well through the drill pipe or the weight of the drill pipe had forced the drill pipe into a buckled state against the side of the BOP wellbore. This buckling caused the drill pipe to move off center outside the cutting area of the blind shear rams, thus preventing the complete cutting of the drill pipe and sealing of the wellbore.

Summary of Additional Causes, Contributing Causes, and Possible Contributing Causes

Poor risk management on BP's part was a key contributing cause. BP failed to identify, evaluate, and inform all parties involved in the operation about the associated risks. BP did not fully analyze the cement properties testing results. They did not evaluate the gas flow potential. Even though everyone within the BP organization stated that they never compromised safety, BP made multiple cost/time saving decisions without subjecting those decisions to a formal risk assessment. Additionally, Both BP and Transocean personnel failed to observe and respond to critical indicators. The rig crew (both BP and Transocean) experienced a kick a month earlier and it took over 30 minutes to identify the kick. The rig crew did not evaluate the anomalies encountered during the float collar conversion.

Recommendations

The JIT made multiple recommendations that encompass regulatory changes, research and collaboration with industry to develop best practices for well control

training. Some of the recommendations have already been incorporated; however, BOEMRE will need to evaluate and consider the other recommendations for implementation.

This concludes the written testimony.

Mr. HASTINGS. Thank you very much, Mr. Dykes. And now I would like to recognize Vice Admiral Brian Salerno. The gentleman will be recognized for five minutes.

STATEMENT OF VICE ADMIRAL BRIAN M. SALERNO, DEPUTY COMMANDANT FOR OPERATIONS, U.S. COAST GUARD

Admiral SALERNO. Good morning, Chairman Hastings, Ranking Member Markey and Distinguished Members of the Committee. I am very pleased to have this opportunity to answer any questions you may have on the Commandant's action on Volume 1 of the Joint Investigation Report and the loss of the mobile offshore drilling unit, or MODU, *Deepwater Horizon*. Specifically I am prepared to discuss the steps the Coast Guard has taken to improve safety in the offshore oil industry.

I would first like to express on behalf of Secretary Napolitano and the Commandant of the Coast Guard our deepest sympathies to the families of the 11 men who lost their lives in this tragic accident. The Coast Guard has kept those families informed of the investigation's progress and most recently provided them with a summary of the actions we are taking to improve MODU safety.

Although the sinking of *Deepwater Horizon* followed a well blowout, the investigation revealed numerous system deficiencies and acts of omission on the MODU itself that had an adverse impact on the ability to prevent or limit the magnitude of the disaster. These deficiencies included poor maintenance of electrical equipment that may have ignited the explosion earlier than might otherwise have been the case, the bypassing of hydrocarbon gas alarms and automatic shutdown systems and a lack of training on when and how to shut down engines and disconnect the MODU from the well.

Coast Guard members of the Joint Investigation Team made 65 recommendations, safety recommendations and administrative recommendations to improve safety on board MODUs operating on the Outer Continental Shelf. These recommendations can be characterized in three broad areas: recommendations related to the effectiveness of both domestic and international standards; recommendations related to enforcement of those standards; and administrative recommendations. The Commandant concurs in whole or in part with the vast majority of the proposed safety actions.

Overall, Volume 1 reveals that regulated safety systems aboard the MODU enabled 115 of the 126 persons on board to survive the explosions and subsequent fire. For example, all survivors were able to evacuate the MODU using the installed life-saving equipment with the exception of approximately six who on their own initiative jumped from the rig into the water.

Also, even though significantly damaged by the explosion and the ensuing fire, the *Deepwater Horizon* had enough structural resiliency to stay afloat for more than 48 hours despite being engulfed in a major fire that was being fed from an uncontrolled fuel source.

Nevertheless it is clear from this tragedy that the Coast Guard must refine its procedures and improve oversight to better fulfill its responsibility to ensure safety, security and stewardship on the U.S. Outer Continental Shelf. To accomplish this, the Coast Guard will work both domestically and internationally to improve standards and oversight for U.S. and foreign-flag MODUs.

We have already taken action based on the lessons learned from this casualty. For example, we have initiated a new policy on risk-based targeting for foreign-flag MODUs operating on the Outer Continental Shelf. Our goal in this policy is to prioritize our examination activity according to risk, taking into account numerous factors, including the past performance of the managing company, the owner, the flag state, and the recognized organizations that are delegated authority to act on behalf of the flag state. The intention is to enhance safety for all vessels operating on the U.S. Outer Continental Shelf.

We are also updating our domestic regulations which govern vessels operating on the Outer Continental Shelf to reflect the lessons learned from the *Deepwater Horizon* and the current state of technology. We are also harmonizing Coast Guard area contingency planning efforts with the offshore spill response plans approved by the Bureau of Safety and Environmental Enforcement to ensure consistency and improve overall preparedness.

Finally, the Coast Guard continues to work through the International Maritime Organization where, among other initiatives, we are leading U.S. efforts in support of a mandatory code for recognized organizations. The code will improve accountability of recognized organizations acting on behalf of flag states and will better ensure that all vessels, including MODUs, comply with international standards.

Thank you, and I look forward to answering your questions.

[The prepared statement of Admiral Salerno follows:]

Statement of Admiral Brian Salerno, Deputy Commandant for Operations, BOEMRE/U.S. Coast Guard Joint Investigation Team Report

Good Morning Chairman Hastings, Ranking Member Markey, and distinguished members of the Committee. I am honored to appear before you today to discuss the Coast Guard's Final Action on the Coast Guard Volume—Volume I—of the Joint Investigation Team report.

INVESTIGATIVE ACTION SUMMARY

Immediately following the explosion and sinking of the DEEPWATER HORIZON Mobile Offshore Drilling Unit (MODU), the Department of Homeland Security, through the U.S. Coast Guard, and the Department of Interior, originally through the Minerals Management Service (MMS), now the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), convened a formal investigation with the purpose of gathering evidence and examining the circumstances surrounding the tragic incident. The Joint Investigation Team (JIT) was comprised of and co-chaired by members from the Coast Guard and BOEMRE.

The Coast Guard members of the JIT examined five aspects of the disaster relating to areas under Coast Guard jurisdiction: the explosions; the fire; the evacuation; the flooding and sinking of the MODU; and the safety systems of the DEEPWATER HORIZON including the safety management system implemented by owner-operator, Transocean. The investigative findings, conclusions and recommendations of the Coast Guard members of the JIT were publicly issued on April 22, 2011, in Volume I of the JITs report. In the Final Action Memo (FAM), released on September 14, 2011, the Commandant accepted Volume I and commented on its findings, conclusion, and recommendations.

SUMMARY OF FINDINGS

Although the sinking of DEEPWATER HORIZON was triggered by a loss of well control, the investigation revealed numerous system deficiencies and acts and omissions by Transocean and the DEEPWATER HORIZON crew that adversely impacted opportunities to limit the magnitude of the disaster. These included poor maintenance of electrical equipment that may have ignited the explosion, bypassed hydrocarbon gas alarms and automatic shutdown systems, and training shortfalls in critical areas such as engine shutdown and emergency well disconnect procedures. These and other deficiencies indicate that a flawed safety management system and safety culture aboard DEEPWATER HORIZON may have contributed to this disaster.

COMMANDANT FINAL AGENCY ACTION PROCESS REGARDING VOLUME I

To ensure the JIT investigation was conducted in a methodical, thorough, and transparent manner, the Coast Guard applied longstanding Service processes and principles. This includes the completion of an independent investigation by members of a Marine Board of Investigation (Board) and submission of a written report containing investigative findings, conclusions, and recommendations to the Commandant. Upon receipt by the Commandant, the report is further reviewed by technical experts who have policy and oversight responsibility for the actions and conditions identified by the Board as causal factors in the incident. The technical experts provide key policy insight and recommendations into the development of the Final Action. This second level of independent review by technical and policy experts is critical in determining the Commandant's Final Action on all recommendations, including potential implementation.

In the Final Action, the Commandant may address the facts, opinions, and conclusions of the report and provide a response to each recommendation. When the Commandant concurs with a recommendation, a description of the action he intends to take is included in the Final Action. If he does not concur with a recommendation, the reason for his non-concurrence is also included.

During the course of the Board's investigation, parties in interest (PIIs) are afforded certain statutory rights, including the right to counsel, to introduce evidence, and to call and cross-examine witnesses. Typically, however, the Board's report and the review process are not open to any PIIs or the general public until the Commandant's review is finished and the Final Action completed. Once the Commandant's Final Action is complete, it is appended to, and released simultaneously with, the Board's original report.

In the case of the DEEPWATER HORIZON incident, the process was modified in order to provide increased transparency into the investigation of a marine incident that had a direct impact on unprecedented numbers of American citizens. The Coast Guard released Volume I of the JIT Report in April, before the Commandant's Final Action was complete. The Commandant's Final Action was issued in September. The comments from the PIIs were carefully considered in developing the Commandant's Final Action and a summary of those comments and the Coast Guard's response is included as an enclosure to the FAM.

FINAL AGENCY ACTIONS ON RECOMMENDATIONS—SUMMARY

In addition to determining the causal factors of this incident, the JIT was empowered to make recommendations to reduce the risk of similar incidents in the future. These recommendations can be broadly categorized as: recommendations regarding domestic or international standards; recommendations regarding oversight to ensure compliance with standards; and administrative recommendations. Within these broad categories, there were three primary areas addressed in the safety recommendations:

1. The adequacy of international and domestic safety regimes;
2. The adequacy of the Flag State oversight of recognized organizations that are delegated authority to act on behalf of the Flag State; and
3. The adequacy of recognized organizations.

In the FAM, the Commandant concurs in whole or in part with the vast majority of safety recommendations made by the JIT. Some of the actions directed by the Commandant will impact domestic regulations and inspection or oversight practices, as discussed in the Implementation section below; others will potentially impact the ongoing work at the International Maritime Organization (IMO) to develop standards for MODUs and for the organizations that oversee compliance with the standards.

The Commandant did not concur with nine of the JIT's recommendations, and thus did not direct any specific action relating to those recommendations. The rec-

ommendations with which the Commandant did not concur fall into three categories:

1. Those that the Commandant determined were not directly supported by the facts provided in the report;
2. Those that the JIT related to problems with the standards, but the Commandant determined to be compliance or oversight issues; and,
3. Those that the Commandant determined were adequately addressed by action directed in response to other recommendations in the report.

Volume I of the investigation revealed that, with certain identified exceptions, the Coast Guard-regulated safety systems aboard the MODU were generally effective despite the extreme nature of the event. Of the 126 persons on board, 115 survived the explosions and subsequent fire. Most of the survivors were able to evacuate the MODU using the installed lifesaving equipment. A few of the survivors jumped from the rig into the water and were rescued. Even though significantly damaged by the explosions and the ensuing fire, the DEEPWATER HORIZON was able to stay afloat for more than 48 hours.

While the Coast Guard-regulated safety systems generally performed well under extreme conditions, the Commandant determined that additional action can be taken to protect the sea and those who work on it.

IMPLEMENTATION OF ACTIONS DIRECTED BY THE COMMANDANT

The Coast Guard has already taken action to enhance safety and stewardship on the U.S. Outer Continental Shelf (OCS). Earlier this year, the Coast Guard published a policy for risk-based targeting of foreign flagged MODUs. The policy allows field commanders to target limited resources to highest risk operations and ensure a uniform, high level of safety for all vessels operating on the U.S. OCS. In addition, Coast Guard regulations for construction, equipment and operation of vessels on the OCS are being updated to reflect the current and emerging state of technology, and to address lessons learned from DEEPWATER HORIZON.

Internationally, the Coast Guard has engaged the IMO through its Flag State Implementation Sub-Committee with regard to the provisions of the proposed new Code for Recognized Organizations. The Coast Guard anticipates that the new Code will be ready for adoption in 2012, will be mandatory, and will include more specific and detailed requirements and guidelines for Recognized Organizations covering their management and organization, resources, certification processes, performance measurement, analysis and improvement, and quality management system certification. The U.S. delegation at IMO, led by the Coast Guard, will work to ensure the results of this investigation are considered in IMO's development of the Code.

On Oct. 1, 2011, the Department of the Interior formally established two new, independent bureaus—the Bureau of Safety and Environmental Enforcement (BSEE) and the Bureau of Ocean Energy Management (BOEM)—to carry out the offshore energy management and safety and environmental oversight missions previously under the jurisdiction of BOEMRE. The Coast Guard and BSEE are working to harmonize offshore spill response plans with the Area Contingency Plans to maximize awareness and preparedness to respond to future spills from offshore facilities, including enhanced understanding of worst case discharge scenarios.

CONCLUSION

The FAM is the result of long standing Coast Guard procedures with minor modifications, designed to accommodate the complexity of this investigation, and to ensure the investigation was conducted in a methodical, thorough, and transparent manner. The Coast Guard is now taking action domestically and through international engagement to carry out the actions directed by the Commandant.

Thank you for the opportunity to testify before you today and I will be pleased to answer your questions.

Mr. HASTINGS. Thank you very much, Admiral Salerno. And last but certainly not least I would like to welcome back Director Bromwich, and you are recognized for five minutes.

STATEMENT OF HON. MICHAEL BROMWICH, DIRECTOR, BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT

Mr. BROMWICH. Thank you very much, Mr. Chairman and Members of the Committee. I very much appreciate the opportunity to be here today to testify about the findings of the BOEMRE/Coast

Guard Joint Investigation and the causes of the explosion and fire on board the *Deepwater Horizon* and the devastating oil spill that followed.

I want to note that this report validates many of the important reforms to offshore regulation oversight that we have already implemented, but it further underscores the need for government and industry to continue to identify and implement practices that will ensure that domestic oil and gas production proceeds safely and responsibly.

The panel identified the causes of the blowout as well as various failures that occurred prior to the blowout. It concluded that the central cause of the blowout was the failure of a cement barrier in the production casing stream, a high strength steel pipe set in a well to ensure well integrity and to allow future production. The failure of the cement barrier allowed hydrocarbons to flow up the well bore through the riser and onto the rig. The panel's findings, conclusions and recommendations also address a wide range of other technical issues.

The panel found that the loss of life at the Macondo well on April 20 and subsequent pollution of the Gulf of Mexico were in part the result of poor risk management, last minute changes to plans, failure to observe and respond to critical indicators, inadequate well control response and insufficient emergency response training by companies and individuals. The failure of the BOP stack to seal the well allowed the well to continue to flow after the blowout.

The JIT found clear and compelling evidence that BP as well as its contractors, Transocean and Halliburton, violated BOEMRE's regulations and the consequences were undeniably dire. We believe that issuing citations for such regulatory violations upholds the principles of accountability, specific deterrence and general deterrence and vindicating BOEMRE's regulations.

The panel concluded that stronger and more comprehensive Federal regulations might have reduced the likelihood of the Macondo blowout. In particular, the panel recommended that regulations could be enhanced with respect to cementing procedures and testing, BOP configuration and testing, well integrity testing and other drilling operations. In addition, the panel concluded that the agency's inspections program could be improved.

I can report the regulatory and process changes implicated by this report have been formulated and implemented over the past 15 months. The report concludes with the panel's recommendations which seek to improve the safety of offshore drilling operations in a variety of different ways that are spelled out in the report. Those recommendations will be carefully considered as the basis for future rulemaking.

The JIT's findings reinforce and build on many of the safety and oversight gaps that had already been identified and significantly improved upon since the *Deepwater Horizon* tragedy. These include our drilling safety rule and our SEMS rule which I have described to you here on previous occasions.

Our reforms since the *Deepwater Horizon* tragedy have been broad and swift and have made deepwater drilling significantly safer, but the JIT report is a sobering reminder that there remains more to be done. We must continue to analyze information that be-

comes available and to implement reforms necessary to make offshore oil and gas production safer, smarter and with stronger protections for workers and the environment. The process of making offshore energy development both safe and sufficient will never be complete. It must be a continuing, ongoing, dynamic enterprise that remains responsive to new learning.

As we evaluate the lessons learned from the JIT report, I believe the industry is uniquely poised to assess findings and test creative solutions. To that end, I hope that the companies will take a hard look at this report as well as other recent investigations to understand what went wrong and to think about what they can do to go above and beyond existing requirements, enhance safety and ultimately help us to identify best practices that could be adopted across the industry.

Thank you very much and I look forward to your questions.

[The prepared statement of Mr. Bromwich follows:]

Statement of Michael R. Bromwich, Director, Bureau of Safety and Environmental Enforcement, United States Department of the Interior

Mr. Chairman and members of the Committee,

I very much appreciate the opportunity to be here today to testify about the findings of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) and the U.S. Coast Guard's joint investigation into the explosions and fire onboard the Deepwater Horizon. As you know, the explosions and fire led to multiple deaths, serious injuries, and the release of an estimated 4.9 million barrels of oil into the Gulf of Mexico. I will summarize the findings, conclusions, and recommendations of the BOEMRE panel of investigators ("the Panel") who served on the BOEMRE–USCG Joint Investigation Team (JIT). I want to note that this report validates many of the important reforms to offshore regulation and oversight that we have already implemented in the wake of Deepwater Horizon, but it also underscores the need for government and industry to continue to identify, adopt, and implement practices that will ensure that domestic oil and gas production proceeds safely and responsibly.

Introduction

At approximately 9:50 p.m. on the evening of April 20, 2010, as the crew of the Deepwater Horizon rig was finishing its work on the Macondo exploratory well, an undetected influx of hydrocarbons into the well (commonly referred to as a "kick") escalated to a blowout. Hydrocarbons flowed onto the rig floor through a mud gas vent line and ignited in two separate explosions. A fire began on the rig and the flowing hydrocarbons continued to fuel the fire on the rig, which continued to burn until it sank on April 22. Eleven men died on the Deepwater Horizon, many more were injured, and over the next 87 days, almost five million barrels of oil flowed into the Gulf of Mexico.

The JIT was formed on April 27, 2010 by a convening order of the Departments of the Interior and Homeland Security to investigate the causes of the Deepwater Horizon explosion, loss of life, and resulting oil spill, and to make recommendations for safe operations of future oil and gas activities on the U.S. Outer Continental Shelf (OCS). The JIT held seven sessions of public hearings, received testimony from more than 80 witnesses and experts, and reviewed a large number of documents and exhibits pertaining to all aspects of the investigation. Evidence-gathering included the salvage of the blowout preventer (BOP) stack and portions of the drill pipe and riser.

The final report includes two volumes: Volume I includes findings on five aspects of the disaster under Coast Guard jurisdiction—and I will defer to my colleague, Admiral Salerno, to explain this content. My testimony today will focus on Volume II of the report, which details the findings of the BOEMRE panel regarding the causes of the Macondo well blowout and the resulting explosion and fire aboard the Deepwater Horizon. Based on the evidence it collected and analyzed, the Panel concluded that BP, Transocean and Halliburton's conduct in connection with the Deepwater Horizon disaster violated a number of BOEMRE's offshore safety regulations. The Panel has also developed recommendations for the continued improvement of the safety of offshore operations.

Before I go on, I'd like to recognize the massive effort by members of my staff and the Coast Guard that went into this investigation and the issuance of this report. They conducted a thorough investigation, and we have published a report that will be a lasting legacy to their tireless efforts.

Findings of the BOEMRE Panel

The Panel identified the causes of the blowout as well as various failures that occurred before and on April 20, 2010. It concluded that the central cause of the blowout was failure of a cement barrier in the production casing string, a high-strength steel pipe set in a well to ensure well integrity and to allow future production. The Panel's findings, conclusions, and recommendations address a full range of issues, including well design; cementing; possible hydrocarbon flow paths during the blowout; temporary abandonment of the Macondo well; kick detection and rig response; ignition source and explosion; the failure of the Deepwater Horizon blowout preventer to arrest the blowout; regulatory findings and conclusions; and company practices.

The loss of life at the Macondo well on April 20, 2010, and the subsequent pollution of the Gulf of Mexico through the summer of 2010 were, in part, the result of poor risk management, last minute changes to plans, failure to observe and respond to critical indicators, inadequate well control response, and inadequate emergency response training by companies and individuals responsible for drilling at the Macondo well and for the operation of the Deepwater Horizon.

Well design, cementing, and flow path

At the time of the blowout, the rig crew was engaged in temporary abandonment procedures designed to secure the well after drilling had ceased and before the Deepwater Horizon left the site. In the days leading up to April 20, BP made a series of decisions that complicated cementing operations, added incremental risk, and may have contributed to the ultimate failure of the cement job. These decisions included:

- the point at which they decided to stop drilling;
- the decision to only have one cement barrier in the well during temporary abandonment operations;
- the decision to set a lock-down sleeve; and
- the decision to use certain material as "spacer" (fluid between the drilling mud and the water).

BP failed to communicate these decisions and the increasing operational risks to Transocean. As a result, BP and Transocean personnel onboard the Deepwater Horizon on the evening of April 20, 2010, did not fully identify and evaluate the risks inherent in the operations that were being conducted at Macondo.

As mentioned above, the Panel found that a central cause of the blowout was failure of the cement barrier in the production casing string. The failure of the cement barrier allowed hydrocarbons to flow up the wellbore, through the riser and onto the rig. This is the immediate cause of the blowout. The precise reasons for the failure of the production casing cement job are not known. The Panel concluded that the failure was likely due to:

- swapping of cement and drilling mud (referred to as "fluid inversion") in the shoe track (the section of casing near the bottom of the well);
- contamination of the shoe track cement; or
- pumping the cement past the target location in the well, leaving the shoe track with little or no cement (referred to as "over displacement").

Notably, BP and Halliburton failed to perform the production casing cement job in accordance with industry-accepted recommendations, as defined in the American Petroleum Institute's Recommended Practice 65.

The cement failure allowed the flow of hydrocarbons through the riser and onto the rig. The Panel identified three possible paths by which hydrocarbons could have flowed up the well to the rig during the initial stage of the blowout: (1) up the production casing annulus cement barrier and upward through the annulus and the wellhead seal assembly; (2) up the production casing and related components from above the top wiper plug located on the float collar at 18,115 feet; or (3) up the last 189 feet of the production casing (the shoe track). The Panel concluded that the hydrocarbons flowed through the shoe track and up through the riser to the rig.

Problems at the Macondo well: temporary abandonment, kick detection, and emergency response

BP and Transocean encountered a number of problems during drilling and temporary abandonment operations at the Macondo well—including kicks, stuck pipe, lost returns of drilling fluids, equipment leaks, cost overruns, well scheduling and logistical issues, personnel changes and conflicts, and last minute procedure

changes. These problems led rig personnel and others to refer to Macondo as the "well from hell."

Even when faced with anomalous readings, data, and other indications, the rig crew failed to detect the flow of hydrocarbons until it was too late. On April 20, BP and Transocean personnel onboard the Deepwater Horizon missed the opportunity to remedy the cement problems when they misinterpreted anomalies encountered during a critical test of cement barriers called a negative test. The negative test attempts to simulate what will occur at the well after it is temporarily abandoned and to show whether barriers, such as the cement job, will hold against pressures from the reservoir.

The rig crew conducted an initial negative test on the production casing cement job that showed a pressure differential between the drill pipe and the kill line, which is a high pressure pipe leading from the BOP stack to the rig pumps. This was a serious anomaly that should have alerted the rig crew to potential problems with the cement barrier or with the negative test. After some discussion among members of the crew and a second negative test on the kill line, the rig crew explained the pressure differential away as a "bladder effect" (or annular compression), a theory that later proved to be unfounded. Around 7:45 p.m., after observing for 30 minutes that there was no flow from the kill line, the rig crew concluded that the negative test was successful. As a result, at that point, the rig crew most likely concluded that the production casing cement barrier was sound. At this point, rig crew members moved forward with temporary abandonment procedures, unaware of the failed cement job and the looming influx of hydrocarbons.

However, the cement in the shoe track barrier had in fact failed, and hydrocarbons began to flow from the reservoir into the well. Despite a number of additional anomalies that should have signaled the existence of a kick or well flow, the crew failed to detect that the Macondo well was flowing until 9:42 p.m. By then it was too late—the well was blowing drilling mud up into the derrick and onto the rig floor. If members of the rig crew had detected the hydrocarbon influx earlier, they might have been able to take appropriate actions to control the well.

Ignition source and the explosion

A number of additional missteps after the rig crew realized what was happening contributed to the explosion, fire, and the loss of life. On April 20, 2010, at around 9:40 p.m., powerful pressures from the well caused mud to flow up from the well. Drilling mud spilled on the rig floor as the well began to blow out. But instead of diverting the flow overboard, the crew responded to the situation by diverting the flow to the rig's mud gas separator, part of the diverter system to which the crew could direct fluids coming up from the well. The mud gas separator could not handle the volume of hydrocarbons; it failed and discharged a gas plume above the rig floor. The gas quickly ignited, causing the first explosion on the rig at 9:49 p.m. Approximately ten seconds later, a second larger explosion occurred and the fire onboard the rig spread rapidly. Shortly after the second explosion, the rig lost power and experienced a total blackout.

The Panel found evidence that the configuration of the Deepwater Horizon general alarm system and the actions of rig crew members on the bridge of the rig contributed to a delay in notifying the entire crew of the presence of very high gas levels. A critical 12 minutes elapsed between the time that the high gas alarms sounded and the general alarm sounded. The general alarm was not configured to sound automatically when the high gas alarms were triggered. Transocean personnel do not appear to have been adequately trained for this type of situation—which required quick and decisive action. Quicker reactions might have saved lives.

Failure of the blowout preventer

As you know, the failure of the BOP stack to seal the well allowed the well to continue to flow after the blowout. The forensic examination of the BOP determined that the forces of the blowout caused the drill pipe to buckle and move to the side of the wellbore. As a result, although it was activated, the blind shear ram could not completely shear the drill pipe and seal the well. A gap in the wellbore resulted, which allowed continued flow of hydrocarbons through the riser to the rig.

The Deepwater Horizon's BOP stack, a massive, 360-ton device installed at the top of the well, was designed to allow the rig crew to handle numerous types of well control events. However, on April 20, the BOP stack failed to seal the well to contain the flow of hydrocarbons. The explosions likely damaged the Deepwater Horizon's multiplex cables and hydraulic lines, rendering the crew unable to activate the BOP stack. The BOP stack was equipped with an "automatic mode function," which upon activation would trigger the blind shear ram (BSR), two metal blocks with

blades on the inside edges that are designed to cut through the drill pipe and seal the well during a well control event.

The Panel concluded that there were two possible ways in which the BSR might have been activated: (1) on April 20, by the automatic mode function, immediately following loss of communication with the rig; or (2) on April 22, when a remotely operated vehicle triggered the "autoshear" function, which is designed to close the BSR if the lower marine riser package disconnects from the rest of the BOP stack. Regardless of how the BSR was activated, it did not seal the well.

A forensic examination of the BOP stack revealed that elastic buckling of the drill pipe had forced the drill pipe up against the side of the wellbore and outside the cutting surface of the BSR blades. After buckling, the off-center drill pipe was not in a position that would allow the BSR to completely shear the drill pipe and seal the well. The buckling of the drill pipe, which likely occurred at or near the time when control of the well was lost, was caused by the force of the hydrocarbons blowing out of the well; by the weight of the 5,000 feet of drill pipe located in the riser above the BOP forcing the drill pipe down into the BOP stack; or by a combination of both. As a result of the failure of the BSR to completely cut the drill pipe and seal the well, hydrocarbons continued to flow after the blowout.

Regulatory findings and conclusions

The JIT found that BP, as well as its contractors Transocean and Halliburton, violated BOEMRE's regulations. BOEMRE has the authority to cite all companies conducting activity on the OCS relating to lease activities for regulatory violations, including contractors. Here, there is clear and compelling evidence that Transocean and Halliburton (BP contractors) violated a number of BOEMRE regulations—and those violations obviously had dire consequences. We believe the issuance of citations for such regulatory violations upholds the principles of accountability, specific deterrence, and general deterrence.

The JIT found ample evidence that the companies committed the following violations:

- 30 CFR § 250.107—BP failed to protect health, safety, property, and the environment by (1) performing all operations in a safe and workmanlike manner; and (2) maintaining all equipment and work areas in a safe condition;
- 30 CFR § 250.300—BP, Transocean, and Halliburton (Sperry Sun) failed to take measures to prevent the unauthorized release of hydrocarbons into the Gulf of Mexico and created conditions that posed unreasonable risk to public health, life, property, aquatic life, wildlife, recreation, navigation, commercial fishing, or other uses of the ocean;
- 30 CFR § 250.401—BP, Transocean, and Halliburton (Sperry Sun) failed to take necessary precautions to keep the well under control at all times;
- 30 CFR § 250.420(a)(1) and (2)—BP and Halliburton failed to cement the well in a manner that would properly control formation pressures and fluids and prevent the release of fluids from any stratum through the wellbore into offshore waters;
- 30 CFR § 250.427(a)—BP failed to use pressure integrity test and related hole-behavior observations, such as pore pressure test results, gas-cut drilling fluid, and well kicks to adjust the drilling fluid program and the setting depth of the next casing string;
- 30 CFR § 250.446(a)—BP and Transocean failed to conduct major inspections of all BOP stack components; and
- 30 CFR § 250.1721(a)—BP failed to perform the negative test procedures detailed in an application for a permit to modify its plans.

Company practices

BP, as the designated operator under BOEMRE regulations, was ultimately responsible for conducting operations at Macondo in a way that ensured the safety and protection of personnel, equipment, natural resources, and the environment. Transocean, the owner of the Deepwater Horizon, was responsible for conducting safe operations and for protecting personnel onboard. Halliburton, as a contractor to BP, was responsible for conducting the cement job, and, through its subsidiary Sperry Sun, had certain responsibilities for monitoring the well. Cameron was responsible for the design of the Deepwater Horizon BOP stack.

Prior to the events of April 20, BP and Transocean experienced a number of problems while conducting drilling and temporary abandonment operations at Macondo, which reflect shortcomings in company practices in areas including worker training, adherence to schedules and budgets, and management of personnel changes and conflicts. These problems included:

- **Recurring well control events and delayed kick detection**. At least three different well control events and multiple kicks occurred during operations at Macondo. On March 8, it took the rig crew at least 30 minutes to detect a kick in the well. The delay raised concerns among BP personnel about the Deepwater Horizon crew's ability to promptly detect kicks and take appropriate well control actions. Despite these prior problems, BP did not take steps to ensure that the rig crew was better equipped to detect kicks and to handle well control events. As of April 20, Transocean had not completed its investigation into the March 8 incident.
- **Scheduling conflicts and cost overruns**. At the time of the blowout, operations at Macondo were significantly behind schedule. BP initially planned for the Deepwater Horizon to move to BP's Nile well by March 8, 2010. In large part as a result of this delay, as of April 20, BP's Macondo operations were more than $58 million over budget.
- **Personnel changes and conflicts**. BP experienced a number of problems involving personnel with responsibility for operations at Macondo. A recent reorganization changed the roles and responsibilities of at least nine individuals with some responsibility for Macondo operations. In addition, the Panel found evidence of conflicts between the BP drilling and completions operations manager and the BP wells team leader, as well as a failure to adequately delineate roles and responsibilities for key decisions.

At the time of the blowout, both BP and Transocean had extensive internal procedures in place regarding safe drilling operations—but evidence collected by the Panel shows gaps in compliance with those procedures. BP required that its drilling and completions personnel follow a "documented and auditable risk management process." The Panel found no evidence that the BP Macondo team fully evaluated ongoing operational risks, nor did it find evidence that BP communicated with the Transocean rig crew about such risks.

Transocean had a number of documented safety programs in place at the time of the blowout. Nonetheless, the Panel found evidence that Transocean personnel themselves questioned whether the Deepwater Horizon crew was adequately prepared to independently identify hazards associated with drilling and other operations. Everyone on board the Deepwater Horizon was obligated to follow the Transocean "stop work" policy that was in place on April 20, which provided that "[e]ach employee has the obligation to interrupt an operation to prevent an incident from occurring." Despite the fact that the Panel identified a number of reasons that the rig crew could have invoked stop work authority, no individual on the Deepwater Horizon did so on April 20.

Recommendations

The Panel found no evidence that Minerals Management Service (MMS) regulations in effect on April 20, 2010 were a cause of the blowout. Even so, the Panel concluded that stronger and more comprehensive federal regulations might have reduced the likelihood of the Macondo blowout. In particular, the Panel found that MMS regulations in place at the time of the blowout could be enhanced in a number of areas, including: cementing procedures and testing; BOP configuration and testing; well integrity testing; and other drilling operations. In addition, the Panel found that there were a number of ways in which the MMS drilling inspections program could be improved. For example, the Panel concluded that drilling inspections should evaluate emergency disconnect systems and other BOP stack secondary system functions. As discussed below, BOEMRE—which replaced MMS in June 2010—has already implemented many improvements to safety standards for offshore operations.

The Report concludes with the Panel's recommendations, which seek to improve the safety of offshore drilling operations in a variety of different ways:

- **Well design**. Improved well design techniques for wells with high flow potential, including increasing the use of mechanical and cement barriers, will decrease the chances of a blowout.
- **Well integrity testing**. Better well integrity test practices (e.g., negative test practices) will allow rig crews to identify possible well control problems in a timely manner.
- **Kick detection and response**. The use of more accurate kick detection devices and other technological improvements will help to ensure that rig crews can detect kicks early and maintain well control. Better training also will allow rig crews to identify situations where hydrocarbons should be diverted overboard.
- **Rig engine configuration (air intake locations)**. Assessment and testing of safety devices, particularly on rigs where air intake locations create pos-

sible ignition sources, may decrease the likelihood of explosions and fatalities in the event of a blowout.

- **Blowout preventers**. Improvements in BOP stack configuration, operation, and testing will allow rig crews to be better able to handle well control events.
- **Remotely operated vehicles (ROVs)**. Standardization of ROV intervention panels and intervention capabilities will allow for improved response during a blowout.

Based on the investigation, the JIT recommended specific regulatory changes, including:

- **Making certain specific cementing requirements included in industry recommended practices mandatory**—for example, prescribing a minimum hole diameter of 3.0 inches greater than the casing outer diameter; rathole mud density greater than cement; and mud conditioning volume greater than one annular volume.
- **Regulations that require at least two barriers (one mechanical and one cement barrier) for a well that is undergoing temporary abandonment procedures**.
- **Revision of the incident reporting rule at 30 CFR § 250.188 to capture well kick incidents, similar to the March 8, 2010, Macondo well control event**. Under current regulations, operators are only required to report "losses of well control" and are not required to report "well control" events such as kicks. The reporting of these events would allow the Agency to track well control events and kicks and evaluate trends that may indicate problems with a specific operator or contractor.
- **Specific requirements for well monitoring and kick detection training**.

Regulatory Reform

The JIT's findings reinforce and build upon many of the safety and oversight gaps that had already been identified, and significantly improved upon, since the Deepwater Horizon tragedy.

Recent reforms

In the immediate aftermath of the spill, BOEMRE recognized that existing regulations had not kept up with the advancements in technology used in deepwater drilling. In response, we quickly issued new, rigorous prescriptive regulations that bolstered offshore drilling safety. We also ratcheted up our efforts to evaluate and mitigate environmental risks. We introduced—for the first time—performance-based workplace safety standards similar to those used by regulators in the North Sea, to make operators responsible for identifying and minimizing the risks associated with drilling operations. We did this through the development and implementation of two new rules that raised standards for the oil and gas industry's operations on the OCS.

The Drilling Safety rule created tough new standards for well design, casing and cementing—and well control procedures and equipment, including blowout preventers. This rule requires operators to have a professional engineer certify the adequacy of the proposed drilling program. In addition, the new Drilling Safety rule requires an engineer to certify that the blowout preventer to be used in a drilling operation meets new standards for testing, maintenance and performance.

The second rule was our Workplace Safety rule, which requires operators to systematically identify risks and establish barriers to those risks in order to reduce the human and organizational errors that cause many accidents and oil spills. Under the rule, operators must develop a comprehensive Safety and Environmental Management Systems (SEMS) program that identifies the potential hazards and risk-reduction strategies for all phases of activity, from well design and construction through the decommissioning of platforms. Many companies had developed such SEMS systems on a voluntary basis in the past, but many had not. Because the rule required substantial work by many operators, we delayed enforcement of the rule for a year. Starting in November, we will begin to enforce compliance. Based on my discussions with our own personnel who have been gearing up to ensure compliance with the SEMS rule, and my meetings with individual operators, I am confident that the vast majority of operators will be ready with their SEMS programs by that date.

Just last week, we proposed a follow-up rule that further advances the purposes of the SEMS rule. It addresses additional safety concerns not covered by the original rule and applies to all oil and natural gas activities and facilities on the OCS. The proposed SEMS II rule includes procedures that authorize any employee on a facil-

ity to cause the stoppage of work—frequently called Stop Work Authority—in the face of an activity or event that poses a threat to an individual, to property or to the environment. As discussed earlier, the failure of the rig crew to stop work on the Deepwater Horizon after encountering multiple hazards and warnings was a contributing cause of the Macondo blowout. The proposed rule also establishes requirements relating to the clear delineation of who possesses ultimate authority on each facility for operational safety; establishes guidelines for reporting unsafe work conditions that give all employees the right to report a possible safety or environmental violation and to request a BOEMRE investigation of the facility; and requires third-party, independent audits of operators SEMS programs. We look forward to receiving public comments on the proposed rule, and our process of finalizing the rule will include a close review of the JIT's recommendations on regulatory reforms.

In addition to these important new rules, we have issued Notices to Lessees (or NTLs) that provide additional guidance to operators on complying with existing regulations. Last summer, we issued NTL–06, which outlines the information that must be provided in an operator's oil spill response plan, including a well-specific blowout scenario, aworst-case discharge scenario, and the assumptions and calculations behind these scenarios. Our engineers and geologists then independently verify these worst case discharge calculations to ensure that we have an accurate picture of the spill potential of each well.

We also issued NTL–10, a document that outlines additional informational requirements, including a mandatory corporate statement from the operator that it will conduct drilling operations in compliance with all applicable agency regulations, including the new Drilling Safety Rule. The NTL also confirms that BOEMRE will be conducting well-by-well evaluations of whether the operator has demonstrated that it has access to, and can deploy, subsea containment resources that would be sufficient to promptly respond to a deepwater blowout or other loss of well control.

Thus, operators must now have a plan—in advance—to shut in a deepwater blowout and capture oil flowing from a wild well. They must have a plan, they must have access to the equipment, and they must have arrangements—contractual or otherwise—that show their ability to make use of that equipment. Rather than improvising a containment response on the fly—with hits and misses—each operator needs to work through its containment plan in advance, and we have to approve its plan.

Moving forward

Our reforms since the Deepwater Horizon tragedy have been broad and swift, and themselves made deepwater drilling significantly safer. However, the JIT report is a sobering reminder that there remains more to be done. We must continue to analyze information that becomes available—including the findings and recommendations of the JIT's investigation—and to implement reforms necessary to make offshore oil and gas production safer, smarter and with stronger protections for workers and the environment. The process of making offshore energy development both safe and sufficient to help meet the nation's and world's energy demands will never be complete, and so it must be a continuing, ongoing, dynamic enterprise that remains responsive to new learning.

In the near future, we expect to make available for public comment additional proposals that will further enhance drilling safety and environmental protection. In order to ensure that we incorporate the very best ideas and best practices of the offshore industry and other interested stakeholders in offshore exploration, development and production—including the environmental community—we will proceed through a notice and comment rulemaking process that will begin with an Advance Notice of Proposed Rulemaking (ANPRM). It is our hope and expectation that at the end of this process, we will develop consensus proposals that will significantly enhance safety and environmental protection. While we have been anticipating the ANPRM for the past year, we thought that it was important to initiate the process after the release of the JIT's report, in order to ensure that commenters would be in a position to benefit from their insights.

As we evaluate the lessons learned from the JIT and move towards a sound and sensible rulemaking process, I believe that industry is uniquely poised to assess findings and test creative solutions. To that end, I hope that companies will take a hard look at this report, as well as other recent investigations, both to understand what went wrong, and to think about what they can do to go above and beyond existing requirements, enhance safety, and ultimately help us to identify best practices that could be adopted across industry.

Thank you and I look forward to your questions.

Mr. HASTINGS. Thank you very much, and I want to thank all of you for your statements, and I will start the questioning.

My first question probably is more of a reaffirmation to the Co-Chairs, but I just want to ask both of you, Captain Nguyen and Mr. Dykes, do you believe that after 17 months and the number of interviews that you have had and the resources, do you think that this investigation does in your review reflect the most accurate account of what happened at the *Deepwater Horizon*? Captain Nguyen?

Captain NGUYEN. Mr. Chairman, yes, I do. I think the Coast Guard investigation is probably the most comprehensive investigation reports out there, especially on the marine-related side, sir.

Mr. HASTINGS. OK. Mr. Dykes?

Mr. DYKES. Mr. Chairman, I agree with Captain Nguyen. Based on what we have, it is the most accurate accounting of what took place. Now unfortunately we lost 11 individuals in that event. Those 11 individuals are key witnesses to what was going on on the rig floor at the time of the blowout, and we have to put the pieces of the puzzle together without those 11 testimonies. But from everything that I have seen, we did not leave any stone unturned.

Mr. HASTINGS. Good. Well, you alluded to that in your testimony. I just wanted to reaffirm that, so thank you.

Director Bromwich, in view of the citations that were issued, you have repeatedly asserted that the Department has now found new authority under a law to not only just regulate the leaseholders but also the contractors to the leaseholders as well, so I am not going to comment whether that is appropriate or not. My question though is very specific. What statutory authority does the Department have to regulate those subcontractors to the leaseholders?

Mr. BROMWICH. Thank you very much for the question, Mr. Chairman. We have talked about this issue on a number of occasions here. It is OCSLA and the other related statutes that give the Secretary of the Interior authority to regulate offshore operations, and I would revise what you said. We didn't find new authority. That authority has always been there. It has simply been the history, practice and custom within the agency to only go against the operators, and when I came on board and I had to review a variety of issues, one of the issues I reviewed was whether it made sense in the face of egregious violations by nonoperators, that is, contractors.

Mr. HASTINGS. I understand that part, but my question is specific. You broadly said OCSLA. I just want to know specifically, and the reason I say that is pretty basic, and I admit I am at an automatic disadvantage. You are a lawyer, I am not a lawyer. But we write the laws here and then that is carried out by the Executive Branch. I am just simply asking very specifically what specific part of the law do you have, since you haven't regulated, what specific part do you have that is now?

Mr. BROMWICH. I can provide you in writing, Mr. Chairman, what the specific sections and subsections are. Clearly, in our regulations, which are based on OCSLA, we specifically say that we have the authority to hold jointly and severally liable all entities, not just operators that deal offshore with respect to——

Mr. HASTINGS. That is specific in the law?

Mr. BROMWICH. That is specific in our regulations which are based on the law, but no one has ever——

Mr. HASTINGS. That is where I am going. You are saying the regulations. I am talking about the law that gives you statutory authority. It is a distinction not without a difference. I think it is very, very important. And the reason I say that is because we had a discussion with another area of Interior on wildlands designation, it has nothing to do with you. I asked Director Abbey what statutory authority he had, and he says we don't have statutory authority.

I am just simply asking this question because I don't know if this is a pattern of this Administration, but I am asking specifically. You refer to regulations. I am talking about statutory law.

Mr. BROMWICH. The regulations would be invalid if they were not based on a statutory authority.

Mr. HASTINGS. OK. That statutory authority in?

Mr. BROMWICH. It is OCSLA, I can give you the specific citations. Just so you know, Mr. Chairman, because the agency had not historically exercised its regulatory authority over contractors, I specifically asked the Solicitor's Office, the lawyers for the Department, to make sure that in fact we have the authority, and so they researched the issue just to be double sure, and they came back to me and told me that we did indeed have that authority.

Mr. HASTINGS. Right. If you would, and you offered to give us a written explanation of specifically which part of that statute gives that authority, I would like you to if you would just give that to the Committee as soon as possible. How soon do you suppose you can get that?

Mr. BROMWICH. I would be happy to do it. I can do it today because we have provided that to Senator Vitter in response to a letter that he wrote many, many months ago, so it would be a very simple matter to do it.

Mr. HASTINGS. OK. Well, we have reviewed that, and I would simply say that when we reviewed that response to Senator Vitter we didn't think that that covered all of it, so if you could be more specific than what you did with Senator Vitter, that would be very helpful to us.

Mr. BROMWICH. That is fine. We will do that.

Mr. HASTINGS. OK. And the timeframe would be the same as today.

Mr. BROMWICH. Well, I was going to offer a letter that had already been written.

Mr. HASTINGS. OK.

Mr. BROMWICH. It would be helpful if I found out from your staff which aspects of that that you think are not sufficiently detailed because I think they are.

Mr. HASTINGS. It is very simple. The statutory authority. Again, I am not an attorney. I am at a big disadvantage when I am talking to a lawyer on this, but I would think that being a lawyer you would say, I know—you know, you would ask your people what statutory authority.

Mr. BROMWICH. And that is in the letter. We cite the specific statutory authority in that letter.

Mr. HASTINGS. All right. We will look forward to that, and my time has expired. In fact, I have gone over. So I will recognize the distinguished—I guess you are pinch-hitting for Mr. Markey, the gentleman from New Jersey, Mr. Holt.

Mr. HOLT. Thank you, Mr. Chairman. I thank the witnesses. I thank you for your work in this investigation. Let me begin with you, Admiral Salerno.

The JIT completed the work of Volume 1, the Coast Guard part of the investigation, in April. There were 50 specific recommendations, 40 of which the Coast Guard Commandant has recently concurred with. Is that correct?

Admiral SALERNO. That is correct, sir.

Mr. HOLT. OK. Has the Coast Guard commenced rulemaking on any of the recommendations?

Admiral SALERNO. Yes, sir, we have. There is an ongoing project to improve our what we call Subchapter N in Title 33, C.F.R., which governs offshore activities, and we are incorporating the recommendations from this report into that ongoing rulemaking process.

Mr. HOLT. So, of these 40 accepted recommendations, how many will be in force say by the end of the year? I mean, what is the timing on this? We keep hearing really a drum beat from this room drill faster, permit faster, move faster, let us do more. I guess I would like to see this sense of urgency that our colleagues are constantly hitting us with applied to your regulatory process.

Admiral SALERNO. Sir, if I could characterize it this way. Not all of the recommendations will require regulatory actions. Some can be executed as a matter of policy. In fact, we have already moved on that. The risk-based targeting is a prime example. What we will do in our coastal state authority is we will mimic what we already do for ships, in other words, take a look at the performance history of the owners, the operators.

Mr. HOLT. Well, have you at least determined how many of the 40 required rules have to go through the rulemaking process?

Admiral SALERNO. Yes, sir.

Mr. HOLT. Do you have the number?

Admiral SALERNO. I don't have the exact number right now, but I can get that for you, but certain things, for example——

Mr. HOLT. If you could get back to the Committee——

Admiral SALERNO. I would be happy to.

Mr. HOLT.—kind of a breakdown of these 40, you know, here is a dozen that will be done this month and here are two dozen that will have to go through the formal rulemaking, whatever that is, and lay those out for us, that would help.

Admiral SALERNO. We can lay that out for you.

Mr. HOLT. Now, on the matter of the country flag, you talked about a risk-based targeting that I think might be a suitable approach. Right now there are, let us see, well, about a third of the vessels operating are U.S.-flagged, about two-thirds are from other countries. Five from Panama, for example, which the Coast Guard has identified as the most at-risk country. Are there limitations that can be placed on some of these most egregious violators or the weakest enforcers pending development of the more complete rules and regulations?

Admiral SALERNO. Yes, sir. What that risk-based methodology will do is stimulate——

Mr. HOLT. I am saying while you are putting that in place should there be limitations placed on some of these clearly more risky flags right away?

Admiral SALERNO. Well, these are risk indicators, sir, so what it does is trigger more frequent Coast Guard examinations, more in-depth examinations when we are on board. That is currently in place. That risk-based methodology is operating now and we are building additional information that will further refine the risk model.

You are correct, Panama has been identified as a flag state that indicates greater risk than some others, and we are paying closer attention to rigs with a Panamanian flag.

Mr. LANDRY. Would the gentleman yield?

Mr. HOLT. I have only a few seconds, but I would be happy to yield.

Mr. LANDRY. I would love to work with the gentleman to make sure that all of the MODUs in the Gulf of Mexico are U.S.-flagged vessels. If we could simply start to roll back some of the onerous regulations that fabrication yards are under and get to a point where we could increase productivity in those fabrication yards, we would not have to worry about having foreign-flagged vessels in the Gulf of Mexico, and we could use all U.S.-flagged vessels.

Mr. HOLT. I think my time has expired. I look forward to pursuing that.

Mr. HASTINGS. I thank the gentleman. We seem to have a grand agreement here.

[Laughter.]

Mr. HASTINGS. Well, we have a grand agreement to start.

[Laughter.]

Mr. HASTINGS. I recognize the gentleman from Louisiana, Dr. Fleming.

Dr. FLEMING. Thank you, Mr. Chairman.

Do we have a slide to throw up? We had a hearing yesterday and I will preface this question. Being from Louisiana we have taken three hits on this. The first one was, of course, the death of 11 good people, the tragedy for their families. The second has been the perception that our beaches and the beaches of Florida, Alabama, Mississippi have been harmed to the point that vacationers stopped coming and these sort of things, which turned out really not to be the case.

And then third and more importantly at this point in time is the permit slowdown that Mr. Bromwich and I and Mr. Landry have had many discussions on, and I will just give an example of what came out of the hearing because for us it has been what is it in the process that seems to create this, and I have gotten one graph in front of you.

I am not throwing it up, but talking about permitting activity in the Gulf of Mexico, that prior to the Macondo disaster permits were being approved at about a rate, it looks like 110 per month, dropped to 60, about half, and it has remained there, and then if you look at oil production, it has dropped from where it was before,

as high as 1.8 million barrels a day, and it looks like it is dropping off now to below 1.4 million barrels a day.

So we are seeing the permit activity still well below par, production well below par, and this graph here shows you, if you look at the red bar, what you see is the difference between the reports from the Obama Administration as to how long it takes permits to be reviewed and how long it takes for them to be approved, and what you see is the "deemed submitted" is the problem.

And so what the companies are telling us is people are submitting the forms, the paperwork, which by the way we heard from a witness yesterday going from an average of 30 to 35 pages to 100 times that, well over 3,000 pages, that the forms are not uniform; that is, one time it can be one way and another time another; again the I's are not dotted, the T's are not crossed. It ends up on someone's desk someplace. So we are looking at in many cases more than 100 days delay just to getting the permit application process up and going.

We also heard that we understand that the final report came out just last month, but yet all of this new bureaucracy, the reforming of MMS and so forth, all this occurred prior to that report.

So I would ask Mr. Dykes since you are kind of really out of the system now and maybe if you are a little bit of an objective voice, do you feel that this delay in permitting, do you feel that all these regulations——

Mr. HASTINGS. Would the gentleman yield?

Dr. FLEMING. Yes.

Mr. HASTINGS. I just want to say that their responsibility was to investigate. You are really asking him unfortunately to make a judgment call, and I don't think that is quite fair to the people that were Co-Chairmen of the Investigating Committee. I understand what you are asking, but I think in this particular case it wouldn't quite be appropriate to ask those two.

Dr. FLEMING. OK, I thank the Chairman. I will ask the question to maybe Mr. Bromwich. Do you think that all this delay and do you think all these new regulations and the confusion that is going on in that process, do you feel that that is justified in a period of which we didn't even have the results of the report?

Mr. BROMWICH. Well, first of all, the data that you have is badly flawed. First of all——

Dr. FLEMING. I will interrupt you. Every time we give you data you always say that. We would love to have your data.

Mr. BROMWICH. OK, I will give it to you right now.

Dr. FLEMING. OK.

Mr. BROMWICH. The time that it takes to review plans, and again this chart conflates plans and permits, two separate processes, but the plans which you list as sometimes taking 100 days, 200 days, so on, it is just not true. We had outside consultants take a look at our plan review process for three different periods of time, pre-Macondo, Macondo, and about a year after that, the most recent period. The facts are that currently it takes an average of 34 days from the time a plan is originally submitted until it is deemed submitted and completed, 34 days. Pre-Macondo the average was 37 days. In between when there was undeniably disruption in the process the average time was 83. This is based on outside experts

looking at the raw data in our files, and all 103 plans that were submitted during those periods of time.

Dr. FLEMING. Yes. Well, we don't have that. Why is it that we don't? We have been calling your department, your offices to try to get that data. We can't get it. Of course we have the incident with Mr. Landry, who couldn't even get in contact with one of your officials, couldn't even get a phone number for him.

So we hear this in the meetings and hearings, but we can't ever get this information directly from your department, and I can tell you that that certainly doesn't explain why production is continuing to go down. We can disagree with your facts even though we don't have your facts to compare ours with. We publish ours, you don't. But the production is clearly going down. Nobody seems to dispute that at all.

Mr. BROMWICH. We do publish ours. I understand after hearing from you and many others that it may be confusing. We are happy to meet with you and members of your staff and further explain what the data means and how to——

Dr. FLEMING. Where is it published today?

Mr. BROMWICH. It is on our website.

Dr. FLEMING. It is on your website.

Mr. BROMWICH. Right.

Dr. FLEMING. Everyone, my staff, Natural Resources staff all tell us that there is very little information and certainly nothing that clarifies this issue on the website.

Mr. BROMWICH. Well, they may find it confusing, but no one can honestly say there is little information. There is a ton.

Mr. HASTINGS. The time of the gentleman has expired. I have been leaving it on, but I want to make sure everyone has an opportunity, but I understand where the gentleman is going and we would like that information.

I recognize the gentleman from Oklahoma, Mr. Boren.

Mr. BOREN. Thank you, Mr. Chairman. I want to thank the panelists for being here and the Co-Chairs for all they have done, all the work that you have put in, and Director Bromwich, we don't always agree, we don't always have the same philosophy, but you work well with our staff and have been attentive, and your staff has as well, so we do want to thank you.

I have a question, and this goes to Captain Nguyen. This is really troubling to me. You know, as you know, one of the tasks of the Marine Board was to determine whether there was any incompetence, negligence or misconduct on the part of government persons in the *Deepwater Horizon* oil spill, and I have an email, and this is an email from I guess his title is Lieutenant Commander Michael Odom, and let me just read this email. This is to Randall, and I hope I don't butcher this up, Ogrydziak. Anyway, his email basically says, "I made it to NOLA last night," New Orleans, "and we are starting prep work now for my testimony. Just as an FYI, if you are interested, the questions they will be asking are attached. Call me if you need anything. Everything is pretty informal and I can't be in the hearing room until it is my turn in the barrel, so there will be a fair amount of standing around time."

That right there is extremely troubling, the fact that a government person has already been prepped beforehand with what the

questions are going to be. And so my question to you is, and whether it was Mr. Odom or other government witnesses, is it true that you all provided government witnesses with information, questions that were going to be asked, in a sense coaching, you know, what the responses are going to be? Is that true? And if it is, wouldn't you agree that it would be hard to make objective determinations from these government witnesses?

Also, another question, were the non-government folks, people from the energy industry, were they provided with questions ahead of time as the government witnesses were, and how do you think that impacts the validity of your report? I would be happy to share any of those emails with the Committee, with the Chairman.

Mr. HASTINGS. We would like to have those. Thank you.

Captain NGUYEN. Mr. Boren, based on our understanding is that in terms of witness prepping, the government prepping, our policy is that we can sit down with our witnesses and explain to them that these are the areas that we are going to be exploring, and it would be some of the questions that we are asking. But my understanding is that we did not provide answers to those questions, and I understand that practice is acceptable. And if my understanding is incorrect, I am sure the Coast Guard would provide a clarification.

Mr. BOREN. But the government witnesses were provided with the questions beforehand. Why weren't the non-government witnesses provided with questions beforehand, the folks from the industry?

Captain NGUYEN. Right. My understanding is Coast Guard policy is that we can prep our witnesses by explaining to them the areas that we are going to go into and the type of questions we may ask them. We did not provide answers to them.

Mr. BOREN. So let me interrupt real quick. The questions that were going to be asked, you said the areas. If I come up with this attachment that shows these are the exact questions, would that be against Coast Guard policy?

Captain NGUYEN. What attachment, sir?

Mr. BOREN. If there is an attachment to this email from Mr. Odom, who was the last person to inspect.

Captain NGUYEN. Yes, sir.

Mr. BOREN. If there was an attachment that had the specific questions, not the areas to be discussed, would that be against Coast Guard policy?

Captain NGUYEN. My understanding is that providing questions that we would potentially be asked at the hearing is according to Coast Guard policy. We do not provide answers to the witness, or we do not coach them how to answer the questions. Our witnesses would be under oath and they speak to the truth, so I do not believe that compromised the integrity of the investigation.

Mr. BOREN. OK. I will take the Captain—Mr. Chairman, I just think this is kind of a troubling development I wanted to share with you.

Mr. HASTINGS. Will the gentleman yield?

Mr. BOREN. I would yield, yes.

Mr. HASTINGS. Perhaps we could work together and dig into this a little bit more and maybe from a document standpoint, certainly

to get more clarification. I think the last point you made as to the specific questions rather than general areas is something that needs to be pursued, and I would be more than happy to work with you on this.

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

Mr. HASTINGS. I recognize the gentleman from Florida, Mr. Southerland.

Mr. SOUTHERLAND. Thank you, Mr. Chairman.

I know earlier in the year we were presented with the President's Commission, their findings, and today we have obviously the JIT report. I am learning everything that I have learned, stuff that I have gathered, I see recommendations. There were nine, I am sure you read it, nine recommendations that the President's Commission made. I am looking at the report that was given to us today, company practices and regulatory agency recommendations.

I guess my question to you, Mr. Bromwich, is in none of this do I see any reference, and it is kind of along the lines of Mr. Boren's questioning, but in none of this do I see any recommendations or the pointing out of where the government bore any responsibility in not preventing this accident. So, therefore, I would like you to tell me where did the government fail? One thing that I see in all of the industry that I am looking at is the government's presence, and so I ask you where did the government fail and where are the recommendations that should follow that recommendation of how your department and your agency is going to do their best to prevent this from ever occurring again?

Mr. BROMWICH. Well, we do do our best at all times to make sure that nothing like this happens, and Mr. Dykes worked for a number of years in connection with helping us do that. The fact is that you can never guarantee that an accident like this can't happen, but what you can do is to take regulatory action and enforcement actions——

Mr. SOUTHERLAND. But——

Mr. BROMWICH. Let me finish, please.

Mr. SOUTHERLAND. No, sir.

Mr. BROMWICH.—to reduce the chances that it won't happen again.

Mr. SOUTHERLAND. My point is, sir——

Mr. BROMWICH. Directly responding to your question, we have already put in place new rules, new safeguards that address some technical issues that were issued both in the President's Commission report and in the JIT report in terms of strengthening the requirements while——

Mr. SOUTHERLAND. This is simple. Where did the government fail? You had written——

Mr. BROMWICH. We didn't have sufficiently strong regulations that were both in the prescriptive area and also that set some of the performance-based standards that the agency historically has not had, but now does have——

Mr. SOUTHERLAND. But to this particular organization, this particular well, I understand there were infractions, there were areas where they had already been cited, correct?

Mr. BROMWICH. Well, they are cited as a result of this report. Are you saying that they had previously been cited?

Mr. SOUTHERLAND. That is what I am asking you.

Mr. BROMWICH. No, they had not been cited.

Mr. SOUTHERLAND. So your belief is that the government did everything—everything. It was my understanding that there were instances where basically the government has not done its part in getting rid of problems that may exist.

Mr. BROMWICH. This was not a governmental failure. This was a failure by the companies who drilled the well. Now there are things the government can do through strengthening its regulations and through increasing its inspections that will help to reduce the chances that anything like this will happen again. You can never eliminate it. That is why it needs to be a partnership where we as the government do our best to improve, simplify, modify, adopt new regulations, and industry on its own needs to continue to be committed to increasing the safety offshore.

Mr. SOUTHERLAND. Part of that partnership is recognizing what both parties can do to improve the system going forward. I am just saying that in all of these reports that we have been given and all the thousands of hours, there is no recognition in that partnership that you claim you want, there is no recognition of what, and you are a big part of this industry, obviously through regulatory presence, that there is no recognition, in other words, all the fault I have found falls squarely on the operators in the Gulf and I just find that it is amazing that none of the changes that an administrator would see necessary to prevent this from happening again are ever presented in any of the papers that we get.

Mr. BROMWICH. Well, they are in the President's Commission report, and they are to some extent in our report, and we have already acted on those.

Mr. SOUTHERLAND. We don't know that. I mean, none of the nine recommendations in the President's report deal with your agency for changes that are necessary in your agency. I mean, I challenge the statement that you just made, but I see I am running out of time, so, Mr. Chair, I yield back.

Mr. HASTINGS. The time of the gentleman had expired. The gentleman from Maryland, Mr. Sarbanes, is recognized.

Mr. SARBANES. Thank you, Mr. Chairman, appreciate it. Thank you all for your testimony. This report is an important piece of the puzzle and we ought to pay great mind to it. I wanted to ask you, Director Bromwich, to speak to the importance of resources for your agency, particularly as it responds to the line of questioning you just got.

In other words, you alluded to the fact that where government might have fallen down on the job was in not being able to do as much inspecting as you would need, and I remember us having hearings in the early days of this disaster where we got statistics about the number of production facilities and platforms and others that individual inspectors were responsible for, just a very small number of inspectors to cover a tremendous number of these facilities, and so I want to give you the opportunity to speak to how important it is that the resources be there for the capacity of your agency and the oversight function that it performs and any proposals that relate to how the industry can help to fund that kind of inspection and oversight responsibility.

Mr. BROMWICH. Well, thank you very much for the question. Obviously resources are critical, and I have spoken here and elsewhere many times that over the 28 years of its existence this agency has been starved for resources. It had patently inadequate level of resources. So, for example, the number of inspectors.

Shortly after *Deepwater Horizon* we had approximately 58 inspectors covering just in the Gulf of Mexico more than 3,000 facilities and rigs. And when you compare it to the resources, inspectors compared to facilities in some of the other countries with substantial offshore activity, like the U.K., like Norway, it is laughable how inadequate our resources are. It would be laughable if it weren't so serious.

So we very much appreciate the President's request for additional resources, the Congress's efforts to fund at least some of those, but we are nowhere near where we need to be in terms of the resources we need. We need to hire scores of additional inspectors. We need to bolster our regulatory program so we can address the sort of issues that the Congressman was talking about but do it in a way that is collaborative with industry, that puts in place regulations that make sense and that are more performance-based than our historically prescriptive regulations.

So we are trying to get the agency with Congress's help, with the President's help, off the starvation diet that it has been on for 28 years and has dramatically impeded and impaired its ability to do a job that all of us want it to do.

Mr. SARBANES. Well, I appreciate that, and I hope that the Majority appreciates it as well because in their appropriations bill where they peg the budget for BOEMRE was significantly under where it needed to be I think to the tune of about $35 million as against your original request, so I hope those resources will be there.

I also wanted to ask you to just restate what I thought were very impressive statistics from a moment ago about how you handled the turnaround time for the issuance of these permits, and I think you even noted that you got the time down to a lesser number of days now than even existed before the *Deepwater Horizon* tragedy, which is a real tribute to the agency. It is not something I think the average person necessarily appreciates. I wanted to give you a chance to review that one more time.

Mr. BROMWICH. Well, I appreciate that, and it is very troubling and disappointing to me that what I think are really urban legends about the length of time it takes to review plans and review permits. It gets circulated and recirculated and recirculated again.

We have made a huge number of efforts to work together with the industry in the Gulf to clarify what is required in plan submissions, to clarify what is required in permit submissions. We have had workshops both on plans and permits which have been extraordinarily well attended by industry where we have taken every effort possible to answer the questions that operators in the Gulf have. They have thanked us for that, for the clarification we have provided, and I think that is part of the reason that processing time for plans and permits have been reduced.

I heard Mr. Fleming say that some of the plan packages are 3,600 pages long. I gather that was something that was said in a

hearing. Well, when we heard that had been said we looked back, the longest submission we could find was only a tenth of that. So I don't know where these stories come from, but they are not true.

Mr. SARBANES. Appreciate it. I yield back.

Mr. HASTINGS. Time for the gentleman has expired. The Chair recognizes the gentleman from Texas, Mr. Flores.

Mr. FLORES. Thank you, Mr. Chairman. I would like to thank the panel for appearing today. Director Bromwich, I am not going to ask you about planning and permitting today. I hope to have you back many more times to do so.

Mr. BROMWICH. Thank you, sir.

Mr. FLORES. In any event, as I understand it, and this is going to be directed primarily to Captain Nguyen and Mr. Dykes. As I sort of sit back and jumped up to the 50,000 foot level it looks to me like this accident occurred because of three principal reasons. One is you had serious planning and design errors, you had safety systems that didn't function as designed or they weren't operating correctly, and then last you had human error and response problems.

This is a philosophical question for you. I think most of us believe we can address safety and design through regulations, and we can address safety system design and operation regulations. Would you each concur with that?

Mr. DYKES. Yes, I would concur with that, but the critical aspect is what you talked about last is the human aspect of it.

Mr. FLORES. I am going to get to that in a minute.

Captain Nguyen, do you agree with the first? I mean, you can address those first two problems I think with regulations and regulatory oversight, is that correct?

Captain NGUYEN. Yes, sir. First off, in our regulations we have equipment standards and we have operation standards. However, we also on the human elements, we also have licensing of mariners, so that will take care of some of that in terms of training and licensing.

Mr. FLORES. Through training and capabilities?

Captain NGUYEN. Yes, sir.

Mr. FLORES. OK. So that takes us to the philosophical question. How do you, and this is not meant to be a "gotcha" question because I am going to ask the next panel the same thing, how do you address the human error problem that we have? I mean, you said when a pilot makes serious errors and crashes an airplane, how do you address the human error problem? Can you do that only through regulations? What else does it take to get there?

Mr. DYKES. Philosophically, from the standpoint to reduce the number of human errors you have to reduce the number of interactions where you need that individual to make a decision. If you can reduce the probability by reducing that number, that is the first step. That is where you come in through administrative controls or engineering and you remove that aspect of the job.

The second half of that is where you actually cannot engineer out or put administrative controls in place to remove the individual from the equation and you have to factor him in. Key to that is awareness, knowledge, training, education and getting that indi-

vidual all of the information he needs in a format that he can understand it, digest it and make a decision based on what he knows.

Mr. FLORES. My question would be, do you think the industry got the message in that last part? Because if we don't fix this part of the equation, we will have not this accident again, but we will have another accident of some sort because it is impossible to legislate away or regulate away human error. So do you think the industry has got the message? Has the industry learned from you alls' perspective? Do you think they got the message?

Mr. DYKES. I would hope so. I can't speak for industry from that standpoint. From our report standpoint, I hope they got the message.

Mr. FLORES. OK. But let me rephrase the question. Do you have any evidence that they haven't gotten it, that they haven't tried to respond affirmatively to take care of that?

Mr. DYKES. No, sir, I have no information that would indicate that they have not gotten that message.

Mr. FLORES. Captain Nguyen, do you——

Captain NGUYEN. Yes, sir. In your report we are talking about safety culture, not only do we know we saw a discrepancy on one vessel, we saw discrepancy on multiple vessels in multiple locations and in the corporate office. So I don't think government regulations can regulate safety culture. That has to go down to the individual.

Mr. FLORES. OK.

Captain NGUYEN. And I think that when I went out to visit——

Mr. FLORES. I think you answered. I am going to reclaim my time because I have two more questions if I can.

Admiral Salerno, the Coast Guard has jurisdiction of foreign-flagged vessels in U.S. waters, right?

Admiral SALERNO. That is correct, sir.

Mr. FLORES. OK. I forgot what my last question was. Sorry about that. Oh, there was an allegation, and this is for Director Bromwich, that you don't have sufficient legislative authority to issue the regulations to address the causes of this accident and to keep it from occurring again. Is that allegation correct? We heard the Minority side say that at the outset of this conversation.

Mr. BROMWICH. We have talked on a number of other occasions that certain kinds of legislation, including raising our civil fine authority, which would be extraordinarily helpful, and this incident certainly underlies that. Speaking with the Chairman about the importance and desirability of having organic legislation to support new agencies we have enforced. But specific safety-related issues, legislative recommendations do not flow specifically from this report, that is correct.

Mr. FLORES. That is what I thought. So you have the authority to—I mean, regulations you have written—I guess what I am trying to say is the allegation is that there is not sufficient, that we need more legislation to fix this seems to be incorrect.

Mr. BROMWICH. The specific issues that are raised that our agency deals with in terms of being able to regulate the industry we do think we have the power that we need.

Mr. FLORES. OK, thank you.

Mr. HASTINGS. The time of the gentleman has expired and I recognize the gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Vice Admiral Salerno, in the report the U.S. Coast Guard identified Transocean and *Deepwater Horizon*, their crew, as partly complicit in the blowout that led to the disastrous oil spill. What regulatory changes do you think that would prevent this sort of negligence, going back in the human error issue, from happening in the future, and how did the U.S. Coast Guard ensure that this study was conducted in an objective manner?

Admiral SALERNO. Sir, there are a number of things in work here. Some are design related, the systems in place as just was discussed. Some are human element. I think one of the most significant aspects of this case is the dual command structure that was on the rig and the confusion that that created as to who had authority in an emergency, and as far as the actual conduct of the investigation, I think Mr. Dykes or Captain Nguyen can focus on that more directly. I was not part of that investigation.

Mr. GRIJALVA. Thank you. Director Bromwich, that same question, how did your agency assure that the study was conducted in an objective manner, and then, if you would because we went through this already, sometimes you have to put an historical context into the conversation, the agency that you have has gone through significant reform and restructure, has asked for initially resource support for it to be able to do its job in response to what was government lack of oversight at the beginning of this process, and also to deal with the ethical issues of the kind of cozy industry/regulatory relationship that existed, and I think that should be part of the context that we talk about. So we could talk about where the agency was, where it is now, and I think that is important, and the objective manner is the question.

Mr. BROMWICH. Let me talk about where the agency is now compared to where it used to be. It obviously not only has a different name, we split it into different component parts to eliminate some of the mission conflict that existed in the old MMS, and we worked extraordinarily hard over the last 15 months to get that reorganization right, and that went final, as I think you know, on October 1, so that we now have a revenue entity that is in a different line of reporting within the Department of the Interior, and the most recent split is to split the resource manager and the safety and regulatory agency into two parts.

Not only did we do the reorganization and splitting of the agency, but we have based on the many reviews, studies and investigations of the agency taken a hard look at ourselves and some of the weaknesses that have been identified, including the alleged coziness with industry over time, and we are in an ongoing way looking to reform many of the ways that we do business. This is in midstream. That is in the process that needs to continue and it needs to continue for a significant period of time. It relates to enforcement, it relates to investigations, it relates to regulations, it relates to a whole raft of things, and you have my commitment that that will continue.

In terms of the investigation, Mr. Dykes can certainly speak to that, but the investigation, the designation of witnesses, questioning of witnesses and so forth was handled by the investigative team and by the investigative team alone. You heard Mr. Dykes

say that, with the exception of the 11 witnesses, because of their tragic deaths they were not able to interview, in his words, they left no stone unturned and gathered all the information that was relevant. I know of no reason that that is not accurate.

Mr. GRIJALVA. Thank you, and I asked that question to preface the thanks of Mr. Dykes, the Co-Chair, and the team for the report and study. Very much appreciate it. I believe it is objective without question.

And the last posing question for you, Mr. Director, there is an interesting process going on where government is at fault for what happened, we can't ask the industry because half of them could plead the Fifth in the next panel, but we can ask you. The government had a role and there are corrective steps being taken to ensure that that role is not a passive role anymore, and that is how I see it, and I would ask for your response to that.

Mr. BROMWICH. I agree with that. I think largely because of the shortage of resources we have been too passive in the past and we are looking to change that.

Mr. GRIJALVA. Thank you.

Mr. HASTINGS. The time of the gentleman has expired. The Chair recognizes the gentleman from Maryland, Mr. Harris.

Mr. HARRIS. Thank you, Mr. Chairman. I will yield my time to the gentleman from Louisiana.

Mr. HASTINGS. The gentleman is recognized.

Mr. LANDRY. I thank the gentleman from Maryland and the people of Louisiana thank you as well.

Mr. Bromwich, I just want to clear up a couple of things that the Chairman addressed in the very beginning, which I have some concern on the authority that all believe you have to reach and conduct oversight on contractors and subcontractors.

Mr. BROMWICH. I do have a statutory citation for you, Mr. Landry, and Mr. Chairman.

Mr. LANDRY. OK, great, because I have Senator Vitter's letter and the response that you gave Senator Vitter that you told the Chairman that would give us that information, and I don't see the citation in there. What is the citation you have?

Mr. BROMWICH. It is OCSLA Section 24(b), which is codified at 43 U.S.C. § 350, subsection b, which authorizes the assessment of civil penalties against any person who fails to comply with the terms of a lease, permit, regulation, et cetera, and what we have been advised by the Solicitor's Office is that "any person," it is not limited to lessees or operators, so that is the foundation.

Mr. LANDRY. I just want to grab some time. I will stipulate that that is in the Code. I know you are a very prolific orator—litigator. However, I have in Title 30, part 250, oil and gas, C.F.R. 250.146, who is responsible for fulfilling leasehold obligations, and I will tell you that when you are not the sole lessee, you are the co-lessee, you are jointly and severally responsible, et cetera, and within that——

Mr. BROMWICH. That is exactly the regulatory——

Mr. LANDRY. But there is nothing in here that defines contracts or subcontractors. In fact, when you go back to the C.F.R., which I did this morning in my review, the Code specifically defines les-

sees and co-lessees but does not in any way define contractors or subcontractors.

Mr. BROMWICH. I did not know this was a definitional issue.

Mr. LANDRY. Well, normally if you are going to cover enforcement action over those, the Code is specific in defining who those people are. I think you would agree to that. I am sure you have used that several times as you have litigated cases. And also in Senator Vitter's request that he made, he asked for the internal legal analysis by the Interior Department that justified expansion of your current regulatory authority, and I don't see that you have provided us with that.

You cite the Code. Certainly we will go back and look at that particular part, but I think that particular part will bring me back to the part that I looked in, and I don't think that it gives you that authority, and of course that is under the regulations that you promulgated. What the Chairman asked for was where you get the authority to issue that type of regulation under OCSLA, and of course again——

Mr. BROMWICH. It has the statutory authority——

Mr. LANDRY. But that comes from OCSLA.

Mr. BROMWICH. Yes.

Mr. LANDRY. OK.

Mr. BROMWICH. OCSLA——

Mr. HASTINGS. Would you repeat precisely——

Mr. BROMWICH. OCSLA, Section 24[b], which is codified at 43 United States Code—Title 43, United States Code § 1350, one, three, five, zero, [B].

Mr. HASTINGS. B or D?

Mr. BROMWICH. B, B as in boy. OK, thank you. Thank the gentleman for yielding.

Mr. LANDRY. OK. Mr. Chairman, I would like to yield the balance to Mr. Flores. He has a couple of questions.

Mr. FLORES. Thank you to the gentleman from Louisiana. This question is for Mr. Dykes. What was the impact of the Attorney General's announcement that he was going to pursue a criminal investigation in terms of getting to the bottom of this investigation?

Mr. DYKES. I believe they had forced some of the key witnesses not to testify, and, for example, Mr. Mark Hagley, who was one of the BP engineers testified before the JIT during the second hearing. That was the week of March 24, I am sorry, May 24, and the announcement of the criminal investigation came out June 1. Two or three hearings later we wanted to call Mark Hagley back for further interviews and he refused to testify.

Mr. FLORES. OK. Do you think that the report or the follow-up recommendations or regulatory changes following the recommendations, is there any loss of fidelity in those because of the fact that Attorney General Holder issued this criminal investigation announcement?

Mr. DYKES. No, sir, I do not.

Mr. FLORES. OK, thank you. I yield back.

Mr. HASTINGS. The time has expired. The next gentleman is recognized, Mr. Landry.

Mr. LANDRY. Real quickly, I also would like to state, Mr. Bromwich, we continue to hear about resources being used, but yet

as I do the math in the increase in BOEMRE's budget has had since 2009, 2009 you had $116 million, sometimes it is hard for me to count all the zeros, so in 2009, you went from $116 to $181 in 2010. From 2010 to 2011, you went to $225, and so just real quickly, have you utilized all those resources in being able to hire everyone that you could possibly hire today?

Mr. BROMWICH. We have utilized those resources to hire people. If we had more resources, we could hire more.

Mr. LANDRY. So you have hired everyone that you can possibly hire today?

Mr. BROMWICH. We have put out announcements as we got the additional funding, and obviously we did not get it until April when the continuing resolution passed, we didn't know how much money we would get, we immediately put a full court press on to hire the categories of people that we most needed, including inspectors, drilling engineers and so forth. So, yes, we made every effort we possibly can to bring as many people on board as we possibly could given the resources that Congress provided us.

Mr. LANDRY. So you have hired everyone?

Mr. BROMWICH. No. I just said we have hired everyone that we had the money to hire. We have not hired everyone that we need, not even close.

Mr. LANDRY. OK. Mr. Dykes, and of course, Mr. Chairman, please let me know if I am out of bounds here, under the guidelines and the regulations that MMS had in place at the time of the accident, do you believe that they were sufficient in order to prevent the accident?

In other words, and this kind of goes to what Mr. Southerland was saying, is that did BOEMRE have the ability under the regulations that were currently in place to help prevent this type of accident?

Mr. DYKES. That is more of a philosophical question from that standpoint. When we looked at the regulations on the books and compared them to the event, we found nothing that directly would have prevented any, and it is hard to forecast as you put regulations in the book, to forecast what you are trying to prevent.

Mr. LANDRY. OK. Well, real quickly because here is the problem I have. I want you to know that today I got a call from one gentleman, a family, before he went to work in 1973 with a seventh grade education, a son who went to the eleventh grade, one got a GED, and they got laid off as we do in the marine offshore business. They have been laid off, of course, it flies in the face of what we hear here, that the process is back up and rolling, that the Gulf of Mexico is back. The man has not looked for a job since 1973, but he got laid off last week. That family combined, three members, brought home over half a million dollars combined. Good jobs, OK, good jobs. And what I am trying to understand as I read through the investigative report that the three of you all have that there is human error. Was there a systemic problem in the industry based upon your findings?

Mr. BROMWICH. The investigation wasn't pointed to look at industry as a——

Mr. LANDRY. Do you believe there was a systemic problem? I mean, you did a lot of investigation. Captain?

Captain NGUYEN. Sir, from the Coast Guard side we only investigate this vessel.

Mr. LANDRY. OK.

Captain NGUYEN. So we did not investigate the——

Mr. LANDRY. Mr. Dykes.

Mr. HASTINGS. You are making a judgment call there, gentlemen. I understand what you are——

Mr. LANDRY. Well, I am trying to understand. They have done a lot of work. They looked over a lot of evidence, and of course Mr. Dykes has been working for MMS for 17 plus years I guess.

Mr. BROMWICH. Twelve years.

Mr. LANDRY. Twelve years, and he would have seen a lot. You know, I just can't tell you how much I appreciate this witness, and I am trying to understand because we have a political report that the President wanted us to take legislation action on, and yet we have a scientific report that is contrary to the political report, and I have people that are interested. I have an industry suffering. I have a Director saying that we are increasing permitting, and everything is pointing to the fact that the problem we have is politics, and that is what I am trying to get to the bottom line. That is the only reason for the question.

Mr. HASTINGS. Would the gentleman yield?

Mr. LANDRY. Yes.

Mr. HASTINGS. Listen, I think that is probably something that this Committee will have to weigh and come to our own conclusions. You asked me to kind of say if the question is out of line or not and perhaps to the Co-Chairs, but if they have an opinion, obviously we would welcome that. But I think I have some concerns too.

Mr. LANDRY. OK.

Mr. HASTINGS. And they will be expressed. But the time of the gentleman has expired.

Mr. LANDRY. I will withdraw it.

Mr. HASTINGS. The time of the gentleman has expired. The gentleman from Massachusetts is recognized.

Mr. MARKEY. Thank you, Mr. Chairman, very much.

Director Bromwich, yesterday the Department issued violations to BP, Transocean and Halliburton for violating Federal regulations in place at the time of the spill. BP was cited for seven infractions, Halliburton and Transocean four violations. Unfortunately, the monetary penalties associated with these violations, which led to the worst environmental disaster in American history, would amount to only $21 million for BP and $12 million for Halliburton and Transocean.

Do you think that that is a sufficient financial deterrent to oil companies so that we do not have a repeat of the disaster or should Congress pass legislation to increase the civil penalties for oil companies that violate the law? That is a proposal, which I have made along with Mr. Holt and Mr. Grijalva, so that the penalties match the actual events that despoiled our environment, Mr. Bromwich?

Mr. BROMWICH. No, I don't think the current civil penalty authorization is a deterrent. I don't even think it is close, Mr. Markey. In an industry where it costs between $500,000 and a million dollars a day for a rig, the kinds of figures that you are talking

about are trivial to these companies. So I think there needs to be a very significant increase. I have resisted in the past putting a dollar figure on it, but it needs to be clearly well into the six figures to be a significant deterrent for individual oil companies and to provide a general deterrence for the industry as a whole.

Mr. MARKEY. So you are saying that you start with $100,000 per incidence per day.

Mr. BROMWICH. At a minimum.

Mr. MARKEY. At a minimum. You think that Congress should consider raising them much higher in order to ensure that the oil companies pay a price when people die, when businesses are crushed, when the environment is destroyed, is that what you are saying?

Mr. BROMWICH. Yes.

Mr. MARKEY. Director Bromwich, the Federal Government has the authority to suspend or debar companies that commit fraud or violate Federal law from receiving contracts or entering into agreements with the Federal Government. The Department of the Interior has the ability to debar companies from non-procurement programs, including lease sales. Suspension and debarment has a different purpose than civil penalties. It is not intended to punish but to protect the American people from unlawful and unethical companies. Companies can be suspended or debarred for violations of statutory or regulatory requirements, fraud, criminal or civil judgments against them and a lack of business integrity or business honesty. The Office of Management and Budget guidance describes the purpose of suspension and debarment for non-procurement programs. Specifically it states to protect the public interest. The Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.

The first Gulf lease/sale since the BP spill is scheduled for December. Should the Department consider suspension or debarment of BP from the lease/sale to give us time to assess whether BP has made the necessary changes to protect the public interest?

Mr. BROMWICH. We are not going to suspend or debar BP from that lease sale. We have considered and thought about this issue quite a lot, and we don't think it is appropriate in these circumstances.

I do want to remind Mr. Markey that BP has taken on itself the obligation to abide by additional voluntary requirements over and above what our regulations require. I think that has been their approach in dealing with my agency since I have been there. Also, given the historical record offshore, Mr. Dykes is knowledgeable about, we don't think suspending or debarring there is appropriate.

Mr. MARKEY. Again, the reason I am raising these issues is that it is not just the Gulf of Mexico, it is everywhere. You know, when you pass a statute against some crime, it is not just to protect the people from where it occurred originally, it is to protect everyone else from the same set of events. OK, so we are not limiting. We are looking at this in terms of everyone anywhere that might have the same people out there thinking that they got away with it.

So I think we should take another look at whether or not BP should be allowed to participate. I think that it is still, in my mind,

an open question that should be dealt with as part of this entire process, and Mr. Chairman, I thank you.

Mr. HASTINGS. The gentleman's time as expired. The gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Chairman, thanks to the panel for testifying today. My question is for the Co-Chairs and just a clarification regarding a specific piece of equipment, the riser disconnect it seems played a key role in the incident. On the day of the disaster, that specific day, what agency was responsible for the inspection of the riser disconnect with the *Deepwater Horizon*?

Mr. DYKES. That would fall under the Department of the Interior, the Minerals Management Service.

Mr. THOMPSON. OK, very good. Was that disconnect properly inspected?

Mr. DYKES. Every information that we have, all of the inspection documents indicate that it had been inspected.

Mr. THOMPSON. So what happened?

Mr. DYKES. Well, as the report indicates, we believe the second explosion, which occurred on the rig near the rig pool, took out all of the mud's control lines to the BOP stack, and by this time we believe that the pipe got into compression such that as it goes through the sequencing that disconnect will not function until you have completed the sequencing of the BOP stack closure.

Mr. THOMPSON. Thanks for the clarification. I yield back, Chairman.

Mr. HASTINGS. The gentleman yields back. We have had requests from several Members, at least on my side, for a second round and I am going to honor that. We will begin the second round with Dr. Fleming.

Dr. FLEMING. Thank you, Mr. Chairman. Would you throw that slide back up again that I talked about with Director Bromwich a moment ago?

Mr. BROMWICH. Mr. Chairman, can I just ask? This is a hearing devoted to the accident investigation report. I am happy to come back at anytime, as I have many times in the past, to talk about plans and permits. I don't think it is fair frankly to Mr. Dykes, Captain Nguyen or Admiral Salerno to have to go through issues that are exclusively mine.

Dr. FLEMING. Mr. Chair, I just want a clarification, that is all I have.

Mr. HASTINGS. I am going to allow it. We had that line of questioning earlier. We had the hearing before and I know sometimes we overlap, but there is an overriding issue certainly I have heard, I know you have, Director Bromwich, of people on the Gulf Coast and response, so I think it is appropriate in this time because it does all tie together, so I will recognize the gentleman from Louisiana.

Dr. FLEMING. If you will throw that up and we may come to some agreement here after all.

OK, it is the bar graph that I showed before, and you indicated, and I forget the word you used, it was fairly strong, it was not true, dishonest, a lie, what is your characterization?

Mr. BROMWICH. It is badly flawed and misleading.

Dr. FLEMING. Badly flawed and misleading.

Mr. BROMWICH. Yes.

Dr. FLEMING. All right, it comes from the Gulf Economic Survival Team. Do you know where they got that data from?

Mr. BROMWICH. Yes, that is part of—we talked about this last time I was here, Congressman. That is from the IHS CERA report that was issued over the summer, and as I told you last time——

Dr. FLEMING. Let me correct you before you go any further. No, sir, it comes from your website. They extracted this from your website. Now the reason why there is confusion, and I think you used that word, is because it is hard to find. We actually had to go through and search. I have three different screen shots and if I had this graph, I would show you, but in bar graph one, I believe that is Shell, and again it was extracted from your data.

Mr. BROMWICH. Are you saying—let me just be clear.

Dr. FLEMING. Yes.

Mr. BROMWICH. Are you saying that that specific bar graph appears on our website?

Dr. FLEMING. No, sir, the data, the data.

Mr. BROMWICH. OK. OK. OK.

Dr. FLEMING. Is created from your data, but from this and you see the BSEE logo on the first page here. The second bar graph, it says—from your website. It says received date 9-20-2010, and then it says, date deemed submitted March 31, over six months later, 2011, and then the green part of the bar graph, staff instructs me we would have to go to another part of your website. The point is that what they did is simply take your data and put it together in a graph.

Mr. BROMWICH. Well, that is not what they did, and I am happy to go through this privately with you in detail. That is not what they did.

Dr. FLEMING. OK. Well, until I am proven otherwise I am going to have to assume that is true, but I have another question for you. This outside independent agency or agencies, now that is the first we have ever heard of that, who are they?

Mr. BROMWICH. It is McKenzie & Company.

Dr. FLEMING. McKenzie & Company.

Mr. BROMWICH. Yes.

Dr. FLEMING. And you will be able to get that to us within a few days?

Mr. BROMWICH. What specifically are you requesting?

Dr. FLEMING. Well, you said that they did an independent analysis, an objective analysis, and we haven't seen it. We don't know where it is.

Mr. BROMWICH. I just got it last week, Congressman. Let me just be clear, and this really addresses your concern too, Mr. Chairman, we have been focused very intently on trying to improve and make more efficient our plans and permitting process because we are very aware of how concerned and upset Mr. Fleming is, Mr. Landry is, and many other people. Perfectly legitimate. They have had complaints from their constituents. People are being laid off. We understand that.

McKenzie has been helping us with a wide range of issues, primarily the reorganization, but they have also been helping us with looking at specific issues that are of importance to me, and in-

cluded among the things that they looked at recently were the permitting process, which we can improve by making it transparent, and the plans process. And so the review that I got that I mentioned earlier in response to Mr. Fleming's questions I just got last week as a result of a review that they just completed in the last 10 days. So it is not as though we have been holding out on you. This is something that I specifically asked for in light of the concerns that you have expressed to me previously, and so that is why you haven't seen it yet. I am happy to provide it to you.

Dr. FLEMING. Sure. OK. But I was just simply asking how quickly can we get it?

Mr. BROMWICH. It is a one-pager. I can probably give it to you this afternoon.

Dr. FLEMING. OK, great. So we will look forward to that. But anyway, again to reemphasize, that is where these people tell us they got the data, and we can go back and sit in front of a computer screen, but again, that is where they are saying they are getting the information. The one example we were able to find does correlate with what they say is on this graph.

Now it is our opinion and certainly, and I asked you this question before, but I will ask it again almost humorously, you don't think EIA is a flim-flam operation. You feel like they are basically good and honest with their debt.

Mr. BROMWICH. I have never said they were a flim-flam operation.

Dr. FLEMING. No, I asked you that question before and you answered no, you did not think——

Mr. BROMWICH. I haven't changed my answer.

Dr. FLEMING. You have not changed your mind?

Mr. BROMWICH. No, I have not changed my answer on that.

Dr. FLEMING. Good. They say that the production levels continue to go down. They go down to something around 1.3 million barrels a day, so something is holding up production, and again, all the data that we see says it goes back to the permits or the pre-permitting process. You say that that could probably be improved by better funding. So can you—because, see, again the permit has been increased by a factor of 100.

Mr. BROMWICH. The permit has?

Dr. FLEMING. The permit size. Remember the——

Mr. BROMWICH. No, no, no. First you said it was plans, and that is not true. I think somebody identified the——

Dr. FLEMING. The application.

Mr. BROMWICH. Right, file different applications. There is a plan application. There is a permit application.

Dr. FLEMING. Right.

Mr. BROMWICH. You were talking before about plan applications, and I think you had a witness say yesterday and you repeated it this morning that they run as long as 3,600 pages.

Dr. FLEMING. Right.

Mr. BROMWICH. I had somebody look through the file of all plan applications, and they weren't able to find anything even remotely close to that long. So I would ask you to ask your constituents to actually produce it.

Dr. FLEMING. Sure.

Mr. BROMWICH. I would like to see it.

Dr. FLEMING. Well, let me ask you a two-part question, and I will do it real quickly because I am running out of time. Would it be fair to say that our perceived slowness of permitting could be improved by more resources? I think that is the case you are trying to make.

Mr. BROMWICH. Yes. Yes, the answer is yes.

Dr. FLEMING. And if so, do you see there are also other parts of the permitting process that could also be streamlined even short of increased resources; that is to say, better applications, more uniform applications, better training for people who are filling them out? Do you feel like there is some improvement there that could be had?

Mr. BROMWICH. All of the above, and we have done a lot of that already, and I think industry has seen and will continue to see the results of those changes that we have implemented. We fully shared them with industry and we made it clear we are receptive to their suggestions to further streamline and make the process more efficient. They can check the status of their permits online. That is brand new.

Dr. FLEMING. Right.

Mr. BROMWICH. And I think it is a welcome development for them.

Dr. FLEMING. This is the last question, I'm running out of——

Mr. HASTINGS. The gentleman is really out of time. I think we need to respect this so everybody has the time. I understand the gentleman wants to pursue, but we have these five-minute rules which are sometimes onerous. I recognize that. Maybe somebody who finishes earlier can yield time to you. Mr. Grijalva, do you have a second round?

Mr. GRIJALVA. Thank you, sir. A couple of questions for Mr. Dykes.

Earlier, I think in response to a question regarding the announcement of the criminal investigation by the AG, that that may have impacted the decision of oil company employees not to testify before the Joint Committee Team. But from what I understand the criminal investigation was announced on June 1, 2010, and BP and Transocean employees declined to testify at the JIT hearing that was on May 27, 2010, before the announcement of criminal investigations, so that announcement didn't affect the decision by the oil employees not to testify, did it or did it not?

Mr. DYKES. Those witnesses that refused to testify at the May hearing were those that were testing the subpoena authority of the Joint Investigation Team. Once we moved the hearing to Houston, then some of those witnesses testified, and some witnesses exercised their Fifth Amendment right.

Mr. GRIJALVA. And just to follow up, do you think that the government at this point, the U.S. Attorney, should not look into whether there was criminal violations in this whole episode that we have been talking about here?

Mr. DYKES. Sir, that is outside the scope of my knowledge.

Mr. GRIJALVA. And I want to go back to a point that I think you had in your testimony. You have 27 years experience in the oil and gas, both in the industry side and the regulatory side, and all the

experience that you have, Mr. Dykes, in terms of accident investigation, the JIT concluded that the negligence on the part of BP, poor risk management, inadequate oversight, was ultimately responsible for the blowout. What regulatory changes do you think are needed to prevent and mitigate this kind of mismanagement in the future?

Mr. DYKES. Well, the key things in our recommendations, once again as I stated earlier to Mr. Flores, is if you can remove those decision points from the operators' control and put it into the regulatory side of the equation, then you are adding those additional barriers in the regulatory process.

For example is the requirement for the major test procedures. One of our recommendations is for industry and the agency to work together to establish standardized major tests so that you have expected results that you can know what you need to know once you have those results.

Mr. GRIJALVA. And if I may just to follow up, Mr. Director, on another question, talking about the resources and the lack of adequate resources for the agency as it moves forward with not only these recommendations but other recommendations that have been generated in terms of how to prevent and mitigate these kind of situations in the future.

Part of the staffing issue is over not just—we see the concentration of the question is on the permitting aspect, how to expedite that, how to cut the time. I am sure that the resources are needed, as the Co-Chair just indicated, on the oversight, coordination, technical side that in the long term deals with the prevention question that we are talking about.

Mr. BROMWICH. That is absolutely true. I mean, I more often get questions on permitting and plan approval and the resources that are allocated to that, but the request for funding that we submitted to Congress and the President has submitted to Congress broadly allocate recourse increases in lots of different places, including importantly increasing oversight through adding to the number of inspectors and for many other things as well.

Mr. GRIJALVA. Is the echo for faster permitting, not enough permitting continues, I think there has to be an understanding that if that is to be expedited even more from the 34-day period, there has to be a corresponding resource allocation to assure that the oversight that the agency is responsible and we as a Congress are responsible to the American people is also present as part of the package. It is a package deal. It is not a one-sided deal, and with that I yield back.

Mr. HASTINGS. Would the gentleman yield?

Mr. GRIJALVA. Gladly.

Mr. HASTINGS. Just to follow up with Mr. Dykes to the response you gave Mr. Grijalva. Did any government witnesses take the Fifth Amendment in your——

Mr. DYKES. No, sir, no government witnesses took the Fifth Amendment.

Mr. HASTINGS. OK. The Chair recognizes the gentleman from Florida, Mr. Southerland.

Mr. SOUTHERLAND. Thank you, Mr. Chair.

Mr. Bromwich, I just have a question on budget issues, this is a simple question. I am looking at some numbers provided for me on the budget and I am looking at 2008, $118 million, 2009, $116 million, 2010, $181 million, 2011, $225 million, and the President's budget request of $358 million. I mean, are those ballpark figures close?

Mr. BROMWICH. It sounds about right. I don't have the figures with me, Congressman, but that sounds about right.

Mr. SOUTHERLAND. I know you don't, and I don't want to be unfair to you, but when we are looking at 2008, $118 million, to 2011, $225 million, and we are talking about—you know, they have been accused by the other side that the agency is being starved. I mean, that is almost in a three-year period almost a 100 percent increase in funding. So, I mean, if a 100 percent increase in funding is not enough, what is enough?

Mr. BROMWICH. The starvation comment was mine, and that is——

Mr. SOUTHERLAND. Well, it has also been laid at us.

Mr. BROMWICH. The historical level of funding for the agency, and so if you start from nothing or close to nothing, the percentage increases can look quite huge on paper and still not get to where you need to be, and that is a statement——

Mr. SOUTHERLAND. Well, but I do think in the current economic environment, I think to make the claim to the American people that a 100 percent increase in your funding is nothing I think will fall on deaf ears, especially in my state where we have 12 percent unemployment.

Mr. BROMWICH. I didn't say the increase was nothing. I said we started with nothing.

Mr. SOUTHERLAND. You said you started with nothing.

Mr. BROMWICH. Yes.

Mr. SOUTHERLAND. So the $120 million budget that you had in 2008 was nothing.

Mr. BROMWICH. Compared to what we needed it was nothing.

Mr. SOUTHERLAND. All right. I would like to yield the balance of my time to the gentleman from Louisiana.

Mr. LANDRY. Real quick to follow up with that. Thank you, Mr. Southerland. Did all of that increase go into BOEMRE, into oil and gas inspectors? I mean, how much of those resources actually went to helping get you where you need to get so we can get the permit process?

Mr. BROMWICH. So are you talking about the part of the increase that went just to admin power to writing?

Mr. LANDRY. Right, just——

Mr. BROMWICH. I don't have that percentage for you.

Mr. LANDRY. Would you say it is 5, 10, 20, 30——

Mr. BROMWICH. More than that.

Mr. LANDRY.—40, 50, 60, 70 percent?

Mr. BROMWICH. I am sorry.

Mr. LANDRY. Five, 10, 15, 20?

Mr. BROMWICH. Well, I would have to go back and look at the numbers. It is a significant number. It is certainly over 10 percent.

Mr. LANDRY. Significant is not 10 percent. Fifty percent would be significant because, again, I think what we all have here is we

have a concern about where the money is going, OK. I don't want to give you more money just to add on top—I would bet you could scrub your agency and see where that money has gone and say, no, that is not quite as important as making sure that men and women who get to drilling in the Gulf of Mexico do so safely. You know, I think you can——

Mr. BROMWICH. When we began this process, Congressman Landry, I think the shared sense of both the Majority and the Minority was where we were the most inefficient was in the number of inspectors to review facilities.

Mr. LANDRY. OK.

Mr. BROMWICH. And so that was our initial hiring priority. That has been replaced over time with a more balanced set of priorities which includes continuing to hire additional inspectors as well as hiring people who are directly involved in the permitting process.

Mr. LANDRY. Well, again, I just would like to see where the resources are going within that increase. But anyhow, real quickly also, I want to let you know I have read the citation you gave us. I don't agree with you, but that is OK, I could be wrong, I have been wrong before. So since we have a disagreement, just to clarify, are we going to be able to get the legal analysis from the Solicitor because I think you said it came from the Solicitor's Office?

Mr. BROMWICH. The Department of the Interior, like every executive branch agency, has policies against turning over—turning attorney-client communications within those agencies.

Mr. LANDRY. But how does that attorney-client conflict? I mean, we are a part of government as well. I mean, we are as much the client as you all are I guess.

Mr. BROMWICH. No, you are not.

Mr. LANDRY. I am not.

Mr. BROMWICH. No. I am the client agency, and the Solicitor in the Department of the Interior is our attorneys.

Mr. LANDRY. Is all your attorneys, OK, and I guess Congress just doesn't have the ability to conduct that kind of oversight. We are not privileged. Are you saying it is a privileged issue?

Mr. BROMWICH. Yes.

Mr. LANDRY. So we don't have the privilege of being able to extract from you how you interpret the laws we pass?

Mr. BROMWICH. Well, I have given you the statutory basis, Mr. Landry, and so I don't see what there is to gain other than intruding on internal agency communication to see if——

Mr. LANDRY. We are trying to see if you are usurping your power.

Mr. BROMWICH. Well, you are a lawyer. You have looked at the statute. We can talk about it.

Mr. LANDRY. We disagree with—OK.

Mr. HASTINGS. The time of the gentleman has expired. I find this interesting as a non-lawyer to hear two lawyers. I guess that is what——

Mr. BROMWICH. Not that interesting.

Mr. HASTINGS. The Chair recognizes the gentleman from Texas, Mr. Flores.

Mr. FLORES. Thank you, Mr. Chairman. Also, I didn't say this in my earlier round of questioning, but I think we all mourn the loss

of the 11 men and the families that lost their loved ones. As a person who lost a brother to an oil accident, I can fully identify with their pain, and so I come at this from a little different angle, and that is because I want the industry to operate as safe as it can, and I came from that industry and we always tried to do that as much as we could.

That said, that takes me to the next question, and this has to do with sort of an allegation that was lofted out there by the Ranking Member about fraud. Are any of you aware of any frauds that were committed by any of BP or Halliburton, Transocean or anybody else in this accident?

Mr. DYKES. No, sir, I am not aware of any information and we did not uncover anything that indicated fraud on BP's part, Halliburton's part, Transocean's part, none whatsoever.

Mr. FLORES. OK. I mean, we definitely have identified many, many errors and problems, but I have not heard anything about frauds or criminal acts. Did any of you all pick up anything to indicate that there is a fraud or a criminal act?

Mr. DYKES. During the course of our investigation we did not uncover anything that would indicate fraud or criminal activity from that standpoint.

Mr. FLORES. OK, good. I didn't either, and I just wanted to make sure we didn't leave that leaning out there in the air to cloud the issues. There were mistakes made. I think everybody has admitted that, and so the issue we are trying to address is how best to keep those from happening in the future.

So that takes us to the next point, and that is for Director Bromwich. If we raise the fines materially, that is what happens on the back end. How does that influence what happens on the front end when these mistakes were made?

I mean, we could raise the price to a billion dollars a day, but does that have an impact? I mean, does that change the way this would have come out?

Mr. BROMWICH. We have made efforts across the board, Congressman, as I think you know, and so the civil fine authority that I am requesting be raised is only a part of the puzzle. But you are quite right, you need to focus on the front end, primarily you need to focus on prevention. That has been our main focus since this happened, and that is what explains many of the new rules that have been developed which, frankly, industry has found hard to comply with at times. We are in a better place now than we were a number of months ago, but it was precisely because we were focusing on the front end and the importance of prevention that those rules were put in place very quickly.

And just a footnote. You asked about whether any crimes were committed. There are people looking at that in the Justice Department and elsewhere, and I am a criminal lawyer and I know that what may not appear to be a crime to a non-lawyer may indeed be a crime to somebody who lived with——

Mr. FLORES. But you haven't seen anything at this point?

Mr. BROMWICH. Well, I didn't do the investigation, so I would defer to what Mr. Dykes saw in the course of his work.

Mr. FLORES. OK. Well, I mean, you have read the reports like I have, and I haven't seen anything to indicate crime or fraudulent behavior, criminal fraudulent behavior.

I agree with you. I mean, the part of the package, the other side of the aisle in this hearing has only focused on let us go punish BP and beat the crap out of them, and really to me we need to look at the holistic approach to make sure that nobody ever has to pay a fine again because they do it right in the beginning and you don't have the accidents to start with, and that way you have 11 more lives today, you would not have had the pollution. BP would not have spent $20-plus billion to clean the mess up that they made. That is the direction I am trying to go is come up with a preemptive response and not the sort of punishment response. That is the direction I would like to go.

I would like to yield the rest of my time to the gentleman from Louisiana.

Mr. LANDRY. Thank you, Mr. Flores.

Mr. Dykes, are you familiar with SEMS, a safety environmental agency?

Mr. DYKES. Yes, sir, I am.

Mr. LANDRY. Did BP have a SEMS in place?

Mr. DYKES. They had a safety management system in place.

Mr. LANDRY. They had a complete functional safety environmental management system in place?

Mr. DYKES. They had it in place.

Mr. LANDRY. OK. Was that something that came within the scope of your review?

Mr. DYKES. Yes, it did.

Mr. LANDRY. Was there any part of that SEMS that failed which caused the accident?

Mr. DYKES. From the aspect of the program, no, the program did not fail. There were certain aspects that we pointed to, for example, the risk register that BP had implemented to determine the risk dealt with the drilling of the well, the crew members, or the engineers anyway, not the crew members of the rig, but the engineers in the office did not properly use the risk register.

The management had changed a program that BP had in place. They were in transition from a paperwork management change process to an electronic management change process. There were still some gaps in that management change, but for the most part everything was intact.

Mr. LANDRY. So there is nothing that would say that if every company out there had a functioning SEMS that that would again prevent the accident?

Mr. DYKES. Having a functioning SEMS adds those additional barriers that I mentioned in my opening statement, but there is no guarantee that it will prevent it, but you are trying to reduce the probability as much as possible.

Mr. LANDRY. OK.

Mr. HASTINGS. The gentleman's time has expired. The Chair recognizes the gentleman from Arizona, Mr. Gosar.

Dr. GOSAR. Mr. Chairman, I yield my time to the gentleman from Louisiana.

Mr. HASTINGS. That is why I broke it up because I thought we would have the continuity. The gentleman is recognized.

Mr. LANDRY. I want to go a little further. On this SEMS issue, I am concerned, and I probably have to go back to Director Bromwich, you and I spoke about this fairly often. I want you to know that yesterday we heard testimony from a gentleman who said it took him five years to implement his SEMS program, to get one fully functioning. Now he is a small contractor.

Mr. BROMWICH. So he did it voluntarily?

Mr. LANDRY. He did it voluntarily. That is right. He came here. He actually is not under—well, right now he is not under your oversight. I guess that was part of our argument earlier, but he is actually on the Coast Guard. The Coast Guard pointed this out to him in 2004, and so he determined that he was going to implement what took him five years, and so it goes back to my biggest concern is that it seems to me that the majors have SEMS in place because they have the resources necessary to implement these things, and, you know, I will say we graciously gave the industry 12 months to implement their SEMS programs when we know that the majors all have theirs, so this really affects our small operators out there.

And so I would again ask you to comment as to the type of burden you believe we are going to place on our small operators and the expense that they are going to incur. Again let me echo that none of them said they don't want to implement SEMS, but we also heard from a witness who said that it is industry-wide going to be a problem in November.

So really what I am really trying to do in your favor is the calls are going to start coming in November, and you are going to come back here, and we are going to have to go through this all over again. So I am trying to pass on to you what the industry is telling me. I know they are not telling you that directly, but you issued a permit, not me, and so I think there is a fear factor there on that. So I wanted to pass that on. Maybe you could tell the Committee again, because we heard from investigators that this is not a crucial piece, but that——

Mr. BROMWICH. That is not what I heard him say. He said he couldn't guarantee that an accident wouldn't happen, but he did say that it would reduce the likelihood and that is the key.

Mr. LANDRY. Well, OK. Mr. Dykes, on a scale of one to ten, ten being the most crucial thing that we can do in order to prevent the accident, where would a SEMS fall?

Mr. DYKES. Well, you can't look at SEMS as being a single component. SEMS is a management tool for managing the operations by conducting them in a safe and orderly fashion. It identifies multiple aspects that a company should look at in putting their operations programs together: hazards analysis, operating procedures, safe work practices. As an operating company large or small, that company needs to make sure that he is covering those bases.

Mr. LANDRY. And you know what, you brought up a good point because the operators that I am talking about are in fear of what is coming, because there are like 13 elements to the SEMS plan. For a majority of those elements, their biggest concern is on the documentation standpoint, and so maybe I ought to rephrase my question.

If an operator has a majority of the elements complete, again on that scale of one to ten, I mean, where does it fall in being crucial? Is that something that is as important as fixing the bottom of the BOPs, the cementing of wells? I mean, is it that crucial?

Mr. DYKES. Your operating SEMS program should incorporate your repair and your BOPs and your cement design. Critical to a SEMS program, and let me back up and rephrase that. Critical to a safety management system, there are multiple models out there that you could use. You could use an ISO model, you can use the RP 75, which is the Safety Environmental Management Program, you could go back to the original predecessor of that, being API RP 750, which is managing operating hazards.

Critical to that are four basic elements that to me are the cornerstone of those documents. That is hazards analysis, that is operating procedures, that is mechanical integrity and managing the change within that group. Those are four key cornerstones to any safety management program.

Mr. LANDRY. Thank you.

Mr. HASTINGS. The time of the gentleman has expired. The gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Chairman.

Mr. Dykes, going to the Joint Investigation Team report, BP's well control manual states that the mud/gas separator should be lined up at all times when displacing a keg, but given that it is only meant to handle small amounts the diverter line is recommended to divert the kick overboard rather than on deck when you are working with high flow rates. I think we have all seen a video of the spill and surmise that this was a high flow rate.

Can you explain to this Committee why crew on the board of the *Deepwater Horizon* would direct a heavy kick to a device that couldn't handle the flow and in doing so direct flammable hydrocarbons on board that eventually ignited and let the flows——

Mr. DYKES. Sir, that is a critical question that we can only conclude that the crew on the rig floor at the time did not realize the magnitude of the volume of hydrocarbons coming up the well bore. This well, and I am going to get a little technical here, this well had a gas/oil ratio of roughly 3,000 cubic feet of gas for one barrel of oil. It has a breakout at roughly about 1,500 feet in the water column, such that one barrel of influx coming up the riser, and once it gets to that hyperstatic depth of about 1,500 feet it releases roughly 3,000 cubic feet of gas.

So a small influx from the reservoir of 10 barrels immediately gives you a large plume of gas on the rig floor as it breaks out in that riser.

I believe that the crew, by the time the gas broke out the crew did not realize that they had substantial flow and a substantial release until it was too late.

Mr. THOMPSON. Do you think that the punishment of a thimble full of oil over the side under the Clean Water Act created a culture contributing to the disaster?

Mr. DYKES. A culture? Could you define what you mean by culture?

Mr. THOMPSON. Cultures influence decisionmaking. You can certainly see it in this body, pluming punishments under the Clean

Water Act, just a thimble full of oil over the side versus to the separator as a decision point, did that contribute to that?

Mr. DYKES. I did not find any information that would indicate that. The issue with the well control manual is to divert that flow once you realize you cannot handle it. The indications for the data is that they attempted to do that at some point in time. However by the time that decision was made the plume was already on the rig floor.

Mr. THOMPSON. Is it possible that knowing what all the punishments are from the regulators turning in would influence the timing of making that decision?

Mr. DYKES. Well, we can speculate, we can speculate and say, yes, it is possible.

Mr. THOMPSON. I yield the balance of my time to Mr. Landry.

Mr. LANDRY. Thank you. I have a quick question for you, Admiral. The ability of the *Damon Bankston* to meet to respond so quickly, how crucial was that in life saving?

Admiral SALERNO. Well, sir, they were right there, and they saved the vast majority of the people who evacuated from the rig, so they were a very crucial part of that, and we recognize the crew for their actions.

Mr. LANDRY. So, if they had not been there, that could have taken away to save some lives there, I mean, if they were not as close as they were?

Admiral SALERNO. It would have certainly taken longer to retrieve the survivors from the water and to get them to a place of safety, yes.

Mr. LANDRY. I yield to Mr. Flores.

Mr. FLORES. Thank you, Mr. Landry.

I wanted to ask you, do any of you all have any criticisms of BP or Halliburton or Transocean cooperativeness or response to the investigation? Start with Captain Nguyen.

Captain NGUYEN. No, sir, I don't. There was a lot of objections to my questions and other Coast Guard members' questions, but I believe that just the PII attorneys were just doing their job, so I do not.

Mr. FLORES. OK. Mr. Dykes?

Mr. DYKES. I agree with Captain Nguyen. I did not see any resistance other than the normal objections to the lines of some of the questions.

Mr. FLORES. OK. Admiral Salerno?

Admiral SALERNO. Sir, I was not actually part of the investigative process, but I am not aware of any.

Mr. FLORES. And I have lost my time.

Mr. BROMWICH. Mr. Flores, I can say that I am not aware of any issues relating to BP or Halliburton, but I am aware of an issue related to Transocean where I think they relied on technical objections to fail to produce certain important witnesses, and I responded to that by a letter to their CEO, which was not satisfactorily responded to.

Mr. FLORES. Thank you.

Mr. HASTINGS. The gentleman's time has expired, and remarkably in this second round Mr. Landry has not had an opportunity

to control his own time in this round, so he is recognized for five minutes.

Mr. LANDRY. Thank you, Mr. Chairman.

I am concerned because I fish out of the Gulf of Mexico. We are continually going further and further offshore, and the distance it takes to respond to particular accidents is a concern of mine. Of course, this particular accident we all were lucky. The seas were calm. It was at a time where water temperatures were warming up.

Do you feel that, again, the ability of the *Damon Bankston* to respond, because I think the next vehicle closest to them was the Mopkian, is that correct?

Admiral SALERNO. I don't have the distance of the closest vessel. Obviously, as you know, there were a number of vessels operating out there, but I can get that for you.

Mr. LANDRY. When we are having drilling operations, don't you agree that having those vessels there is a safety blanket for those workers?

Admiral SALERNO. Sir, it is basically a time/distance problem. Exactly. The closer a vessel is the quicker it can respond.

Mr. LANDRY. Mr. Dykes?

Mr. DYKES. No, I agree. The closer the vessel is, when you have vessels in near proximity to these facilities, it gives somewhat some comfort to those individuals on that rig or that platform that should they have to evacuate they have a safe harbor to go to. From that standpoint, moving forward I believe the next vessel was roughly an hour and a half to two hours away to the *Deepwater Horizon*.

Mr. LANDRY. Do you want to——

Captain NGUYEN. Yes, sir, that is one of our recommendations is for the Coast Guard to look at requirement for standby vessel, and I believe the Commandant final agency memorandum agreed with that recommendation, sir.

Mr. LANDRY. OK. Thank you. Before I yield to Mr. Flores, real quickly, I have already said that the greatest natural resource that we have in this country is not what lies beneath the waters or the soil but the men and women along the Gulf Coast and elsewhere who have such a dangerous trade, and would you agree that that is a fair statement, that at the end of the day this is all about making sure we give them not only as much protection but also provide opportunities that if there is an accident, because we have heard, like Mr. Dykes says, that we can't guarantee anything 100 percent—that we have a way to get those people safely home because it would have been a great day if we could have just discussed the environmental tragedy of this spill rather than having to add the 11 lives that were lost there, wouldn't you all agree with that?

Captain NGUYEN. Yes, sir, I do, and I think you can look at the Coast Guard philosophy on life preservers. We can't guarantee that nothing is going to happen, but we can give people a second chance.

Mr. LANDRY. Go ahead, Mr. Dykes.

Mr. DYKES. No, but that indicates that—talking about resources. The personnel that work in the offshore industry are the greatest asset and greatest resource. From the voluntary civilian operators to the agency indicates that you have roughly anywhere between

30,000 and 35,000 people physically offshore or the industry. That does not include the service companies, the dockside facilities and so forth that support that industry.

Mr. LANDRY. Congressman Flores has a couple of followups, so I will stop right there. I yield the balance to Mr. Flores.

Mr. FLORES. This question is going to sound a little bit odd, but bear with me for a minute. Back to the human error, the human element parts of the equation that were part of this accident. I am a pilot and one of the ways I have avoided having any problem in my real aircraft is by flying a simulator, and in that simulator you can create all sorts of unusual situations so that you learn how to inherently respond to those situations.

Do we do anything like that in the deepwater drilling business in terms of the way to control accidents? Are there simulators? Is there any sort of simulator training that is available to the industry today?

Mr. BROMWICH. My understanding is that there is, Congressman. In fact, on some visit I took to some of the facilities of some of the major operators I actually saw a well control simulator that is used in training. I believe it was by Exxon, but I think a number of the other companies have it as well. I think they have adjusted and modified and improved those kinds of simulators since the accident. I think that is the sort of thing that continues to require focus, to continue to improve the kind of training that can be provided.

Mr. FLORES. OK, very good. Thank you.

Mr. HASTINGS. The time of the gentleman has expired, and the second round is over, and I appreciate very much the panel for sitting through that second round, and I also appreciate sometimes getting off course a little bit, but that happens. We are trying to get the information. Before I dismiss the first panel though I do want to make a short statement.

Throughout this hearing I have refrained from commenting on the timing of the releases of the incidents of non-compliance that were released last night, but the fact is that Director Bromwich stated in September that the citations would be released the week of our original hearing, which of course was three weeks ago before it was postponed when obviously we had some problems with witnesses.

But now these citations were delayed and they were actually released last night, which is literally hours before this congressional committee held an oversight hearing on this investigation report. So I have serious questions about the timing of these actions and whether or not they were an effort by the Executive Branch to time legal penalties to influence, affect or potentially interfere with the official activities of the legislative branch.

I have not asked these questions during this hearing because I wanted to stay true to what I thought was the original intent and purpose, which is to hear directly from the investigators of this report, and further I refrained because I don't believe that anything that could be said at this hearing was going to provide a satisfactory answer as to whether there was an effort or an intent to time these penalties to affect these official hearings.

So I will be sending written questions and requests for documents to provide complete answers to the question of the timing of

this. The fact that citations were to originally occur the week of the first hearing and subsequently happened just last night before this hearing strikes me as one of extreme coincidence, well, perhaps it is, and I intend to find out when I ask the request.

So with that I will dismiss the first panel and thank you very, very much for coming. If there are further follow-up questions, I would ask each of you to respond in a timely manner as you possibly can, so I dismiss the first panel and at the same time call the second panel.

[Pause.]

Mr. HASTINGS. I am very pleased to have our next panel. We have Mr. Ray Dempsey, Vice President of BP America; Mr. Bill Ambrose, Managing Director of North American Division of Transocean; Mr. James Bement, did I say that correctly?

Mr. BEMENT. Yes, sir.

Mr. HASTINGS. Vice President of Sperry Drilling, which is a division of Halliburton. You were in the audience and you saw what the ground rules are as far as timing. Your full statement will appear in the record. When the green light is on you are doing very fine. When the yellow light comes on it means you have a minute, and when the red light comes on it means your time has expired, and I would ask that you be as close to that as possible.

As a programming note, we anticipate votes sometime between 1:00 and 1:15. If this all wraps up before then, that will be fine; otherwise we will have votes and then come back immediately after the votes. We can't go any longer than 4:00. I don't anticipate that happening, but I just want to give a heads-up to everybody. So, with that, Mr. Dempsey, you are recognized for five minutes.

STATEMENT OF MR. RAY DEMPSEY,
VICE PRESIDENT, BP AMERICA

Mr. DEMPSEY. Thank you, Mr. Chairman.

Chairman Hastings, Members of the Committee, my name is Ray Dempsey, and I am Vice President for BP America. I have worked for BP for more than 20 years. I have filled a variety of management and operational roles in engineering, strategy and financial areas. During the response, I oversaw the St. Petersburg, Florida, information center where BP worked with the Coast Guard and other Federal and state government representatives to share information on spill-related efforts.

The *Deepwater Horizon* accident was a tragic event that profoundly affected us all. From the outset, BP has been committed, and remains committed today, to meeting our obligations in the Gulf Coast. While we appreciate the Committee's attention to the Joint Investigation Report, given the ongoing litigation and multiple investigations, BP cannot discuss details regarding the findings of the report. That said, I will do my best to answer your questions and to convey to you the actions BP has taken since the accident.

The Joint Investigation Team Report, like every official report previously released, makes clear that the *Deepwater Horizon* accident was complex. It resulted from a number of interrelated causes involving multiple parties, including BP, Transocean and Halliburton. That finding is also consistent with the report of BP's own

investigation commissioned immediately after the accident and released publicly more than a year ago.

While we received a communication from DOI last night and are in the process of reviewing it, the issuance of notices of noncompliance to BP, Transocean and Halliburton makes clear that contractors, like operators, are responsible for properly conducting their deepwater drilling activities and are accountable to the U.S. Government and the American public for their conduct.

We are dedicated to applying the lessons of the accident. In September 2010, BP announced the establishment of a new centralized Safety and Operational Risk organization or S&OR. One of S&OR's key objectives is to provide an independent check on safety critical operational decisions by, one, setting clear standards; two, providing expert scrutiny of safety and risk independent of line managers and advising on examining and auditing operations; three, providing deep technical support to the line businesses; and four, intervening and escalating, as appropriate, where corrective action is needed.

In addition, BP has implemented on a voluntary basis new performance standards as applicable to our deepwater offshore drilling operations in the Gulf of Mexico that go beyond existing regulatory requirements. These standards address sub-sea blowout preventers, third party verification of blowout preventer testing and maintenance, requirements for laboratory testing of certain cement slurries and enhanced measures for oil spill response.

BP has also voluntarily undertaken several additional actions to enhance safety. These include establishing a real time drilling operation center in our Houston office, collaborating with spill response groups to augment and enhance industry response technology and capabilities, joining the Marine Well Containment Corporation, and making available to it BP's relevant containment knowledge and equipment, and working with government regulators and others in joint technology programs focusing on blowout preventer systems.

We expect our contractors to do their job safely and in full compliance with all applicable government regulations. Notwithstanding this expectation, BP is conducting a thorough review of the contractors we use in drilling operations as well as the measures we use to assure contractor compliance with safety and quality standards. From the outset BP took action to contain and respond to this accident, restore affected environment and pay legitimate claims. We established a $20 billion trust available to satisfy legitimate individual and business claims, state and local government claims, final judgments and settlements, state and local costs and natural resources damages and related costs. To date, BP has paid more than $7 billion in individual business and government claims and advances. BP has also committed significant amounts to initiatives beyond paying claims received under the Oil Pollution Act of 1990. For example, we voluntarily committed a billion dollars to refund early restoration projects, more than $250 million for tourism and seafood testing and marketing, and $500 million to the Gulf of Mexico Resource Initiative for a study of the environmental and public health impacts of the accident.

BP deeply regrets the *Deepwater Horizon* accident, and we have dedicated ourselves to meeting our commitments in the Gulf Coast and to applying the lessons learned from this accident. I look forward to answering your questions.

[The prepared statement of Mr. Dempsey follows:]

Statement of Raymond C. Dempsey, Jr., Vice President, BP America

Chairman Hastings, Ranking Member Markey, members of the Committee, my name is Ray Dempsey, and I am Vice President for BP America. I am pleased to participate in today's hearing regarding the final report of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) and the U.S. Coast Guard Joint Investigation (Joint Investigation Team Report) regarding the April 20, 2010 Deepwater Horizon accident and resulting oil spill. The Deepwater Horizon accident was a tragic event that profoundly affected us all. From the outset BP has been committed—and remains committed today—to meeting its obligations in the Gulf Coast.

My testimony is focused on the important lessons BP has learned from this accident—lessons that BP has been sharing with industry participants and government officials across the globe in a continuing effort to enhance safety throughout the oil and gas industry. As we have communicated to this Committee, while we respect and appreciate the Committee's attention to the release of the Joint Investigation Team Report, we cannot discuss and comment on the report's findings in any detail because the facts regarding the causes of the accident are the subject of ongoing litigation and investigations regarding the accident. As you can appreciate, these legal proceedings will make it challenging to respond to questions the Committee may have about the Joint Investigation Report or the accident. That said, I appreciate the opportunity to share with the Committee what BP has learned from the accident and the changes we have made.

I have worked for BP for more than twenty years. Since joining the company in 1990, I have held a variety of management and operational roles in engineering, strategy, and financial areas of BP's operations in the United States and abroad. On May 6, 2010, while serving as Vice President for Strategy and Portfolio for BP's Fuels Value Chain Strategic Performance Unit, I joined the St. Petersburg Unified Command, which directed spill response efforts for the west coast of Florida and worked together with incident command centers throughout the Gulf region. As part of my responsibilities, I oversaw the St. Petersburg Joint Information Center, where BP worked with the Coast Guard and other federal and state government representatives to share information on spill-related efforts. I volunteered for this position because I wanted to contribute to BP's response efforts and assist in addressing the needs of the people of the Gulf Coast region. I assumed my current role, in which I continue to be involved in information-sharing with external stakeholders regarding response issues, in October 2010.

Today I would like to share with you and the Committee some of the actions that BP has taken, not only to contain and respond to the spill, restore the affected environment, and pay all legitimate claims, but also further to improve safety. These initiatives to improve safety include organizational changes within BP to facilitate enhanced company-wide process safety, operational integrity, and risk management programs; the implementation of voluntary performance standards for deepwater drilling that go beyond existing regulatory obligations; strengthening contractor management; and continuing the implementation of the recommendations from BP's investigation report.

A Complex Accident With Multiple Causes Involving Multiple Parties

Consistent with the findings of every official investigation, the Joint Investigation Team Report makes clear that the Deepwater Horizon accident was the result of multiple causes, involving multiple parties, including BP, Transocean, and Halliburton. This finding is also consistent with the report of BP's own non-privileged investigation, commissioned immediately after the accident and released publicly more than a year ago. BP has consistently acknowledged its role in the accident. BP continues to encourage other parties to acknowledge their roles in the accident and to step forward to fulfill their obligations to Gulf communities.

BP's Response and Restoration Efforts

From the first day of the Deepwater Horizon accident, BP took action to contain and respond to the spill, restore the affected environment, and pay legitimate claims. At its peak, the response involved nearly 48,000 people, scores of aircraft,

and thousands of boats. To date, BP has spent approximately $14 billion on response efforts. In addition, BP established a $20 billion Trust to enhance public confidence in the availability of funds for economic and environmental restoration. That Trust was established in 2010 to satisfy legitimate individual and business claims resolved by the Gulf Coast Claims Facility (GCCF), state and local government claims resolved by BP, final judgments and settlements, state and local response costs, and natural resource damages (NRD) and related costs. As of October 11, 2011, BP has paid more than $7 billion in individual, business, and government claims and advances.

BP has also committed significant amounts to initiatives beyond paying claims received under the Oil Pollution Act of 1990. BP voluntarily committed $1 billion to fund early restoration projects and has committed more than $250 million to support tourism and seafood testing and marketing in the Gulf region. BP has committed $500 million to the Gulf Research Initiative, a research program to be conducted by independent experts from academic institutions to study the environmental and public health impacts of the accident. BP has also provided $52 million to five public health agencies and $10 million to the National Institutes of Health; established a $100 million fund for, among others, unemployed rig workers in the Gulf region; and made significant financial contributions to social service organizations in the Gulf. In total, BP's efforts to date have exceeded $20 billion.

BP's Initiatives To Improve Safety

In addition to its unprecedented efforts to respond to the spill, restore the environment, and pay legitimate claims, BP has worked intensively to implement enhanced company-wide process safety, operational integrity, and risk management programs. BP has dedicated itself to applying the lessons of the Deepwater Horizon accident, and is undertaking a range of actions to further strengthen risk management, process safety, and contractor oversight throughout the company, as well as sharing these lessons learned across the industry and the globe.

I explain below some of these initiatives.

Organizational Initiatives

In September 2010, BP announced the establishment of a new, centralized Safety and Operational Risk (S&OR) organization. S&OR drives implementation of mandatory safety-related standards and processes and provides checks and balances independent of the business line. One of its key objectives is to provide an independent check on safety-critical operational decisions. S&OR accomplishes its mandate at the BP Group and local business levels by: (1) setting clear requirements; (2) providing expert scrutiny of safety and risk—independent of line managers—and advising on, examining, and auditing operations; (3) providing deep technical support to the line businesses; and (4) intervening and escalating, as appropriate, where corrective action is needed. S&OR has the authority to intervene in operational and technical decisions in the company's line businesses.

BP has also reorganized its upstream business into three separate divisions—Exploration, Developments, and Production—each of which is led by an Executive Vice President reporting directly to the Chief Executive Officer. The new structure for BP's upstream business allows increased executive management visibility into each division and facilitates consistent implementation of BP's existing Operating Management System (OMS)—BP's comprehensive, company-wide management system that sets forth guiding principles, mandatory standards, and operating procedures—as well as closer connectivity with the S&OR organization. In addition, specialized personnel who were previously part of a separate, advisory drilling and completions function are being integrated into the line operating businesses where they can share their knowledge and build capability. Within the Developments Division, BP has established a single Global Wells Organization, which has responsibility for drilling all BP's wells around the world according to high standards. Global Wells' agenda for assuring the safety of drilling operations covers seven areas: standards, compliance, risk management, capability-building, contractor management, redefining performance, and enhancing technology.

Voluntary Performance Standards

As we have announced, BP has implemented, on a voluntary basis, specific new performance standards applicable to our deepwater offshore drilling operations in the Gulf of Mexico. These new standards go beyond existing regulatory obligations. Specifically, BP has committed to four voluntary performance standards for deepwater offshore drilling operations conducted on leases for which BP Exploration & Production is the designated operator in the Gulf. BP will incorporate these voluntary performance standards in any future drilling permit application or proposed plan application that BP submits, and upon the regulator's approval of that permit

or plan those standards will become conditions of operation and fully enforceable by the regulator.

First, BP will use, and will require its contractors involved in drilling operations to use, subsea blowout preventers (BOPs) equipped with no fewer than two blind shear rams and a casing shear ram on all drilling rigs under contract to BP for deepwater service operating in dynamic position mode.

Second, each time a subsea BOP from a moored or dynamically positioned drilling rig is brought to the surface and testing and maintenance on the BOP are conducted, BP will require that a third party verify that the testing and maintenance of the BOP were performed in accordance with manufacturer recommendations and API Recommended Practice 53.

Third, BP will require that laboratory testing of cement slurries for primary cementing of casing and exposed hydrocarbon bearing zones relating to drilling operations of deepwater wells be conducted or witnessed by a BP engineer competent to evaluate such laboratory testing, or a competent third party independent of the cement provider. BP will provide laboratory results to the applicable BOEMRE field office.

Fourth, BP's Oil Spill Response Plan will include information about enhanced measures for responding to a spill in open water, near shore response or shoreline spill response based on lessons learned from the Deepwater Horizon oil spill.

BP has also voluntarily undertaken six additional actions. First, BP has established a real-time drilling operations center in its Houston office which will be operational before the company begins drilling any new oil or gas wells in the Gulf. Second, BP will work to augment and improve industry response capabilities and technology in collaboration with groups such as Clean Gulf Associates and the Marine Spill Response Corporation. As a member of both organizations, BP will actively encourage and support additional investments in technology, training and people to continuously improve response capability and performance. Third, BP has joined the Marine Well Containment Corporation (MWCC) and has made its relevant procedures, expertise and available equipment developed during the Deepwater Horizon accident available to industry through the MWCC. Fourth, BP will share the company's increased remotely operated vehicle (ROV) and simultaneous operations (SIMOPS) monitoring capabilities with industry and government through an industry workshop. Longer term, BP will collaborate with BOEM/BSEE, the USCG, and other agencies and industry work groups to share new learning regarding ROVs and SIMOPS. Fifth, BP will collaborate with BOEM/BSEE, the Ocean Energy Safety Advisory Committee, the Center for Offshore Safety, and others in a joint technology development program to provide enhanced functionality, intervention, testing and activation of BOP systems, including acoustic and subsea communications capabilities. Sixth, BP will increase its well control competencies through assessments of its employees and agents who have authority to act on BP's behalf in overseeing drilling operations on BP-operated facilities and drilling rigs.

Contractor Management and Oversight

BP expects its contractors to do their jobs safely and in full compliance with all applicable government regulations. Notwithstanding this expectation, BP is conducting a thorough review of the contractors it uses in drilling operations, as well as of the measures it uses to assure contractor compliance with safety and quality standards. The actions stemming from this review will build on BP's existing programs and requirements for selecting and working with contractors, which include assessing contractors' safety performance as part of the selection process, defining safety requirements in contracts, and evaluating contractor performance.

Implementation of the Recommendations from the BP Investigation Report on the Deepwater Horizon—Lessons Learned

As part of its commitment to safety and learning the lessons of the Deepwater Horizon accident, BP conducted its own investigation of that accident. On the day that investigation report was published (September 8, 2010), BP immediately accepted and committed to implement the report's twenty-six recommendations. These recommendations include measures to strengthen contractor management, as well as assurance on blowout preventers, well control, pressure testing for well integrity, emergency systems, cement testing, rig audit and verification, personnel competence, and leading and lagging performance indicators for drilling operations. As the Report noted, "[f]ull implementation of the recommendations w[ill] involve a long-term commitment and a prioritized plan." Consistent with that guidance, BP developed a comprehensive project plan and is making progress in the implementation at a pace appropriate to maintain quality and to enable rigorous implementa-

tion down to the front line of the organization. BP is also developing a program of self-verification and auditing by S&OR to confirm implementation.

BP's comprehensive Operating Management System (OMS) provides a strong foundation for the company's ongoing initiatives to enhance its process safety, risk management, and operational integrity programs. OMS is facilitating effective implementation of the Report's recommendations and other safety enhancements that BP is making.

Conclusion

BP deeply regrets the Deepwater Horizon accident, and has dedicated itself to meeting its commitments in the Gulf Coast and to applying the lessons of this accident. BP is undertaking a broad range of actions to further strengthen risk management, process safety, and contractor oversight throughout the company, and is committed to doing its part in disseminating the lessons of the Deepwater Horizon accident. To that end, BP has shared lessons learned with over 20 countries globally, and the company is working with governments and industry groups around the world to facilitate industry-wide changes that will further promote the safety of offshore drilling. We believe that we have the necessary systems and capabilities in place to continue to enhance the safety of deepwater drilling.

Response to questions submitted for the record by Ray Dempsey, Vice President, BP America Inc.

QUESTION FROM REPRESENTATIVE FLORES:

1. Mr. Dempsey, during the hearing I asked you what the total anticipated financial outlay of BP will be in response to Macondo incident. This would include the trust fund, response, cleanup, etc. Please provide BP's estimate to the Committee.

Please see Notes 2 and 37 to BP p.l.c.'s Form 20–F filed on March 2, 2011, as well as Note 2 to BP p.l.c.'s Form 6–K filed on October 25, 2011, for information on the Gulf of Mexico oil spill and provisions. These documents are available at http://www.sec.gov/Archives/edgar/data/313807/000095012311021108/u10175e20vf.htm and http://www.sec.gov/Archives/edgar/data/313807/000119312511280172/d234390d6k.htm, respectively.

In addition, BP also wants to underscore what it has done in the Gulf following the Deepwater Horizon accident. From the outset, BP has stepped up to meet its commitments in the Gulf of Mexico region. BP is meeting its obligations under the Oil Pollution Act of 1990 (OPA) and has waived that statute's $75 million liability cap. Thus far, BP has paid out more than $7 billion to individuals, businesses, and governments in claims and advances and has spent more than $14 billion on other response activities in the Gulf. In addition, BP is cooperating in a natural resource damages assessment (NRDA) with federal and state trustees and, in an unprecedented voluntary agreement with those trustees, BP agreed to commit up to $1 billion to fund early restoration projects to accelerate Gulf Coast restoration. On December 14, the Trustees unveiled the first set of early environmental restoration projects that are proposed for funding under that landmark agreement. The eight proposed projects are located in Alabama, Florida, Louisiana and Mississippi. Collectively, the projects will restore and enhance wildlife, habitats, and the services provided by those habitats and provide additional access for fishing, boating, and related recreational uses. More early restoration projects are anticipated in the future.

BP also has made a number of voluntary contributions, including committing: $500 million, over 10 years, to the Gulf of Mexico Research Initiative (GoMRI) to study the potential impact of the Deepwater Horizon accident on the environment and public health; $100 million to the Rig Worker Assistance Fund administered by the Baton Rouge Area Foundation; $179 million to the Gulf States for tourism programs; $77 million to the Gulf States for seafood testing and marketing programs; $52 million for federal and state mental health programs; and $10 million to NIH for a long-term response worker health study.

In June 2010, BP established a $20 billion trust to enhance public confidence in the availability of funds for economic and environmental restoration. That trust was established to satisfy legitimate individual and business claims processed by the Gulf Coast Claims Facility (GCCF), state and local government claims processed by BP, final judgments and settlements, state and local response costs, and natural resource damages and related costs. The $20 billion is neither a floor nor a ceiling.

QUESTIONS FROM REPRESENTATIVE MARKEY:

1. Please detail the capital investments made by BP in oil and gas exploration in each of the last three fiscal years? Of these investments, please detail how much was spent on exploration of new fields?

The table below details BP p.l.c.'s worldwide capital expenditures for exploration and production.

Year	Exploration & Production Capital Expenditures and Acquisitions ($ millions)
2008	22,227
2009	14,896
2010	17,753

The table below details BP p.l.c.'s worldwide exploration and appraisal costs on new fields.

Year	Exploration & Appraisal Costs ($ millions)
2008	2,290
2009	2,805
2010	2,706

The chart above includes exploration and appraisal drilling expenditures, which are capitalized within intangible assets, and geological and geophysical exploration costs, which are charged to income as incurred. These costs are based on activities of subsidiaries and do not include costs associated with equity-accounted entities.

2. How much money has BP invested in each of the last three fiscal years on research and development generally? Of these research and development investments, how much was focused on the research and development of safer offshore drilling technologies? How much was focused on technologies related to rig safety and accident prevention? How much was focused on spill response technologies? How much was focused on research regarding renewable and alternative energy sources? Please break down that investment by renewable energy type (e.g., wind, solar, etc.).

The table below details BP p.l.c.'s worldwide research and development expenditure.

Year	Research & Development Expenditure ($ millions)
2008	595
2009	587
2010	780

Currently, exploration and production accounts for roughly 40% of BP's Research & Development expenditures; refining and marketing accounts for 35% and alternative energy makes up the remaining 25%. The share dedicated to alternative energy reflects the growing potential of alternative energy in BP's energy portfolio.

Alternative Energy Research & Development Expenditure ($ millions)	2008	2009	2010
Solar	10	11	9
Wind	5	5	9
Bioscience (including biofuels)	58	100	102
Carbon Capture & Storage	13	14	12
Other (not renewables)	13	12	0
Total	99	141	132

Safety is embedded in everything that BP does, thus much of BP's capital and operating spend incorporates elements of safety.

Pursuant to the definition of "Research & Development" used in BP's annual report, exploration & production Research & Development contains several programs that focus on safety and reliable offshore operations, including drilling. The program on drilling technology is focused on measurement by drilling, downhole gas detection and resistivity ahead of bit. The total spent in this area over the last 3 years is approximately $25 million.

However, this amount does not cover the full extent of Research & Development embedded in BP's spend and that of its contractors. By way of example, BP's Thunderhorse production facility contains hundreds of technology firsts in well completions, subsea and topsides facilities that in total cost several billion dollars to develop, manufacture and install over a period of 10 years. None of these expenditures was accounted for as BP's Research & Development but BP nonetheless paid suppliers to develop them. Additionally, BP works with suppliers in the design and development of safe drilling equipment. BP's contribution to these efforts is not classified as Research & Development.

3. How much has BP invested in deployment of renewable or alternative energy in each of the last three fiscal years? Please break that down that investment by renewable energy type (e.g. wind, solar, etc.).

BP supports a comprehensive climate and energy policy that includes development of all forms of energy (oil, natural gas, coal, nuclear, biofuels, wind, solar, etc.) and encourages efficiency and conservation. The chart below details BP p.l.c.'s worldwide alternative energy capital expenditure and revenue investment.

Alternative Energy Capital Expenditure and Revenue Investment ($ millions)	2008	2009	2010
Solar	187	80	42
Wind	586	874	600
Biofuels	235	218	377
Other (not renewables)	107	87	75
Total	1,115	1,259	1,094

4. Does BP support the elimination of the subsidies for oil and gas companies identified in the President's Budget Request for Fiscal Year 2012 in order to reduce the federal budget deficit?

Determination of tax policy is up to the government, but BP wants to participate in the dialogue on the important issues of comprehensive tax reform and deficit reduction. BP believes that it is important that tax reform be undertaken as a comprehensive effort that results in the U.S. tax system's being competitive. In that regard, BP does not support proposals that target a single industry to provide revenue for deficit reduction.

5. Does BP believe that the voluntary enhanced drilling standards for offshore drilling that it adopted in July are technologically practicable and economically feasible for the industry as a whole?

BP is implementing a set of voluntary deepwater oil and gas drilling standards in the Gulf of Mexico that go beyond existing regulatory obligations and demonstrate the company's commitment to safe and reliable operations. BP is not in a position to speak on behalf of the industry as a whole. BP has worked hard to share lessons learned from the Deepwater Horizon accident broadly—with regulators and with industry—in the United States and abroad.

6. Does BP believe that the voluntary enhanced drilling standards for offshore drilling that it adopted in July are technologically practicable and economically feasible for other major, vertically integrated oil companies such as ExxonMobil, Chevron, ConocoPhillips and Shell?

BP is not in a position to speak on behalf of those corporations. BP has concluded that these voluntary standards and practices should be part of BP's operations in the Gulf of Mexico.

7. What recommendations does BP have for improving the safety of offshore drilling?

In July 2011, BP Exploration & Production Inc. (BPXP) announced a new set of voluntary deepwater oil and gas drilling standards in the Gulf of Mexico that demonstrate the company's commitment to safe and reliable operations. These performance standards go beyond existing regulatory obligations and reflect the company's commitment, following the Deepwater Horizon accident and subsequent oil spill, to apply lessons learned. BP is already sharing key lessons learned from the spill response with regulators and other industry participants around the world. Although BP is not in a position to speak on behalf of the industry as a whole, BP has concluded that these voluntary standards and practices should be part of BP's operations in the Gulf of Mexico.

The four new BP performance standards are:

- BPXP will use, and will require its contractors involved in drilling operations to use, subsea blowout preventers (BOPs) equipped with no fewer than two blind shear rams and a casing shear ram on all drilling rigs under contract to BPXP for deepwater service operating in dynamic position mode. With respect to moored drilling rigs under contract to BPXP for deepwater drilling service using subsea BOPs, the subsea BOP will be equipped with two shear rams, to include at least one blind shear ram and either an additional blind shear ram or a casing shear ram.
- Each time a subsea BOP from a moored or dynamically positioned drilling rig is brought to the surface and testing and maintenance on the BOP are conducted, BPXP will require that a third party verify that the testing and main-

tenance of the BOP were performed in accordance with manufacturer recommendations and API RP 53.
- BPXP will require that lab testing of cement slurries for primary cementing of casing and exposed hydrocarbon bearing zones relating to drilling operations of deepwater wells be conducted or witnessed by a BPXP engineer competent to evaluate such lab testing, or a competent third party independent of the cement provider. BPXP will provide lab results to the applicable BSSE field office within a reasonable period of time.
- BPXP's Oil Spill Response Plan (OSRP) includes information about enhanced measures for responding to a spill in open water, near shore response and shoreline spill response based on lessons learned from the Deepwater Horizon oil spill.

QUESTIONS FROM REPRESENTATIVE GRIJALVA:

1. **The report we're talking about found, quote, 'BP was ultimately responsible for conducting operations at Macondo in a way that ensured the safety and protection of personnel, equipment, natural resources and the environment.' The report said while it was Halliburton's job to mix and test the cement that failed in the seal, BP had the final word and made a series of decisions that saved money but increased risk and may have contributed to the cement's failure. Yet you say today, because you're being sued, you can't explain any of this to us. I'd like to ask you directly: Why did BP decide to save money rather than lives?**

BP strongly disagrees with the question's characterization of BP's actions in connection with the Macondo well. The findings of every official investigation report—including the MBI, the Presidential Commission, and the NAE/NRC—are consistent with the core conclusion that the Deepwater Horizon accident was the result of multiple causes, involving multiple parties, including Transocean and Halliburton, as well as BP.

2. **The report named a BP employee, Mark Hafle, as specifically failing to investigate anomalies detected during the cementing and said he did not run a test that evaluates the quality of the cement job. Mr. Hafle still works for BP, and refused to testify last year citing his right against self-incrimination. Does this committee need to ask Mr. Hafle to testify?**

BP does not believe it would be appropriate to comment, at this time, on the Committee's processes for issuing invitations to testify. With respect to Mr. Hafle's testimony before the Joint Investigation Team of the Bureau of Ocean Energy Management, Regulation and Enforcement and the United States Coast Guard, the Joint Investigation Team's report states that "[a]fter testifying at one hearing, Mark Hafle invoked his Fifth Amendment Rights and refused to testify a second time." See Bureau of Ocean Energy Management, Regulation and Enforcement, Report Regarding the Causes of the April 20, 2010 Macondo Well Blowout 11 n.9 (2011).

3. **What can you tell us about the safety and compliance role of other BP employees who weren't named in the report? Why was Mr. Hafle the only one identified by name?**

BP cannot speak to the Joint Investigation Team's decisions regarding what to include in their report.

Mr. HASTINGS. Thank you very much, Mr. Dempsey. Next we will recognize Mr. Bill Ambrose, Managing Director of the North America Division of Transocean. Mr. Ambrose, you are recognized for five minutes.

STATEMENT OF MR. BILL AMBROSE, MANAGING DIRECTOR, NORTH AMERICA DIVISION, TRANSOCEAN

Mr. AMBROSE. Chairman Hastings, other Members of the Committee, thank you for the opportunity to be here before your panel today. My name is Bill Ambrose. I am the Managing Director of the North American Division of Transocean Offshore Drilling in Deepwater, Incorporated. I also led Transocean's internal investigation into the Macondo incident on April 20, 2010.

The findings of that investigation were published in June 2011. I am grateful for the opportunity to highlight some of those with the Committee today as the Committee reviews the final reports of BOEMRE and the U.S. Coast Guard's Joint Investigation Team.

First and foremost, let me state the last 17 months have been a time of great sorrow and reflection for our company. Nothing is more important to Transocean than the safety of our people and our crew members, and our thoughts and prayers continue for the widows, parents and children of the 11 lost.

This period has been one of intense effort on the part of our company and numerous investigative bodies and oversight entities, including this Committee, to get to the bottom of what caused this tragedy. To that end Transocean formed an investigative team comprised of dedicated Transocean personnel and numerous independent industry experts. Transocean provided the investigative team with the resources necessary to produce a thorough investigation of the incident.

Following the incident Transocean issued Alert 114 to its global fleet to ensure BOP's schematics reflect the current arrangements of each rig's BOP. Alert 114 also reenforced our emergency response preparedness. We have also developed standardized procedures for conducting negative tests for operators, and in consultation with our customers we have enhanced our well integrity guidelines. Further, the company has expanded the scope of its internal audit and assessment program and updated its well control to reflect lessons learned.

We continue to study the appropriateness and reliability of acoustic control systems for BOPs, and we continue to evaluate potential equipment and procedures for early kick detection and handling of gas in the riser.

Transocean remains ready and willing to assist your committee as this important work moves forward. However, we are unable to respond to specific findings and conclusions of the U.S. Coast Guard and BOEMRE reports. The Joint Investigation Team convening order incorporates for both the Coast Guard and BOEMRE the provisions of 46 U.S.C. § 6308[a] which prohibits the use of reports of any proceedings other than the administrative proceedings initiated by the United States. This BOEMRE report acknowledges this limitation on page 10 where it states, "The convening work provide the relevant statutes and regulations relating to both the U.S. Coast Guard and BOEMRE, govern the JIT, and the JIT public hearing conducted in accordance with U.S. Coast Guard rules and procedures relating to marine investigation."

Last the BOEMRE proceedings are still active in the limitation process and therefore I cannot discuss them.

Again, on behalf of Transocean I am pleased to discuss the facts as we know them to further understanding of what occurred on the night of April 20, 2010, and what we can do to prevent its reoccurrence. Thank you.

[The prepared statement of Mr. Ambrose follows:]

Statement of Bill Ambrose, Managing Director, North America Division, Transocean Offshore Deepwater Drilling Incorporated

Chairman Hastings, Ranking Member Markey, and other members of the Committee, thank you for the opportunity to appear before your panel today. My name

is Bill Ambrose, and I am Managing Director of the North America Division at Transocean Offshore Deepwater Drilling Incorporated. I also led Transocean's internal investigation into the Macondo incident of April 20, 2010. The findings of that investigation were published in June 2011, and I am grateful for the opportunity to highlight some of those for the Committee today as the Committee reviews the final report of the Bureau of Ocean Energy, Management, Regulation and Enforcement (BOEMRE) and the U.S. Coast Guard (USCG) Joint Investigation Team (JIT).

First and foremost let me state that the last 17 months have been a time of great sorrow and reflection for our Company. Nothing is more important to Transocean than the safety of its employees and crew members, and our thoughts and prayers continue to be with the widows, parents and children of the 11 crew members who died on April 20, 2010.

This period has also been one of intense effort on the part of our Company and numerous investigative and oversight entities, including this Committee, to get to the bottom of what caused this tragedy.

To that end, Transocean formed an internal investigative team comprised of dedicated Transocean personnel and numerous independent industry experts. Transocean provided the investigation team with the resources necessary to produce a thorough investigation of the incident.

Following the incident, Transocean issued Alert Number 114 to its global fleet to ensure that BOP schematics reflect the current arrangements of each rig's BOP. Alert Number 114 also reinforced our emergency response preparedness.

We have also designed standardized procedures for conducting negative pressure tests for operators. In consultation with our customers, we have enhanced our well integrity guidelines. Further, the Company has expanded the scope of its internal audit and assessment program and updated its well control manual to reflect lessons learned.

We continue to study the appropriateness and reliability of acoustic control systems for the BOP, and we continue to evaluate potential equipment and procedures for early kick detection and the handling of gas in the riser.

Transocean remains ready and willing to assist your Committee as this important work moves forward. However, we are unable to respond to specific findings and conclusions of the U.S. Coast Guard and BOEMRE reports. The Joint Investigation Team (JIT) Convening Order incorporates for both the U.S. Coast Guard and BOEMRE the provisions of 46 U.S.C. §6308 (a), which prohibits the use of reports in any proceeding other than the administrative proceedings initiated by the United States. The BOEMRE report acknowledges this limitation at page 10:

> The Convening Order provides that relevant statutes and regulations relating to both the USCG and BOEMRE govern the JIT and that the JIT's public hearings be conducted in accordance with the USCG's rules and procedures relating to Marine Boards of Investigations.

Lastly, the BOEMRE proceedings are still active in the litigation process and therefore I cannot discuss them.

Again, on behalf of Transocean, I am pleased to discuss the facts as we know them to further understand what occurred on the night of April 20, 2010, and what we can do to prevent its reoccurrence.

Mr. HASTINGS. Thank you, Mr. Ambrose. Next I recognize Mr. James Bement, Vice President of Sperry Drilling, which is a part of Halliburton. You are recognized for five minutes.

STATEMENT OF MR. JAMES BEMENT, VICE PRESIDENT, SPERRY DRILLING, HALLIBURTON

Mr. BEMENT. Thank you, Chairman Hastings, Ranking Member Markey and Members of the Committee. Thank you for the invitation to testify today.

As one of my colleagues made clear in our company's first appearance before Congress in May 2010, Halliburton looks forward to continuing to work with Congress to understand what happened at Macondo and what collectively we can do in the future to ensure oil and gas production in the United States is undertaken in the safest and most environmentally responsible manner possible.

I want to again express my condolences to the families who lost loved ones. We will never forget the deaths, injuries suffered by members of our industry, nor the consequences that the oil spill had on people living and working the Gulf of Mexico region.

In appearing before you I want to assure you and your colleagues that Halliburton has cooperated with the investigation into how and why the *Deepwater Horizon* incident happened. From the outset, Halliburton has made senior personnel and other employees available to brief Members and staff, including Members and staff of this Committee. As Mr. Markey may recall, I provided a briefing to him and his colleagues on May 4 last year in the initial stages of the review of the incident. I also participated in other congressional briefings during 2010.

Our company testified at four separate hearings and produced tens of thousands of pages of documents to this Committee. We voluntarily provided to the Committee and other committees real time logging data preserved by Sperry Drilling by the Macondo well so that you and your colleagues could have a first-hand view of one of the various data strings available to individuals on the rig and on shore. In addition, Halliburton has produced hundreds of thousands of pages of documents in the multiple investigations that have been underway since last year. In fact, six Halliburton employees provided testimony to the Joint Investigative Team during its hearing.

At present Halliburton is the subject of more than 400 class action lawsuits with many thousands of potential claimants. As you can appreciate with that many lawsuits pending and more potentially in the offing, I will be very limited in what I can say today.

Let me begin with the background of our company. As a global leader in oil field services, Halliburton has been providing a variety of services to oil and gas exploration production industry for over 90 years. Halliburton is the largest service and material provider in the oil and gas industry. Halliburton provides its own isolation and engineering solutions for the life of the oil company.

Sperry Drilling is a product service by Halliburton and is a global supplier of reliable, innovative and highly technical drilling and formation evaluation services to the oil and gas drilling industry. In fact, Sperry Drilling is the second largest company in all these categories and is the largest surface data logging company today in the Gulf of Mexico.

Halliburton safely conducts thousands of successful well service operations each year. It is committed to continuously improving its performance. Because the company views safety and environmental performance as critical to the success, they are core elements of our corporate culture. However, it has much to offer to help our nation needs, its energy and security needs.

The construction of the deepwater well is a complex operation involving the performance of numerous tasks by many parties led by the well owner's representative who has the ultimate authority for decisions on how and when various activities are conducted. For the Macondo well, Halliburton was contracted by the well owner to perform a variety of services on the rig. These included cementing, mud logging, directional drilling, logging well drilling and measuring well drilling. In addition, Halliburton provided select real

time drilling and rig data acquisition and transmission services to key personnel both onboard the *Deepwater Horizon* and at various onshore locations.

Subsequent to the blowout Halliburton worked at the direction of the well owner to provide assistance in the effort to bring the well under control. This effort included intervention support to help secure the damaged well and planning and services associated with drilling the relief well operations. I was grateful to have been able to work with others in our industry in an enormously challenging but ultimately successful effort to bring the well under control.

Thank you for the opportunity to appear before you today. Look forward to your questions.

[The prepared statement of Mr. Bement follows:]

Statement of James Bement, Vice President, Sperry Drilling, Halliburton

Chairman Hastings, Ranking Member Markey, and Members of the Committee:

Thank you for the invitation to testify today as the Committee meets to review the BOEMRE/Coast Guard Joint Investigation Team Report.

As one of my colleagues made clear in our company's first appearance before Congress last May, Halliburton looks forward to continuing to work with Congress to understand what happened in drilling the Mississippi Canyon 252 well and what we collectively can do in the future to ensure that oil and gas production in the United States is undertaken in the safest, most environmentally responsible manner possible.

The April 20th blowout, explosions and fire on the Deepwater Horizon rig and the spread of oil in the Gulf of Mexico are tragic events for everyone. The deaths and injuries to personnel working in our industry cannot be forgotten. At the time, Halliburton extended its heartfelt sympathy to the families, friends, and colleagues of the 11 people who lost their lives and those workers injured in the tragedy. I wish to do so again today.

In appearing before you, I want to assure you and your colleagues that Halliburton has and will continue to fully support, and cooperate with, the ongoing investigations into how and why the tragic Deepwater Horizon incident happened. From the outset, Halliburton has made senior personnel available to brief Members and staff, including Members and staff of this Committee. Our company testified at four separate hearings last year and produced tens of thousands of pages of documents to this Committee. In addition, Halliburton has produced hundreds of thousands of pages of documents in the multiple ongoing investigations that have been underway since last year, including the one that is the subject of today's hearing. In fact, six Halliburton employees provided testimony to the Joint Investigative Team during its hearings.

At present, Halliburton is the subject of more than 400 lawsuits. As you can appreciate, with that many lawsuits pending and more potentially in the offing, I will be very limited in what I can say today.

Background on Halliburton

As a global leader in oilfield services, Halliburton has been providing a variety of services to the oil and natural gas exploration and production industry for more than 90 years. Halliburton's areas of activity are primarily in the upstream oil and gas industry. They include providing products and services for clients throughout the life cycle of the hydrocarbon reservoir, from locating hydrocarbons and managing geological data to directional drilling and formation evaluation, well construction and completion, to optimizing production through the life of the field. The company is also engaged in developing and providing technologies for carbon sequestration, and we are a service provider to the geothermal energy industry.

Halliburton is the largest cementing service and material provider in the oil and gas industry. Halliburton provides zonal isolation and engineering solutions for the life of a well. Sperry Drilling is a product service line of Halliburton and is a global supplier of reliable, innovative, and highly technical drilling and formation evaluation services to the oil and gas drilling industry. The company safely conducts thousands of successful well service operations each year and is committed to continuously improve its performance. Because the company views safety and environmental performance as critical to its success, they are core elements of our corporate

culture. Halliburton has much to offer to help our nation meet its energy security needs.

For the Mississippi Canyon 252 well, Halliburton was contracted by the well owner to perform a variety of services on the rig. These included cementing, mud logging, directional drilling, and measurement while drilling services. In addition, Halliburton provided selected real-time drilling and rig data acquisition and transmission services to key personnel both on board the Deepwater Horizon and at various onshore locations.

Halliburton's Participation in the Remediation Efforts on Mississippi Canyon 252 Well

Subsequent to the blowout, Halliburton worked at the direction of the well owner to provide assistance in the effort to bring the well under control. This effort included intervention support to help secure the damaged well and planning and services associated with drilling relief well operations. My product service line was responsible for the portion of this effort that was undertaken by Sperry Drilling.

Halliburton deployed survey management experts to assist in planning the path of the two relief wells and mobilized its technology group to work in collaboration with another industry partner to combine our technologies, in an effort to develop an integrated ranging system to expedite the intersection of the original well. I was grateful to have been able to work with others in our industry in the enormously challenging but ultimately successful effort to bring the well under control.

Roles and Responsibilities in Drilling Operations

As a service provider to a well owner, Halliburton is contractually bound to comply with the well owner's instructions on all matters relating to the performance of all work-related activities in drilling an exploratory well. We also are limited by information on down-hole conditions provided by the well owner. The construction of a deep water well is a complex operation involving the performance of numerous tasks by multiple parties led by the well owner's representative, who has the ultimate authority for decisions on how and when various activities are conducted.

Halliburton is confident that its work on the Mississippi Canyon 252 well was completed in accordance with the requirements of the well owner's well construction plan.

Thank you for the opportunity to share our views today.

Response to questions submitted for the record by James Bement, Vice President, Sperry Drilling, Halliburton

Questions for the Record from Rep. Edward J. Markey, Ranking Democratic Member

1. What recommendations does Halliburton have for improving the safety of offshore drilling?

Response: As Mr. Bement said in his statement, "Halliburton looks forward to continuing to work with Congress to understand what happened in drilling the Mississippi Canyon 252 well and what we collectively can do in the future to ensure that oil and gas production in the United States is undertaken in the safest, most environmentally responsible manner possible." The company continues to evaluate proposed legislation that would achieve this goal, but has not taken a formal position on any such legislation.

2. How much money has Halliburton invested in each of the last three fiscal years on research and development generally? Of these research and development investments, how much was focused on the research and development of safer offshore drilling technologies? How much was focused on technologies related to rig safety and accident prevention?

Response: Halliburton does not report research and development data by fiscal year or in the manner as requested in the question. In the annual reports on Form 10–K for 2008, 2009, and 2010, as filed with the U.S. Securities and Exchange Commission, the company said the following:

From Halliburton's 2008 Annual Report on Form 10–K:

Research and development costs

We maintain an active research and development program. The program improves existing products and processes, develops new products and processes, and improves engineering standards and practices that serve the changing needs of our customers. Our expenditures for research and devel-

opment activities were $326 million in 2008, $301 million in 2007, and $254 million in 2006, of which over 96% was company-sponsored in each year.

As our customers award work in this environment of declining commodity prices pricing competition in the international arena has intensified Following is brief discussion of some of our recent and current initiatives:

—making our research and development efforts more geographically diverse in order to continue to supply our customers with leading-edge services and products and to provide our customers with the ability to more efficiently drill and complete their wells. To that end we opened technology center in India in 2007 and in Singapore in the first quarter of 2008 and research and development laboratory in Norway in the third quarter of 2008.

From Halliburton's 2009 Annual Report on Form 10–K:

Research and development costs

We maintain an active research and development program. The program improves existing products and processes develops new products and processes and improves engineering standards arid practices that serve the changing needs of our customers such as those related to high pressure/high temperature environments. Our expenditures for research and development activities were $325 million in 2009, $326 million in 2008, and $301 million in 2007, of which over 96% was company-sponsored in each year.

From Halliburton's 2010 Annual Report on Form 10–K:

Research and development costs

We maintain an active research and development program The program improves existing products and processes develops new products and processes and improves engineering standards and practices that serve the changing needs of our customers such as those related to high pressure/high temperature environments Our expenditures for research and development activities were $366 million in 2010, $325 million in 2009, and $326 million in 2008 of which over 96% was company-sponsored in each year.

3. Does Halliburton support the elimination of the subsidies for oil and gas companies identified in the President's Budget Request for Fiscal Year 2012 in order to reduce the federal budget deficit?

Response: Halliburton is a service company, not an oil and gas company. The company has not taken a formal position on proposed legislation that would implement the tax proposals set forth in the President's Budget Request for Fiscal Year 2012.

Mr. HASTINGS. Thank you. I thank all three of you for your opening statement. I now ask unanimous consent that one of our colleagues who does not sit on the Committee but asked to be allowed to sit on the dais, and that is the gentlelady from Houston. Without objection, so ordered. The gentlelady may join us.

We will start the question period, and I will reserve my time, but I will recognize the gentleman from Texas, Mr. Flores.

Mr. FLORES. Thank you, Mr. Chairman. Thank you, gentleman, for appearing here today.

The question is for Mr. Dempsey of BP. Assuming that the trust fund is full funded at $20 billion, when you add that cost plus all the other costs, what is the total cost of BP from this accident?

Mr. DEMPSEY. Congressman Flores, I think I should emphasize a couple of points in response to your question. When the $20 billion trust was established we were clear that it was neither a floor nor a ceiling. It wasn't intended to represent any total or minimum amount of the costs associated with response to the accident. Our spending to date related to the accident is more than $20 billion.

Mr. FLORES. OK. But you have obviously estimated some future cost as well, so what would that be when you add it to the 20 billion? Is that a number you can share with us today?

Mr. DEMPSEY. Thank you, Congressman. There is an important clarification I should make. The $20 billion trust was established to do a few specific things, including the payment of claims, individual and business and government claims.

Mr. FLORES. Correct.

Mr. DEMPSEY. It was also entered into to provide for funding for some of the natural resource damage costs as that work is carried out. It was not intended and has not been used for payment of the direct response costs, so we have spent on the order of some $13 billion now in the response cost. There has been spent to this point a payment of claims, about $5.6 to $5.7 billion of that to individuals and businesses and about $1.3 billion in payment of claims to government entities.

Mr. FLORES. OK. So you spent about $20 billion today. How much of the trust fund have you actually—what have you actually deposited into the trust fund?

Mr. DEMPSEY. There have been deposits, Congressman, into the trust fund that exceed the amount that has been spent, which I just described as about—actually it is somewhat less than $7 billion. I could actually give you——

Mr. FLORES. That is all right. Let us make this simple. Is it going to be $30 billion, $35 billion? This isn't a trick question. I am just trying to find out. How much are you going to spend on the trust fund, response, everything, cleanup, what is it going to cost?

Mr. DEMPSEY. Congressman, I wish I could anticipate or speculate.

Mr. FLORES. We will submit a written question and I will ask you to submit that in writing. BP shouldn't have a legal problem in responding to the Committee question on that. The point I am trying to get to is this has left a mark on BP and I am assuming that BP has learned from this, and so that takes me to the next question. What are the lessons learned by BP because of the $30 some odd billion you spent on this?

Mr. DEMPSEY. This is an important question, Congressman. So one of our biggest priorities in this and was evident immediately following the accident, we were clear in acknowledging our role. We established within days of the accident our own internal investigation team who proceeded to do a thorough investigation as to the causes, we committed to make the results of that investigation public. We did that more than a year ago, and on the day that that report was published it included 26 recommendations. We immediately accepted the findings and the recommendations of that report.

Mr. FLORES. OK, good. And then this is for Transocean and for Halliburton. In this report, which is the President's Commission, one of the allegations that has been made in this is that because of the fact that Transocean and Halliburton are worldwide oil field contractors, that because of your attachment to this accident that there is a systemic issue in oil field operations all over the United States and all over the world. How would you respond to that allegation in this report? Let us go with Transocean first, and try to keep your answer to about 30 seconds.

Mr. AMBROSE. I cannot comment specifically for that report. From our findings, I don't believe we found any that were systemic.

If there were something systemic, you would feel that there would be more of these types of incidents in the industry, and there are not, so we did not find anything systemic in the course of our investigation.

Mr. FLORES. OK, thank you.

Mr. BEMENT. Congressman, I share the same commitment to——

Mr. HASTINGS. Turn on the microphone if you would.

Mr. BEMENT. Share the same commitment that my peers do. We commit every day to make every job as safe as possible, to continuously improve our drilling processes around the world, and we have adopted that philosophy as a management company. It is core to our culture, and we committed to that on a global basis.

Mr. FLORES. The bottom line is you wouldn't agree with any sort of systemic allegation of unsafe operation around the world in the offshore drilling business, is that correct?

Mr. BEMENT. I would again comment we drill thousands of wells safely each year very successful to our customer, Transocean.

Mr. FLORES. Mr. Ambrose?

Mr. AMBROSE. I would just reiterate we have not found anything systemic.

Mr. FLORES. I yield back.

Mr. HASTINGS. The time of the gentleman has expired. The gentleman from Louisiana is recognized, Mr. Landry.

Mr. LANDRY. I would like to expand a bit on that. Mr. Ambrose, you are with Transocean, right? And so you work for Mr. Dempsey's company, correct? When you work for other majors, does your drilling plan mimic BP's? So, if you were drilling for another major, would you drill a well the same way you would drill for BP?

Mr. AMBROSE. Interesting question. Every well is different. Every operator has their own management system. I cannot say specifically how different or how similar those are.

Mr. LANDRY. I know, and I appreciate that each well is different, but wouldn't you agree that not only is each well different but each company drills under different drilling plans?

Mr. AMBROSE. I would say each company has their own management system under which they operate.

Mr. LANDRY. And no two are alike.

Mr. AMBROSE. They may have differences between them. We have never looked at the differences between those, so I couldn't comment on that.

Mr. LANDRY. OK. Mr. Bement, do the cement jobs that you do for BP, are they identical to the ones you do for other majors?

Mr. BEMENT. I would agree with Mr. Ambrose that no two wells are alike, but at the end of the day we are not the permitting or the operator of the well, and we have an important role to successfully bring energy to the U.S. and work very close to execute those processes, so each operator, we follow those work instructions.

Mr. LANDRY. Again, you follow guidelines set by the operators because, you know, there was a great Wall Street Journal article that appeared not long after that talked about the hangars and the way a strong—the liners in the well bores, and how one major does it one way and BP does it another, and where I am going with this is the fact that if you don't—each time you work for a different operator, and if each well is different, and so that you are having to

adjust the application, then how could it be possible for the industry to have a systemic problem?

Mr. BEMENT. Sounds repetitive, but we do thousands of wells a year with a lot of different——

Mr. LANDRY. It is impossible for the industry to have a systemic problem based on those facts, wouldn't you agree? Come on, don't be like the government witnesses. Just say yes or no. You don't have to think of the problem. Your opinion, I mean. I have a lot of respect for the amount of time you have served in the industry. I mean, thinking about those elements, isn't it impossible for the industry to have a systemic problem if each time they drill a well they do it differently, there are different processes, they have to abide by different engineering specifications that are laid out by the operators? Isn't that correct?

Mr. BEMENT. I think it is a culmination of a couple of things, Congressman Landry. Number one, we have processes procedures. We improve each and every job that we do. Our job is to improve each and every job. We do work for the operator and we apply those processes accordingly and again thousands of wells each year for multiple operators with no safety issues and we continue to deliver oil and gas.

Mr. LANDRY. Well, you also bring up a good point is that you work for the operator, right? You are under the control of the operator. The operator is under the control of the permittee, who is BOEMRE, but yet you heard today from Director Bromwich that he would like to extend or he believes that he has the authority to extend his reach to govern—to reach into our contract.

My concern is that doing so is going to muddy the water. We have this nice pattern of responsibility of how we go and say, OK, we are going to lease a piece of property to the operator. The operator says yes. We are going to drill safely. They provide the drill plan. They provide the specs. They sub it out to you all. Their responsibility of making sure that you follow their plans is their responsibility and the responsibility of ensuring that their plans are followed is BOEMRE. And so by going out and reaching into you guys, then all of a sudden it is going to be this cross finger point. Don't you agree?

Mr. BEMENT. Yes, sir. The allegations came last night. I personally have not even had a chance to review those myself. I can tell you we will engage with the administrative process. We will also reserve the right for appeal.

Mr. HASTINGS. The time of the gentleman has expired. The gentleman from Pennsylvania, Mr. Thompson

Mr. THOMPSON. Thank you, Chairman. Thank the panel. I want to follow up. Mr. Flores had asked Mr. Dempsey about basically lessons learned and procedure, you know, identified, BP had identified 26 recommendations from your internal investigation. I want to turn to Mr. Ambrose and Mr. Bement. What is the most significant action or changes your companies have initiated as a result of lessons learned from the incident?

Mr. AMBROSE. Thank you for the question.

I listed in my opening statement, the key ones were that we implemented a well integrity use guideline for our operations for the drill crews on the rig, and make sure we are very clear about what

needs to be done prior to entering the next would section, the next part of the operation, and you know, at times maybe there was an ambiguity about what is required, and we are very clear about that now as well as we have established negative pressure test guidelines. So, as a minimum as a company there is something now that we have, and this is what we have to have. We can't go below this. If we don't have this information, we can't proceed, and that was something that was missing when everyone is left to their own devices to do that. These are probably the two biggest things we learned from the incident to make sure that we have in place.

Mr. THOMPSON. Mr. Bement?

Mr. BEMENT. Yes, sir. I think from the BOEMRE report as well as the other investigation I think there has been several opportunities of best practices that we have reviewed. Again as I shared with you in the opening statements, I think we wake up every morning trying to be better, safer, more environmentally friendly in order to produce oil and gas for our great country.

So there is a host of things I think we continue to look at. Our Halliburton systems, HMS is what we refer to, we continue to, in parallel with this effort of continuous improvement, we make that very robust. Some little simple things that from an industry perspective we have gone to BOEMRE with our inside real time capability.

Has that been a help of the government to facilitate the permitting or regulatory requirements that may be coming out? You know, we are trying to bring innovation that way. Another example is real time data log that will now, in our new latest inside version, that will capture real time visual log of the comments and activities. That was a large part of the question during the investigation, what activities were going on during that. So little best practices like that I think have been a significant improvement.

Mr. THOMPSON. Thank you. My colleague, Dr. Fleming from Louisiana, on the last panel looked a lot at permitting and, since that time, there appears to be a decrease in permitting. I know job loss in the Gulf area. I have to say that being from Pennsylvania and having natural gas, I have a lot of folks from Louisiana now working in Pennsylvania. We appreciate their expertise, but this is all because they have lost their jobs down there.

Mr. Bement, you mentioned that Halliburton is currently the subject of more than 400 lawsuits in your testimony. We have seen the same thing with some Federal agencies. You know, they have difficulty performing their core functions because they are constantly being sued. What role does the endless stream of litigation play in preventing your company from receiving permits? Any insight into that?

Mr. BEMENT. I am sorry, can you repeat the question? What I assume it would have on permits?

Mr. THOMPSON. Yes, in terms of impacting the process to where it would be a reflection of this decrease in permits or the impact of the permits.

Mr. BEMENT. Specific to the Gulf of Mexico, we are ready to go to work. I mean, we are quite excited. In fact, as we have seen some return to the deepwater, we have a number of our employees that were deployed to other deepwater markets around the world

during the moratorium. We are seeing those employees return. We are investing tens of millions of dollars in facility expansion in that region as well as tens of millions of dollars of new capital support for deepwater. In fact, we will hire 11,000 new people in the U.S. in 2012.

Mr. THOMPSON. Just curious to all the panelists just real quickly. What impact have you seen on the timeliness and efficiency of the permitting and the leasing since last October?

Mr. AMBROSE. From Transocean's standpoint, that is a process that we are on the outside looking in as the operator is really driving that process. We provide information to them. I can just give you my opinion about it from outside looking in. I understand that the process is very onerous. It seems that people are starting to get permits for the deepwater operations we have. They come close sometimes to when everyone needs to be going to work, but they are getting them.

Mr. DEMPSEY. BP is getting ready to go back to work in the deepwater Gulf of Mexico and making the kinds of enhancements in our safety processes and procedures and systems to be able to provide the confidence to regulators that we would be ready to go. The introduction and adoption of our voluntary standards which I referred to in my opening comments and to which Director Bromwich made reference in his testimony earlier today is an example of the kinds of things that we have done to try to enhance our ability to operate safely and to get ready to go back to work.

Mr. THOMPSON. Thank you. Thank you, Chairman.

Mr. HASTINGS. The time of the gentleman has expired. The Chair recognizes the gentleman from New Jersey, Mr. Holt.

Mr. HOLT. Thank you, Mr. Chairman. I had to step out of the room, so forgive me if I am going over ground that is already plowed here, but I think it is important to get this on the record. So, Mr. Dempsey, the Interior Department yesterday issued seven violations against BP yesterday. Does BP plan to appeal?

Mr. DEMPSEY. Congressman Holt, as you know, these violations were released just yesterday evening, and so we will certainly take those very seriously. We will review those. It is important to note that it is really the beginning of a process. It is not the final determination of violations, so we will absolutely participate in the process to determine where those end up and we will continue in that as we have and always will.

Mr. HOLT. So does BP agree that it failed to protect health, safety, property and the environment by failing to perform all operations in a safe and workman-like manner?

Mr. DEMPSEY. Congressman, what I can say is that BP has, from the very start, acknowledged its role in this accident. The notices of violation are an important indication that the regulator also expects that they will hold accountable contractors in their role in accidents like the *Deepwater Horizon*, and so while we have acknowledged our role from the start we have also been clear that this has been a very, very complicated accident involving multiple parties and a series of complex interconnected causes. It certainly included BP as it did Transocean and Halliburton.

Mr. HOLT. Thank you. Does BP agree that it "failed to take necessary precautions" to keep the well under control at all times?

Mr. DEMPSEY. Congressman, what I have to say to that is that we hire contractors to provide work and provide service for us in the deepwater drilling industry and in this particular case we do that because they bring specialized expertise, deep experience. We expect them to perform their jobs safely and according to all regulatory requirements.

Mr. HOLT. So it is all a matter of expectations, that is what you rely on then?

Mr. DEMPSEY. Congressman, we actually rely on the expertise and the experience that they bring.

Mr. HOLT. All right. So it is the subcontractors that were at fault. Mr. Bement, do you expect to appeal?

Mr. BEMENT. As Mr. Dempsey said, these allegations only came out late yesterday evening. I personally have not seen them. We will go through the process as I mentioned earlier, and we will reserve the right to appeal.

Mr. HOLT. Mr. Ambrose, Transocean, I understand, I believe you said a brief while ago that you do intend to appeal the violations, is that correct?

Mr. AMBROSE. Sir, I have personally not reviewed that allegation. I have not been involved in the response.

Mr. HOLT. Would we have a better hearing right now if in fact the chief officers of your companies were here, the people who actually establish the company policy, who actually are in a position to decide what we are going to do? Would you be more comfortable if they were sitting where you are sitting so that they could actually answer these questions? That is a rhetorical question. I don't suppose—well, the gentleman does—I would yield to the Chairman of course.

Mr. HASTINGS. Well, I would say this at the end of this panel, I will say it right now. If you submit a written request, I am sure that they will take it to the proper authorities to get the answer to that written request, so I think that option is certainly open to you, and I thank the gentleman for yielding.

Mr. HOLT. Yes, I am not trying to play "gotcha" here. This is a very serous matter. Many of us maintain that this was not a one of a kind accident; this was an accident waiting to happen and that other such accidents will occur unless the culture is changed. There has been some effort this morning I think to ignore or I guess you would say correct the findings of these commissions now that spoke of a culture of carelessness, a culture of cutting corners, a culture of not testing, not monitoring, not following through, and if we are going to address that culture we need companies that face up to it and not try to shift blame; not try to wiggle out of it.

I don't know what else to say in the time remaining. I yield back my time.

Mr. HASTINGS. You actually did not have any time to reclaim.

I understand the gentlelady from Texas would like to ask a question, so I ask unanimous consent even though she is not a member of the Committee that she be given the opportunity to ask questions. Without objection, the gentlelady is recognized for five minutes.

Ms. JACKSON LEE. Mr. Hastings, I wish to thank you and Mr. Holt for your kind indulgence on something that has impacted my

region in the early days of the spill. Spent a lot of time in the Louisiana region, and I think my issue coming from that region and feeling that we do better when we move forward to recognize that we can cure what may have happened that caused the horrific incident in the first place. I interacted with oyster fishermen and others, and I believe they were looking for a cure.

So I want to ask Mr. Dempsey, if I can, because I think as I came in I heard you saying that you had secured findings and that you were looking them straight in the eye and were dealing with those findings. First let me just ask a general question. Do you know how many employees BP has in the United States?

Mr. DEMPSEY. Congresswoman, BP has more than 23,000 employees in the United States.

Ms. JACKSON LEE. So you are vested in this country?

Mr. DEMPSEY. We are, Congresswoman. BP has been one of the largest producers of oil and natural gas in the United States for several years, and we believe it is important that we continue to support the American desire for energy security.

Ms. JACKSON LEE. And in the same time as your employees live along the Gulf, you too want clean air, clean water, your employees be protected. Are you moving around by saying we want to put employees in jeopardy?

Mr. DEMPSEY. Absolutely not, Congresswoman. We agree completely. It is indeed our priority.

Ms. JACKSON LEE. Well, can you tell me your response to the findings—of you moving forward to address the findings, and let me not say this in any kind of get you, but you recognize that 11 people died and families are suffering, so are you moving forward to address the findings? I think it is important that there is a sense that we understand that the company understands that they have to be actively engaged, and I sense that you were saying you read the findings and you are working toward them. Would you expand on that, please?

Mr. DEMPSEY. I will, Congresswoman. We have made fundamental substantial changes in our organization in the way that we conduct this work and in the way that we think about the long-term processes that will apply. For our organization, I mentioned in my opening comments that we have created an organization called Safety & Operation Risk or S&OR. This is important because that organization provides for several things. It embeds deep expertise in the live businesses. It provides an opportunity for intervention whenever they see the need to intervene in an activity that is underway.

We have organized our exploration and production business into three separate divisions, and within one of them there is a global well, so there is a place now where we have housed the expertise, the best practices for drilling in our operations around the world in a common way.

We introduced the voluntary standards, Congresswoman, which I have also referred to and which Director Bromwich made some mention to. These are providing for an opportunity for several things, including a commitment we will only use blowout preventers that are equipped with double blind sheer ram anywhere where we are operating from a dynamically positioned drilling rig.

We will make changes in terms of third party testing and verification of cement. We have made some advancements to the oil spill activity based on the learnings we have acquired through this *Deepwater Horizon* accident.

Ms. JACKSON LEE. My time is moving, I have a sense of it. You had findings issued last night. Will you look at them as well in a way that says let us see how we can get moving forward, fixing what we need to fix? I am not asking you to make a determination of yes or no, but are you in that kind of mode?

Mr. DEMPSEY. We are, Congresswoman, and we will review and consider these findings in that way.

Ms. JACKSON LEE. I appreciate that. Mr. Ambrose, are you in that mode representing Transocean to fix what needs to be fixed?

Mr. AMBROSE. Yes. We take what happened very seriously.

Ms. JACKSON LEE. I think that is an important statement that needs to be on the record. I can't hold you any longer because I need to get Mr. Bement. Are you committed to fixing what needs to be fixed?

Mr. BEMENT. Yes, ma'am. Wake up every morning trying to drill faster, better.

Ms. JACKSON LEE. But you are fixing what needs to be fixed, is that correct?

Mr. BEMENT. We improve every day.

Ms. JACKSON LEE. Mr. Dempsey, I just want to ask this. Do you have any impact on the $20 billion? It is moving very slowly. Are you able to at least call or find out because it may be separate, but it has your name connected, and I will say publicly I don't like the way it is proceeding in terms of reimbursement. It is not you that is doing it, but do you have any ability in your company to ask a question, to ask the gentleman that is handling it why he is moving so slowly?

Mr. DEMPSEY. Congresswoman, we do have the opportunity to offer our input and our views to Mr. Feinberg and his team who lead the GCCF, the Gulf Coast Claims Facility.

Ms. JACKSON LEE. I would appreciate, sir, if you would do that oversight and determine why so few dollars have gone out at this point, and I do thank the witnesses and I do thank the Committee for allowing me just to pose those questions. We are looking to go forward, and as I have gleaned from all of you, you have to fix the problems and move forward. Let me thank you very much for your testimony. I yield back.

Mr. HASTINGS. I thank the gentlelady, and I recognize the gentleman from New Jersey before I ask my last questions.

Mr. HOLT. And I thank the Chair, and this is more by way of a statement than questions, but I would like everyone to hear this, and really, despite multiple investigations now that have documented the systemic safety problems that existed before the Macondo well blowout, despite clear evidence of failures on the part of the companies to properly design, properly drill, properly cement the well, despite the continued insistence by the industry and by others who sit around this dais here that all the safety problems have been fixed and we should hurry up and open up any and all areas for drilling, what I hear is a continued failure on the part

of the industry to acknowledge its responsibility for the negligence that caused deaths and untold environmental damage.

The companies here have told us that they will—well, probably I am reading a little bit into your comments—will fight even the minimal fines, $21 million for BP and $12 million each for Transocean and Halliburton, which I would call minimal that are allowed under the law. Transocean has made clear that it will continue to fight to withhold spill documents from the government safety regulators and continues to refuse to comply with Justice Department subpoenas.

Maybe the Department should debar BP from future lease sales and refuse to issue drilling permits for any operator who plans to use these companies until the companies step up and show that this was not a "one off", this was not just a single occurrence. This was an accident waiting to happen because of a careless culture, and with that I yield back.

Mr. HASTINGS. I thank the gentleman, and I would just point out I am sorry, I know that he was elsewhere, but if he had heard the exchange between Mr. Landry and the panel, you might have gotten an indication of the issue of the systemic issue that has been floating around, and I would certainly invite you to go back and look at that transcript.

I just have a couple of questions, and this is a question to all three of you. Are you all currently conducting operations in the Gulf today? And we will start with you, Mr. Dempsey. Are you conducting operations in the Gulf today?

Mr. DEMPSEY. Yes, Congressman, Mr. Chairman. We are indeed conducting operations in the Gulf of Mexico.

Mr. HASTINGS. Mr. Ambrose?

Mr. AMBROSE. Yes, we are, sir.

Mr. HASTINGS. OK, and Mr. Bement?

Mr. BEMENT. Yes, sir, and actively recruiting additional personnel for the Gulf of Mexico.

Mr. HASTINGS. So there are jobs available.

Mr. BEMENT. Absolutely. Yes, sir.

Mr. HASTINGS. OK. We will consider this a call for more jobs then.

Again to all three of you, three of your companies received permits or in your case, BP, approved exploration plans since last April of last year. In other words, have you gotten new operations in the Gulf since last April, since April of last year?

Mr. DEMPSEY. Mr. Chairman, for exploratory drilling we have not yet received any approved permits. We have one pending application for our Kaskida Well, an exploratory plan, a revised exploratory plan that has been submitted. It closed its public comment period on the second of October, and the regulator is now in its 30-day review period.

Mr. HASTINGS. OK. And then as far as subcontractors have you gotten work since April of last year, Mr. Ambrose? Well, Mr. Bement, since you are ready to go.

Mr. BEMENT. Mr. Hastings, yes, sir. We are on the outside looking in, working with our customers.

Mr. HASTINGS. I understand.

Mr. BEMENT. But we are seeing an increase in activity as we talk.

Mr. HASTINGS. Mr. Ambrose?

Mr. AMBROSE. Yes, sir, we are seeing permits for our customers.

Mr. HASTINGS. OK. Finally, and this was brought up when Transocean's President, Mr. Newman, and Mr. McKay were here a year ago, involving the stop work policy. My district is not on the coast, but right across from where I live is the most contaminated nuclear site in the country, and the contractors there allow the workers, whenever they see something wrong, the work can stop immediately. Is that true with all three of your companies as a matter of company policy, whether somebody tells you to or not? Is that a matter of company policy? And we will start with you, Mr. Dempsey.

Mr. DEMPSEY. Mr. Chairman, it is indeed a policy and a practice in our operations around the world that when we see an unsafe act any and all of us have the obligation to stop work.

Mr. HASTINGS. OK. Mr. Ambrose?

Mr. AMBROSE. Yes, sir, it is. We have a policy of time out for safety, and it is implemented worldwide. It is in our policies and procedures. It is an obligation. It is not a right, it is an obligation. You have to do it. And I think when you look at this particular incident they did do it at 9:30. They shut the operation down because they saw an anomaly.

Mr. HASTINGS. OK. And Mr. Bement.

Mr. BEMENT. Yes, sir, stop work is part of our Halliburton management system and part of our continuous improvement process. It is embedded within the culture of that process.

Mr. HASTINGS. OK. I just think that is worth emphasizing because there has been a lot of discussion about this and what has happened. Clearly when 11 people die and you have the environmental damage that happened in the Gulf, it is serious. But I just think that point needs to be made.

So, once again, seeing no other Members on the dais, I will adjourn this meeting, but I want to thank all three of you for being here and I want to re-thank the first panel for being here, and once again if there are follow-up questions to be sent to you, I think Mr. Holt has one, at least I encouraged him to do that, that you would respond in a timely manner and of course make it available to everybody on the Committee.

With that, the Committee stands adjourned.

[Whereupon, at 1:20 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

Statement submitted for the record by Joseph R. Mason, Louisiana State University

Thank you for this opportunity today to submit a written statement on the lingering impacts of the Obama administration's six-month moratorium on offshore drilling for oil and natural gas. It has been one full year since this moratorium was officially lifted. Yet, U.S. federal energy policy today remains woefully out of balance.

These policies, or quite frankly lack thereof, have had severe consequences for U.S. domestic oil production since the moratorium was lifted. According to the U.S. Energy Information Administration (EIA), U.S. domestic production will decrease by 250,000 barrels per day (bpd) each year going forward under the current production policy regime. In particular, EIA estimates that, in the Gulf of Mexico (GOM) alone,

oil production will decline approximately 14 percent both in 2011 and 2012 due to the administration's unwillingness to grant expedient and sufficient access to U.S. reserves.

In sum, not very much has changed in the Gulf region—and the country at-large—since my initial study on this topic in July of last year, "The Economic Cost of a Moratorium on Offshore Oil and Gas Exploration to the Gulf Region."

I. Continued Regulatory Burdens

The current regulatory framework charged with overseeing the U.S. oil and natural gas industry has continued to hamper economic growth generally and the oil and natural gas sector specifically. Since the offshore moratorium has been lifted, executive agencies such as the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) have worked tirelessly to prove their worth and flex their muscles. As such, new agencies like these regularly undergo dramatic power shifts before settling into anything that could be considered a stable role in the U.S. regulatory framework. And these types of power struggles and yearning for approval inevitably lead to rampant inefficiencies.

Jim Noe, senior vice president, general counsel and chief compliance officer of Hercules Offshore Inc., the largest shallow-water drilling company in the Gulf of Mexico, recently noted that, "the backlog of permits awaiting decisions within the Department of the Interior just reached its highest level since the Gulf spill 1 1/2 years ago."

The pace at which new permits for new wells are issued has come to an almost complete crawl. The current average is 5.2 per month; this level has not been evidenced since energy demand plummeted in 2009.

But laborious regulations and continued delays are not the only costs threatening U.S. oil and natural gas operations. The administration's continued advocacy of repealing Section 199 of the American Jobs Creation Act and Section 1.901–2 of the U.S. Department of the Treasury Regulations ("dual capacity") presents the industry with additional challlenges. Those changes would eliminate domestic and international tax credits for the U.S. energy sector. Although regulators are hoping to raise substantial revenues from the repeals, the fully-scored economic cost of the regressive legislation could further debilitate the oil and natural gas sector and most likely result in decreased tax revenues from the industry.

The Peterson Institute for International Economics detailed the harmful effects of the administration's new proposed taxation schemes. In a new policy brief, *US Tax Discrimination Against Large Corporations Should Be Discarded,* authors Gary Clyde Hufbauer and Martin Vieiro argue that, "If the targets of discrimination are the nation's largest firms, the country will find it harder to compete on a global scale in industries that require dedicated research, industries that exhibit huge scale economies, and industries that network across national borders." U.S. oil and natural gas firms are, by and large, some of the nation's largest and most internationalized of companies.

In looking at the political economy of new regulatory arrangements like BOEMRE, therefore, we must look with skepticism and concern upon both the political motivations of the regulatory officials charged with enforcing the rules, and the economic power that will be concentrated in those regulatory officials as a result of their influence over the implementation costs and economic redistribution. Without restraint, a toxic mix of politics and power may damage both the industry and the environment.

II. Painful Consequences of Administration's Negligent Energy Policies

Using my July 2010 report's results—but also accounting for delays following the official end of the six-month moratorium—is it evident that regional economic losses continue to grow.

Table 1

Summary of Potential Lost Economic Activity

	Total GOM	Total U.S.
Output ($ Mil)	-$3,341	-$4,384
Employment (Jobs)	-12,935	-19,073
Wages ($ Mil)	-$772	-$1,119
State & Local Taxes Revenues ($ Mil)	-$155	N/A
Federal Tax Revenues ($ Mil)	N/A	$347

Note: Production were originally assumed to be stopped for nine and a half months, the delay at the time of the original study. Losses are expected to accrue over 12 months following the start of the moratorium, on May 30th, 2010.

Table 1 shows that output losses continue to mount with stalled development in the GOM, rising from $2.1 billion regionally and $2.8 billion nationally to $3.3 billion and $4.4 billion, respectively. Job losses are estimated to have increased from 8,000 regionally and 12,000 nationally to 13,000 regionally and 19,000 nationally. Lost wages previously estimated to amount to $500 million regionally and $700 million nationally are now $800 million regionally and $1.1 billion nationally. Finally, lost tax revenues estimated to be $100 million on the state and local level and $200 million on the national level now amount to $155 million and $350 million, respectively.

With the latest jobs figures released last week from the U.S. Bureau of Labor Statistics (BLS) showing national unemployment remains at 9.1 percent, we simply cannot afford to give up any more economic activity.

III. Conclusion

IHS Global Insight recently published a study that puts the impacts on jobs, energy production and local economies of the Obama's administration's precarious attitude toward conventional energy into clear context. The report states that, next year, releasing restrictions on "the [Gulf oil and gas] industry could create 230,000 American jobs, generate more than $44 billion of U.S. [gross domestic product], contribute $12 billion in tax and royalty revenues, produce 150 million barrels of domestic oil, and reduce by $15 billion the amount the U.S. sends to foreign governments for imported oil."

Nonetheless, oil and natural gas production is set to decline in response to higher taxes, onerous government regulation and greater political uncertainty. That means less jobs, lower wages, and lower gross domestic product (GDP) growth than would otherwise occur. Those are indisputable laws of economics, regardless if policymakers agree with them or not. In the spirit of hope, I look forward to the day the administration realizes the very real pain that its energy policies are having on U.S. job creation, capital allocation and broader economic recovery, as well as the environmental threats, political instability, and market volatility that come from meeting U.S. energy needs from foreign supplies.

[An email submitted for the record from Randall S. Ogrydziak, Liquefied Gas Carrier National Center of Expertise, follows:]

From: Ogrydziak, Randal CDR

Sent: Monday, May 10, 2010 1:02:23 PM

To: Odom, Michael LCDR

CC: Thorne, Paul CDR

Subject: Re: DWH Marine Board

Mike,

You should not have any concerns with the Marine Board. Will you be returning to Port Arthur before your leave starts (15–25 May)?

Randall S. Ogrydziak, CRD, USCG
Supervisor, Liquefied Gas Carrier National Center of Expertise
Wk: (409) 723–9874; Cell: (409) 284–2296; Fax: (409) 723–6504

——Original Message——

From: Odom, Michael LCDR

Sent: Monday, May 10, 2010 9:01 AM

To: Ogrydziak, Randal CDR

Cc: Fernie, James

Subject: DWH Marine Board

I made it to NOLA last night we are starting the prep work not for my testimony. Just as an fyi if you're interested the questions they will be asking are attached. Call me if you need anything everything is pretty informal and I can't be in the hearing room till it is my turn in the barrel, so there will be a fair amount of standing around time.

* * *

OVERSIGHT HEARING ON THE BOEMRE/ U.S. COAST GUARD JOINT INVESTIGATION TEAM REPORT: PART 2

Wednesday, November 2, 2011
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 2:40 p.m. in Room 1324, Longworth House Office Building, Hon. Doc Hastings [Chairman of the Committee] presiding.

Present: Representatives Hastings, Young, Duncan of Tennessee, Lamborn, Wittman, Broun, Fleming, Coffman, McClintock, Thompson, Benishek, Rivera, Tipton, Gosar, Flores, Runyan, Johnson, Amodei, Markey, Kildee, DeFazio, Pallone, Napolitano, Grijalva, Bordallo, Heinrich, Luján, Sarbanes, Tsongas, Pierluisi, and Hanabusa.

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

Mr. HASTINGS. The Committee will reconvene or come back to order, and the Chair notes the presence of a quorum, which under Rule 3[e] is two Members.

The Committee meets again today to continue its October 13, 2011, hearing on the BOEMRE/U.S. Coast Guard Joint Investigative Team Report. At that hearing, if you recall, the Committee heard from seven witnesses, including the two Co-Chairs of the Investigative Team, the Director of BOEM, the Vice Admiral of the Coast Guard and executives representing BP, Transocean and Halliburton, three companies, each of whom was cited in the JIT report.

Under Rule 4[f][1], there are no opening statements since we are continuing a hearing that was already going on. This obviously gives the Minority an opportunity to call their witnesses, but since none of the individuals requested by the Minority are here to testify, to be very honest with you, what would be in order would be a motion to adjourn.

However, prior to adjourning I will inquire if the Ranking Member, Ranking Democrat, wants to pursue a different course, and I will yield to the gentleman.

STATEMENT OF THE HON. EDWARD MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. I thank you, Mr. Chairman. Mr. Chairman, following the BP oil spill this Committee has a responsibility to the American people to ensure that offshore oil and gas drilling is occurring in a safe and responsible manner.

We must vigorously exercise our oversight responsibilities to make certain that BP and other oil companies involved in the *Deepwater Horizon* disaster are taking the corrective steps necessary to protect the workers, economy and environment of the Gulf and to ensure that we never have a similar spill again.

BP and the other companies involved in the oil spill are now seeking to resume drilling operations in the Gulf. BP has now applied for and had approved by the Interior Department its first exploration plan and drilling permit in the Gulf following this accident.

Mr. HASTINGS. Reclaiming my time from the Ranking Member, we are aware of that. Remember, this is a continuation hearing on the Joint Investigative Team.

My question to you, since we afforded you the courtesy of getting witnesses, we sent the letter out obviously in a timely manner and the witnesses declined to come for whatever reasons. Since there is no panel, as I said in my opening statement, it is certainly in order to accept a motion to adjourn, but as a courtesy to you.

I have read the reports, press reports that you have sent out, and, listen, I respect that. I just want to know what your intentions are. I fully understand the difference of opinion that we may have on these issues, but I just want to know what your intentions are. That is all.

Mr. MARKEY. All right.

Mr. HASTINGS. And I will yield to the gentleman.

Mr. MARKEY. I thank the gentleman. Pursuant to Clause 2[k][6] and 2[m] of Rule 11 of the Rules of the House, I move that the Committee issue subpoenas to the following individuals to compel them to appear before the Committee to provide testimony regarding the findings of the Joint Investigative Team Report on the *Deepwater Horizon* oil spill: Mr. Robert Dudley, CEO of BP; Mr. Steven Newman, President and CEO of Transocean; Mr. David Lesar, Chairman of the Board, President and CEO of Halliburton; and Mr. Jack Moore, Chairman, President and CEO of Cameron.

I do believe they have a responsibility to testify postinvestigation as to their view of the findings so that they can be accountable to the U.S. Congress as the protectors of the oceans of the United States.

Mr. HASTINGS. The Chair notes the absence of a quorum and so I will announce that a 15-minute quorum call be made, and the clerk will call the roll.

Ms. LOCKE. Mr. Hastings?

Mr. HASTINGS. Present.

Ms. LOCKE. Mr. Markey?

Mr. MARKEY. Present.

Ms. LOCKE. Mr. Young?

Mr. YOUNG. Here.

Ms. LOCKE. Mr. Kildee?

Mr. KILDEE. Present.

Ms. LOCKE. Mr. Duncan of Tennessee?

Mr. DUNCAN OF TENNESSEE. Present.

Ms. LOCKE. Mr. DeFazio?

Mr. Gohmert?

Mr. Faleomavaega?

Mr. Bishop?
Mr. Pallone?
Mr. Lamborn?
Mr. LAMBORN. Here.
Ms. LOCKE. Mrs. Napolitano?
Mr. Wittman?
Mr. Holt?
Mr. Broun?
Mr. Grijalva?
Mr. Fleming?
Dr. FLEMING. Present.
Ms. LOCKE. Ms. Bordallo?
Ms. BORDALLO. Present.
Ms. LOCKE. Mr. Coffman?
Mr. COFFMAN. Present.
Ms. LOCKE. Mr. Costa?
Mr. McClintock?
Mr. MCCLINTOCK. Present.
Ms. LOCKE. Mr. Boren?
Mr. Thompson?
Mr. THOMPSON. Present.
Ms. LOCKE. Mr. Sablan?
Mr. Denham?
Mr. Heinrich?
Mr. Benishek?
Dr. BENISHEK. Here.
Ms. LOCKE. Mr. Luján?
Mr. LUJÁN. Present.
Ms. LOCKE. Mr. Rivera?
Mr. Sarbanes?
Mr. Duncan of South Carolina?
Ms. Sutton?
Mr. Tipton?
Mr. TIPTON. Here.
Ms. LOCKE. Ms. Tsongas?
Mr. Gosar?
Mr. Pierluisi?
Mr. PIERLUISI. Present.
Ms. LOCKE. Mr. Labrador?
Mr. Garamendi?
Ms. Noem?
Ms. Hanabusa?
Mr. Southerland?
Mr. Flores?
Mr. FLORES. Here.
Ms. LOCKE. Mr. Harris?
Mr. Landry?
Mr. Runyan?
Mr. RUNYAN. Present.
Ms. LOCKE. Mr. Johnson?
Mr. JOHNSON. Present.
Ms. LOCKE. Mr. Amodei?
[Pause.]

Mr. HASTINGS. The clerk will call those that did not answer present.
Ms. LOCKE. Mr. DeFazio?
Mr. Gohmert?
Mr. Faleomavaega?
Mr. Bishop?
Mr. Pallone?
Mr. PALLONE. Yes. Present.
Ms. LOCKE. Mrs. Napolitano?
Mrs. NAPOLITANO. Present.
Ms. LOCKE. Mr. Wittman?
Mr. Holt?
Mr. Broun?
Mr. Grijalva?
Mr. Costa?
Mr. Boren?
Mr. Sablan?
Mr. Denham?
Mr. Heinrich?
Mr. Rivera?
Mr. Sarbanes?
Mr. Duncan of South Carolina?
Ms. Sutton?
Ms. Tsongas?
Mr. Gosar?
Mr. Labrador?
Mr. Garamendi?
Ms. Noem?
Ms. Hanabusa?
Mr. Southerland?
Mr. Harris?
Mr. Landry?
Mr. Amodei?
Mr. AMODEI. Present.
[Pause.]
Mr. GRIJALVA. Present.
Ms. LOCKE. Mr. Grijalva votes present.
[Pause.]
Mr. HASTINGS. How is Mr. Wittman recorded?
Ms. LOCKE. He has not been recorded.
Mr. WITTMAN. Present.
Ms. LOCKE. Mr. Wittman is present.
Mr. HASTINGS. Is Mr. Gosar recorded?
Dr. GOSAR. Here.
Ms. LOCKE. Mr. Gosar votes present.
VOICE. Mr. Chairman, there is the presence of a quorum.
Mr. HASTINGS. The Chairman notes the presence of a quorum. We have a motion before us, and I will recognize myself.

Let me be very clear. If the companies officially cited for the oil spill had outright refused to provide witnesses, testimony or answers to the Committee, then I would be leading the effort to compel them to appear by subpoena if necessary.

But those are not the facts. For the record, this hearing is occurring at the request of the Democrat Minority, who exercised their

rights under the Rules of the House and the Committee to demand a second day of hearings with witnesses that they request.

The original hearing occurred on October 13, and for the record, that hearing featured testimony and the opportunity for every Member of the Committee to ask questions of seven witnesses on two panels: the two Co-Chairs of the Joint Investigative Team, the heads of the respective agencies, BSEE, Director Bromwich, and Vice Admiral Salerno of the Coast Guard, and the executives that were officially representing the three companies cited in the investigative report, BP, Transocean and Halliburton.

With that, I recognize the gentleman from Colorado.

Mr. LAMBORN. Mr. Chairman, I move that the motion be tabled.

Mr. HASTINGS. The motion is not debatable. The clerk will call the roll.

VOICE. Don't we do a voice first, all those in favor?

Mr. HASTINGS. Yes. I know it is going to be a roll call. We may as well roll call.

Ms. LOCKE. Mr. Hastings?
Mr. HASTINGS. Aye.
Ms. LOCKE. Mr. Hastings votes aye.
Mr. Markey?
Mr. MARKEY. No.
Ms. LOCKE. Mr. Markey votes no.
Mr. Young?
Mr. YOUNG. Aye.
Ms. LOCKE. Mr. Young votes aye.
Mr. Kildee?
Mr. KILDEE. No.
Ms. LOCKE. Mr. Kildee votes no.
Mr. Duncan of Tennessee?
Mr. DUNCAN OF TENNESSEE. Aye.
Ms. LOCKE. Mr. Duncan votes aye.
Mr. DeFazio?
[No response.]
Ms. LOCKE. Mr. Gohmert?
[No response.]
Ms. LOCKE. Mr. Faleomavaega?
[No response.]
Ms. LOCKE. Mr. Bishop?
[No response.]
Ms. LOCKE. Mr. Pallone?
Mr. PALLONE. No.
Ms. LOCKE. Mr. Pallone votes no.
Mr. Lamborn?
Mr. LAMBORN. Aye.
Ms. LOCKE. Mr. Lamborn votes aye.
Mrs. Napolitano?
Mrs. NAPOLITANO. No.
Ms. LOCKE. Mrs. Napolitano votes no.
Mr. Wittman?
Mr. WITTMAN. Aye.
Ms. LOCKE. Mr. Wittman votes aye.
Mr. Holt?
[No response.]

Ms. LOCKE. Mr. Broun?
Mr. BROUN. Aye.
Ms. LOCKE. Mr. Broun votes aye.
Mr. Grijalva?
Mr. GRIJALVA. No.
Ms. LOCKE. Mr. Grijalva votes no.
Mr. Fleming?
Dr. FLEMING. Aye.
Ms. LOCKE. Mr. Fleming votes aye.
Ms. Bordallo?
Ms. BORDALLO. No.
Ms. LOCKE. Ms. Bordallo votes no.
Mr. Coffman?
Mr. COFFMAN. Aye.
Ms. LOCKE. Mr. Coffman votes aye.
Mr. Costa?
[No response.]
Ms. LOCKE. Mr. McClintock?
Mr. MCCLINTOCK. Aye.
Ms. LOCKE. Mr. McClintock votes aye.
Mr. Boren?
[No response.]
Ms. LOCKE. Mr. Thompson?
Mr. THOMPSON. Aye.
Ms. LOCKE. Mr. Thompson votes aye.
Mr. Sablan?
[No response.]
Ms. LOCKE. Mr. Denham?
[No response.]
Ms. LOCKE. Mr. Heinrich?
[No response.]
Ms. LOCKE. Mr. Benishek?
Dr. BENISHEK. Aye.
Ms. LOCKE. Mr. Benishek votes aye.
Mr. Luján?
Mr. LUJÁN. No.
Ms. LOCKE. Mr. Luján votes no.
Mr. Rivera?
Mr. RIVERA. Aye.
Ms. LOCKE. Mr. Rivera votes aye.
Mr. Sarbanes?
Mr. SARBANES. No.
Ms. LOCKE. Mr. Sarbanes votes no.
Mr. Duncan of South Carolina?
[No response.]
Ms. LOCKE. Ms. Sutton?
[No response.]
Ms. LOCKE. Mr. Tipton?
Mr. TIPTON. Aye.
Ms. LOCKE. Mr. Tipton votes aye.
Ms. Tsongas?
Ms. TSONGAS. No.
Ms. LOCKE. Ms. Tsongas votes no.
Mr. Gosar?

Dr. GOSAR. Aye.
Ms. LOCKE. Mr. Gosar votes aye.
Mr. Pierluisi?
Mr. PIERLUISI. No.
Ms. LOCKE. Mr. Pierluisi votes no.
Mr. Labrador?
[No response.]
Ms. LOCKE. Mr. Garamendi?
[No response.]
Ms. LOCKE. Ms. Noem?
[No response.]
Ms. LOCKE. Ms. Hanabusa?
Ms. HANABUSA. No.
Ms. LOCKE. Ms. Hanabusa votes no.
Mr. Southerland?
[No response.]
Ms. LOCKE. Mr. Flores?
Mr. FLORES. Aye.
Ms. LOCKE. Mr. Flores votes aye.
Mr. Harris?
[No response.]
Ms. LOCKE. Mr. Landry?
[No response.]
Ms. LOCKE. Mr. Runyan?
[No response.]
Ms. LOCKE. Mr. Johnson?
Mr. JOHNSON. Aye.
Ms. LOCKE. Mr. Johnson votes aye.
Mr. Amodei?
Mr. AMODEI. Yes.
Ms. LOCKE. Mr. Amodei votes aye.
Mr. HASTINGS. Any Member not recorded? How is Mr. DeFazio recorded?
Ms. LOCKE. Mr. DeFazio has not been recorded.
Mr. DEFAZIO. No.
Ms. LOCKE. Mr. DeFazio votes no.
Mr. HASTINGS. How is Mr. Heinrich recorded?
Ms. LOCKE. Mr. Heinrich has not been recorded.
Mr. HEINRICH. No.
Ms. LOCKE. Mr. Heinrich votes no.
VOICE. It is 13 to 16.
Mr. HASTINGS. The clerk will report.
Ms. LOCKE. Mr. Chairman, on this vote, the yeas are 17 and the nays are 13.
Mr. HASTINGS. The motion is agreed to. There being no further business before the Committee, without objection, the Committee stands adjourned.
[Whereupon, at 2:57 p.m., the Committee was adjourned.]

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