

**COMMITTEE OVERSIGHT OF
DEPARTMENT OF THE INTERIOR:
QUESTIONING OF KEY
DEPARTMENT OF THE
INTERIOR OFFICIALS**

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

Thursday, September 13, 2012

Serial No. 112-129

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.fdsys.gov>

or

Committee address: <http://naturalresources.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

75-942 PDF

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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OVERSIGHT HEARING ON “COMMITTEE OVERSIGHT OF DEPARTMENT OF THE INTERIOR: QUESTIONING OF KEY DEPARTMENT OF THE INTERIOR OFFICIALS.”

**Thursday, September 13, 2012
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.**

The Committee met, pursuant to call, at 10:11 a.m., in Room 1324, Longworth House Office Building, Hon. Doc Hastings [Chairman of the Committee] presiding.

Present: Representatives Hastings, Gohmert, Lamborn, Wittman, Fleming, McClintock, Thompson, Denham, Duncan of South Carolina, Labrador, Noem, Flores, Landry, Johnson, Markey, Kildee, Holt, Sablan, Luján, and Tonko.

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

The CHAIRMAN. The Committee will come to order, and the Chairman notes the presence of a quorum.

The Committee on Natural Resources is meeting today to hear testimony on an oversight hearing on “Committee Oversight of the Department of the Interior: Questioning of Key Department of the Interior Officials.”

Under Rule 4(f), opening statements are limited to the Chairman and the Ranking Member. However, I ask unanimous consent, if any Member wishes to submit a statement for the record, that they get it to the Committee prior to the close of business tonight.

Before I recognize myself for my opening statement, the reason we are waiting here is Mr. Markey, the Ranking Member, got a call just before 10 o'clock on the fishery issue up in his area, and we were trying to wait to give him some time to get here. But his staff advises that we can go ahead and get started, and I do appreciate that. And when he comes, we will allow him to make his statement.

For well over 2 years, Republicans on this Committee have been asking questions and conducting an extensive investigation into how and why an Interior Department report was edited to appear as though the moratorium in the Gulf of Mexico was supported by a panel of engineering experts when it was not.

The experts were forced to rebut the implication that they had approved the 6-month drilling moratorium and even wrote, and I quote, “A blanket moratorium is not the answer. It will not measurably reduce further risk, and it will have a lasting impact on our Nation’s economy which may be greater than that of the oil spill,” end quote.

The Department may have ultimately apologized to the peer reviewers after they raised questions, but the Obama Administration has never answered basic questions regarding how and why the decision was made to impose a moratorium that put thousands of Americans out of work, whether the views of the engineering experts were intentionally misrepresented, and how the Administration initially responded to the complaints by the peer reviewers.

Today, two Department officials will appear before us to answer questions on this matter. Neal Kemkar, Special Assistant to the Counselor to the Secretary, personally assisted with the drilling moratorium report, communicated with peer reviewers, and transmitted edits with White House staff. Mary Katherine Ishee, who served as Deputy Administrator for the Minerals Management Service, was also personally involved in the deliberations to impose the drilling moratorium and the drilling moratorium report. However, she was never even interviewed by the Office of Inspector General during this investigation, despite a recommendation to do so by another witness.

The circumstances that have brought us all here today are not preferable, and I had hoped it wouldn't have come to this. Since the beginning of this investigation, the Department has stonewalled every avenue we have taken to get answers. The Department has largely ignored over a dozen letters seeking documents and answers, has failed to comply with an official congressional subpoena that was issued last April, and failed to make key Department officials available for on-the-record interviews.

It was only after the threat of subpoenas came that the Department committed to have these two witnesses and others appear voluntarily. These and other witnesses were originally invited to appear at a July 25th hearing but failed to confirm their attendance less than 20 hours before the hearing. It wasn't until the full Committee approved a motion to provide subpoena authority to compel these individuals to appear, that the Department communicated their willingness to cooperate.

It shouldn't take the threat of subpoenas to get cooperation from an Administration that boasts of openness and transparency. If the Obama Administration truly has nothing to hide, then why not turn over the requested documents? Why withhold documents from public view? Why ignore a congressional subpoena? And why resist on-the-record interviews by Department officials who were directly involved?

This could have been resolved over a year ago if the Department had simply complied and answered questions. And, quite frankly, it should have been resolved 2 years ago during the IG's investigation, but, as we discovered, there are serious questions about the thoroughness and independence of that investigation.

It should also be noted that subpoenas were recently issued to Mr. Kemkar and Ms. Ishee to provide before this hearing copies of all documents that were created, sent, or received by them between April 26, 2010, and June 30, 2010, related to the development, editing, review, issuance, response, or reaction to the drilling moratorium report. As I sit here right now, neither individual has complied with the subpoena for documents.

This Committee is committed to getting answers and will continue to pursue every avenue necessary. That includes additional questioning of Department officials and seeking answers within the White House itself.

The drilling moratorium directly impacted the lives of thousands of individuals in the Gulf of Mexico. It caused widespread economic devastation and decreased American energy production. The Administration falsely stated in the report that the moratorium was reviewed and supported by engineering experts, but we all know that that simply wasn't true. The people of the Gulf deserve to know how and why that happened, and I hope to get some direct answers today.

We have two witnesses today. And as I mentioned in my remarks, they were invited in July, but we didn't hear until less than 20 hours before the hearing whether they were going to be here or not.

Ah. Mr. Markey, timing is everything.

I will recognize the distinguished Ranking Member for his statement.

[The prepared statement of Mr. Hastings follows:]

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

For well over two years, Republicans on this Committee have been asking questions and conducting an extensive investigation into how and why an Interior Department report was edited to appear as though the moratorium in the Gulf of Mexico was supported by a panel of engineering experts when it was not.

The experts were forced to rebut the implication that they had approved the six-month drilling moratorium and even wrote that "a blanket moratorium is not the answer. It will not measurably reduce the risk further and it will have a lasting impact on the nation's economy which may be greater than that of the oil spill."

The Department may have ultimately apologized to the peer reviewers after they raised objections, but the Obama Administration has never answered basic questions regarding how and why the decision was made to impose a moratorium that put thousands of Americans out of work, whether the views of the engineering experts were intentionally misrepresented, and how the Administration initially responded to the complaints by the peer reviewers.

Today, two Department officials will appear before us to answer questions on this matter.

Neal Kemkar, Special Assistant to the Counselor to the Secretary, personally assisted with the Drilling Moratorium Report, communicated with the peer reviewers, and transmitted edits with White House staff.

Mary Katherine Ishee, who served as Deputy Administration for Minerals Management Service, was also personally involved in the deliberations to impose the drilling moratorium and the Drilling Moratorium Report. However, she was never even interviewed by the Office of Inspector General during its investigation, despite a recommendation to do so by another witness.

The circumstances that brought us all here today are not preferable, and I had hoped it wouldn't have to come to this.

Since the beginning of this investigation, the Department has stonewalled every avenue we've taken to get answers. The Department largely ignored over a dozen letters seeking documents and answers, has failed to comply with an official Congressional subpoena issued in April, and failed to make key Department officials available for on-the-record interviews.

It was only after the threat of a subpoena became real that the Department committed to have these two witnesses and others appear voluntarily. These and other witnesses were originally invited to appear at a July 25th hearing, but failed to confirm their attendance less than 20 hours before the hearing. It wasn't until the Full Committee approved a motion to provide subpoena authority to compel these individuals to appear that the Department communicated their willingness to cooperate.

It shouldn't take the threat of subpoenas to get cooperation from an Administration that boasts of openness and transparency. If the Obama Administration truly

has nothing to hide, then why not turn over the requested documents? Why withhold document from public view? Why ignore a Congressional subpoena? And why resist on-the-record interviews by Department officials who were directly involved?

This could have been resolved over a year ago if the Department had simply complied and answered questions. And quite frankly, it should have been resolved nearly two years ago during the IG's investigation—but as we've discovered, there are serious questions about the thoroughness and independence of that investigation.

It should also be noted that subpoenas were recently issued to Mr. Kemkar and Ms. Ishee to provide before this hearing copies of all documents that were created, sent, or received by them between April 26, 2010 and June 30, 2010 related to the development, editing, review, issuance, response, or reaction to the Drilling Moratorium Report. To date, neither individual has complied with the subpoena for documents.

This Committee is committed to getting answers and will continue to pursue every avenue necessary. That includes additional questioning of Department officials and seeking answers from within the White House itself.

The drilling moratorium directly impacted the lives of thousands of individuals in the Gulf of Mexico. It caused widespread economic devastation and decreased American energy production. The Administration falsely stated in their report that the moratorium was reviewed and supported by the engineering experts, but we all know that wasn't true. The people in the Gulf deserve to know how and why that happened. I hope to get some direct answers today.

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

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

Two weeks ago, Hurricane Isaac hit the Gulf of Mexico. It delayed the Republican National Convention, and it caused serious flooding and destruction in Louisiana. The storm also uncovered mats of oil left over from the BP spill. Tarballs of BP oil washed up on beaches in Louisiana and Alabama 2 years after the gushing well was killed.

In our Committee the question is, are we going to investigate that? I doubt it. Instead of tracking the oil that is still staining Gulf beaches, the Republican leadership of the Committee is still tracking the changes made to a 2-year-old report. This track-change investigation is a distraction from the real damage of the BP spill.

The Interior Department completed this report in the middle of a crisis. The BP *Deepwater Horizon* rig had just exploded. Oil was still gushing into the Gulf of Mexico. The President needed input about how to respond, and he needed answers fast. In preparing the report, the Interior Department enlisted the advice of external peer reviewers and consultants, most with ties to the offshore drilling industry.

The majority has obsessed over the objections of some reviewers, which the Department of the Interior has long since addressed, about language involving the 6-month drilling pause, which has long since ended. Yet the reviewers uniformly praised the quality of the report and its other critical safety recommendations, including those to prevent the failure of blowout preventers, ensure deep-water well control, and enhance safety testing and inspections.

Our job here in Congress is to pass legislation, provide funding, and exercise oversight to make sure needed reforms like these are put in place. We also are being counted on to hold BP and its contractors accountable for the damage they have caused.

Unfortunately, this Republican Congress has acted like the BP spill never occurred. They have put oil above all, even above the safety of the American people. This Congress has voted 148 times to preserve or provide giveaways to the oil industry, including legislation approved by this Committee to expand risky offshore drilling all along the East and West Coast of the United States, without passing a single piece of legislation to fix the safety problems exposed by the BP spill.

What is worse, to avoid required defense cuts that Republicans voted for, the sequestration-delay bill they are bringing to the Floor today would, like the Ryan budget, slash everything else, including safety inspections for offshore drilling.

To say that this Committee's oversight has been underwhelming would be charitable. This Committee has held just one obligatory hearing with mid-level executives from BP, Transocean, and Halliburton. We in the minority asked to issue subpoenas to compel testimony from the no-show CEOs of the companies responsible for the BP disaster, but the only subpoenas the majority has issued having anything to do with the BP spill relate to the editing of the report that we are talking about here today.

The majority has insinuated that Administration officials intentionally misrepresented the views of the report's peer reviewers about the 6-month drilling pause, even though DOI's Office of Inspector General found no evidence of this.

For the past year and a half, this is what our Committee has been investigating, not what killed 11 workers on the *Deepwater Horizon* rig; not what caused more than 4 million barrels of oil to gush into the Gulf of Mexico; not what is causing more of that oil to wash up on the beaches today; and not what has been done since to make sure this never happens again.

This is worse than misplaced priorities. This is a dereliction of duty of this Committee to the citizens of the Gulf of Mexico, we need to get to the bottom of what happened in that ocean. Here, there is no wrong to be found. This is just a waste of our time, when we should be working on much more important things.

I yield back the balance of my time.

[The prepared statement of Mr. Markey follows:]

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

Two weeks ago, Hurricane Isaac hit the Gulf of Mexico. It delayed the Republican National Convention, and caused serious flooding and destruction in Louisiana. The storm also uncovered mats of oil left over from the BP spill. Tar balls of BP oil washed up on beaches in Louisiana and Alabama two years after the gushing well was killed.

In our Committee, the question is, are we going to investigate this matter? I doubt it.

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The Interior Department completed this report in the middle of a crisis. The BP *Deepwater Horizon* rig had just exploded. Oil was still gushing into the Gulf of Mexico. The President needed input about how to respond, and he needed answers fast. In preparing the report, the Interior Department enlisted the advice of external peer reviewers and consultants, most with ties to the offshore drilling industry.

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month drilling pause, which has long since ended. Yet the reviewers uniformly praised the quality of the report and its other critical safety recommendations, including those to prevent the failure of blowout preventers, ensure deepwater well control, and enhance safety testing and inspections.

Our job here in Congress is to pass legislation, provide funding, and exercise oversight to make sure needed reforms like these are put in place. We also are being counted on to hold BP and its contractors accountable for the damage they've caused. Unfortunately, this Republican Congress has acted like the BP spill never happened. They have put oil above all, even above the safety of the American people.

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This is worse than misplaced priorities. This is dereliction of duty of this committee to the citizens of the Gulf of Mexico.

The CHAIRMAN. I thank the gentleman for his statement.

We now have two witnesses before us. We have Mr. Neal Kemkar, who is the Special Assistant to the Office of Secretary within the Department of the Interior, and Ms. Mary Katherine Ishee, Deputy Chief of Staff and Senior Advisor to the Assistant Secretary for Land and Minerals Management, also within the Department of the Interior.

I would just tell you how the timing lights work. We have a 5-minute light, and when the green light is on, it means you are doing very well. The yellow light means that you are within 60 seconds. And when the red light comes on, it means the 5 minutes is up.

Now, you submitted a statement for the record. I appreciate that. It is substantially less than 5 minutes, but it will appear in the record.

So, with that, Mr. Kemkar, we will recognize you for your statement.

STATEMENT OF NEAL KEMKAR, SPECIAL ASSISTANT, OFFICE OF THE SECRETARY, U.S. DEPARTMENT OF THE INTERIOR

Mr. KEMKAR. Thank you.

Good morning, Chairman Hastings, Ranking Member Markey, and members of the Committee. My name is Neal Kemkar, and I serve in the Office of the Secretary at the U.S. Department of the Interior. I appear here today at the request of the Committee.

I joined the Department in April 2009 as a Special Assistant to Steve Black, Counselor to the Secretary. In this capacity, my role includes assisting the Counselor in advancing Secretary Salazar's and the Administration's commitment to responsibly develop energy on our Nation's public lands and offshore waters.

On April 20, 2010, the explosion and sinking of the *Deepwater Horizon* oil rig in the Gulf of Mexico killed 11 workers and resulted in the largest oil spill in U.S. history. Over the course of the next 6 months, the Administration's response to the oil spill commanded an extraordinary amount of time and resources from the Department.

Administration officials worked tirelessly with experts from the government, academia, and industry in a wide-ranging effort to conduct an extensive investigation into the *Deepwater Horizon* disaster and to respond quickly and thoroughly to this national emergency.

As part of this response, on April 30, 2010, the President directed Secretary Salazar to prepare within 30 days a report that would evaluate what, if any, additional steps could be taken to improve the safety of oil and gas exploration on the Outer Continental Shelf. That report came to be titled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf." At my supervisor's request, I joined this effort and assisted an exceptionally dedicated team in developing the report over the next 30 days.

Mr. Chairman, members of the Committee, this concludes my testimony, and I would be pleased to answer any questions that you may have.

The CHAIRMAN. Thank you, Mr. Kemkar.

[The prepared statement of Mr. Kemkar follows:]

**Statement of Neal Kemkar, Special Assistant, Office of the Secretary,
U.S. Department of the Interior**

Chairman Hastings, Ranking Member Markey, and Members of the Committee, my name is Neal Kemkar and I currently serve in the Office of the Secretary at the U.S. Department of the Interior (Department). I appear here today at the request of the Committee.

I joined the Department in April 2009 as a special assistant to Steve Black, Counselor to the Secretary. In this capacity, my role includes assisting the Counselor in advancing Secretary Salazar's and the Administration's commitment to responsibly develop energy on our nation's public lands and offshore waters.

On April 20, 2010, the explosion and sinking of the *Deepwater Horizon* oil rig in the Gulf of Mexico killed eleven workers and resulted in the largest oil spill in U.S. history. Over the course of the next six months, the Administration's response to the oil spill commanded an extraordinary amount of the Department's time and resources. Administration officials worked tirelessly with experts from the government, academia, and industry in a wide-reaching effort to conduct an extensive investigation into the *Deepwater Horizon* disaster and to respond quickly and thoroughly to this national emergency.

As part of this response, on April 30, 2010, the President directed Secretary Salazar to prepare, within 30 days, a report evaluating what, if any, additional steps could be taken to improve the safety of oil and gas exploration on the outer continental shelf. That report came to be titled Increased Safety Measures for Energy Development on the Outer Continental Shelf. At my supervisor's request, I joined this effort and assisted an exceptionally dedicated team in developing the report over the next thirty days.

Mr. Chairman and Members of the Committee, I would be pleased to answer any questions you may have.

The CHAIRMAN. Ms. Ishee, you are recognized.

STATEMENT OF MARY KATHERINE ISHEE, DEPUTY CHIEF OF STAFF AND SENIOR ADVISOR TO THE ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Ms. ISHEE. Thank you, Mr. Chairman.

Chairman Hastings, Ranking Member Markey, and members of the Committee, my name is Mary Katherine Ishee, and I currently serve as the Deputy Chief of Staff and Senior Advisor to the Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior.

I am here today, also at the request of the Committee, to provide testimony related to the May 27, 2010, Department report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf." The Committee has requested that I be specifically prepared to give testimony regarding my role in the development, review, and editing of the safety measures report, how the moratorium decision in the report was made, the editing of peer-review language in the report, and activities of the Office of Inspector General.

During the time in question, I served as a Deputy Director for the then-Minerals Management Service. I also worked earlier in my career for the Office of the Solicitor in the Department on Capitol Hill and as a private consultant on energy and environmental issues.

In my capacity as Deputy Director, I was hired to oversee MMS's expanding offshore renewable energy development. However, approximately 12 weeks after I began at MMS, the *Deepwater Horizon* explosion and oil spill occurred. This national crisis necessitated an all-hands-on-deck approach from staff in MMS as well as throughout much of the Department and, indeed, the Federal Government.

The response to the spill placed extraordinary demands on the agency. In addition to working to monitor the blowout and oil spill and helping to determine methods to contain it, agency staff also worked to respond to the enormous number of requests being made for technical and policy information, background data, and briefings. Interest in the crisis was intense from both domestic and international media, Congress, other Federal agencies, State and local governments, and members of the public.

In late April, the President directed the Secretary of the Interior to prepare the report. Preparation of the report was led by the Office of the Secretary, with assistance from staff at MMS and with input from various other agencies and entities both within and outside the Department. These efforts commanded a broad, coordinated, and concerted response from the Department and throughout the Federal Government under compressed timelines and amid competing priorities and evolving challenges.

I was asked by the Director of MMS to oversee MMS's involvement in the development of the report, in coordination with the Office of the Secretary. Because MMS had the expertise critical to developing technical measures, the chapters of the report dealing specifically with the technical safety recommendations were the primary focus of MMS staff.

I understand that the Department is successfully implementing most of the safety recommendations from the report through rulemakings and other means. These measures have led to the development of technologies and practices that are improving the safety of offshore oil and gas development and enhancing the government's response capabilities in the Gulf and elsewhere on the Outer Continental Shelf.

This concludes my testimony, Mr. Chairman. I am happy to answer questions from the Committee.

[The prepared statement of Ms. Ishee follows:]

Statement of Mary Katherine Ishee, Deputy Chief of Staff and Senior Advisor to the Assistant Secretary for Land and Minerals Management, U.S. Department of the Interior

Chairman Hastings, Ranking Member Markey and Members of the Committee, my name is Mary Katherine Ishee, and I currently serve as the Deputy Chief of Staff and Senior Advisor to the Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior (Department). I am here today at the request of the Committee to provide testimony related to the May 27, 2010, Department report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf" (Safety Measures Report or Report). The Committee has requested that I be specifically prepared to give testimony regarding my role in the development, review and editing of the Safety Measures Report, how the moratorium decision in the Report was made, the editing of peer review language in the Report, and activities of the Office of Inspector General.

During the time in question, I served as a Deputy Director for the then-Minerals Management Service (MMS).

Approximately 12 weeks after I began at MMS, the *Deepwater Horizon* explosion and oil spill occurred. This national crisis necessitated an "all-hands-on-deck" approach from staff in MMS, as well as throughout much of the Department and indeed the Federal government. The response to the spill placed extraordinary demands on the agency. In addition to working to monitor the blowout and oil spill, and helping to determine methods to contain it, agency staff also worked to respond to the enormous number of requests being made for technical and policy information, background data, and briefings. Interest in the crisis was intense, from both domestic and international media, Congress, other Federal agencies, state and local governments and members of the public.

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This concludes my testimony, Mr. Chairman. I am happy to answer questions from the Committee.

The CHAIRMAN. Thank you both for your statements.

I will recognize myself now for 5 minutes.

The Department's gamesmanship and unwillingness to provide information and answers to the Committee is what prompted the

Committee's recent vote to authorize subpoenas, which necessitated this hearing.

You both had been on notice since last February of the Committee's interest in speaking to you, and the invitation letter for today's hearing identified topics that you should be prepared to discuss. I expect you to answer the Committee's questions about the moratorium and the White House edits to the peer-review language.

With that in mind, I have a few questions, and I hope that we don't have any more of what I consider stonewalling which we have received from this Administration.

Mr. Kemkar, first, I want to ask you, how did you prepare for this hearing?

Mr. KEMKAR. Mr. Chairman, I reviewed as many documents as I could relevant to the issues that the Committee is interested in.

The CHAIRMAN. Which documents are those?

Mr. KEMKAR. Emails and documents that were involved in the preparation of the 30-day report.

The CHAIRMAN. From what time period to what time period were those documents?

Mr. KEMKAR. Over the course of the 30 days from April 30, 2010, when the President first directed the report, over the next 30 days.

The CHAIRMAN. Were those documents that we had asked you to bring today?

Mr. KEMKAR. Yes, several of those documents were part of the Committee subpoena. Yes.

The CHAIRMAN. Why didn't you bring them?

Mr. KEMKAR. I have been directed by the Solicitor's Office at the Department that those documents are agency records and that I am not authorized to provide those documents to the Committee and that the Department would be responding directly to the Committee's request.

The CHAIRMAN. Have you communicated with Mr. Black recently?

Mr. KEMKAR. Yes.

The CHAIRMAN. In preparation?

Mr. KEMKAR. No.

The CHAIRMAN. Not in preparation?

Mr. KEMKAR. That is correct.

The CHAIRMAN. When is the last time you spoke to him?

Mr. KEMKAR. Earlier this week.

The CHAIRMAN. And it wasn't about this?

Mr. KEMKAR. Right.

The CHAIRMAN. It was not about this.

Mr. KEMKAR. That is correct.

The CHAIRMAN. OK.

Let me ask you, in your preparation, were you advised by anybody on how to answer questions that may come before you in front of this Committee?

Mr. KEMKAR. Yes.

The CHAIRMAN. Who was it that advised you?

Mr. KEMKAR. I consulted personal counsel, and I worked with the Department's Office of Congressional Affairs and counsel.

The CHAIRMAN. And what was their general advice to you?

Mr. KEMKAR. Be truthful. Be honest. Answer the questions the Committee puts before you.

The CHAIRMAN. And you are going to do that today?

Mr. KEMKAR. Yes, sir.

The CHAIRMAN. OK. Ms. Ishee, how did you prepare for this hearing today?

Ms. ISHEE. I also reviewed a number of documents from the time period you requested, sir. I looked at information you have posted on your Web site. I reread the 30-day report—that would be the interim safety measures report. I read the IG report, and I looked at the documents provided to me by the Department.

The CHAIRMAN. To your knowledge, are those the documents that we had subpoenaed?

Ms. ISHEE. I believe yes, some of those documents were documents the Committee has subpoenaed.

The CHAIRMAN. In your view, why don't you think that those have been given to us?

Ms. ISHEE. I have not been personally involved in the document production of the Committee, but I understand the Department has communicated to you their interest in some of these documents and confidentiality interests. But I also do understand that the Department remains very committed and willing to work with the Committee to address your oversight needs on this matter, sir.

The CHAIRMAN. The issue here is the peer review and the response of the peer reviewers to the Executive Summary.

Mr. Kemkar, why do you think the peer reviewers reacted the way they did?

Mr. KEMKAR. It is my understanding that their reading of the language in the Executive Summary gave them the impression that they had been connected to the Secretary's independent policy decision on the moratorium.

The CHAIRMAN. And you don't take that seriously?

Mr. KEMKAR. No, of course I do, and so does the Department. I believe the Department has apologized in writing from the Deputy Secretary; in person, the Secretary has had phone apologies with them and in person. Of course we take it seriously.

The CHAIRMAN. All right.

Mr. KEMKAR. I was just answering the—

The CHAIRMAN. I have a minute to go. Let's put up Exhibit 3 here, real quickly.

This is an email from Mr. Arnold to you. It was sent on May 27th, a little after 2:30. You sent an email to Mr. Black over 2 hours later, and it says, "I suggest we wait to respond." Why did you say that?

Mr. KEMKAR. If I could, I would like to sort of discuss what was happening that day.

First of all, as a point of clarification—

The CHAIRMAN. No, I know—I have limited time—

Mr. KEMKAR. Oh, sure.

The CHAIRMAN. I asked you a specific question. Why did you email Mr. Black saying, "I suggest we wait to respond," 2 hours after you received this email?

Mr. KEMKAR. During those 2 hours in question, I personally was involved in stakeholder briefings with members of industry and

others that were explaining the Secretary's decisions of that day. There was a lot going on that day.

And Mr. Arnold was not one of the NAE peer reviewers. He was a paid technical consultant on contract to the Department. So just to clarify, this is a separate concern. And his concern was not about any juxtaposition of language. He expressed basically disagreement with the Secretary's policy decision as it read in the cover letter.

The CHAIRMAN. OK. My time here is counting down, and I just want to ask—briefly.

Mr. Black responded that "I agree," immediately to your response. Did you have subsequent conversations with Mr. Black as to this subject of why we wait to respond?

Mr. KEMKAR. As to the subject, no.

The CHAIRMAN. So what you are telling me is, after you said, "I suggest we wait to respond," and he says, "I agree," you had no conversations at all on the subject of waiting to respond?

Mr. KEMKAR. Correct. What happened next is he forwarded this note to other more senior members of the Department, and he took over the response. So I didn't—

The CHAIRMAN. You had no conversations with him beyond this?

Mr. KEMKAR. About responses.

The CHAIRMAN. On this issue.

Mr. KEMKAR. About whether we wait to respond to Mr. Arnold, yes.

The CHAIRMAN. All right. My time has expired.

Dr. FLEMING. Mr. Chairman, would you instruct the witness, Ms. Ishee, to speak up closer to the microphone?

Mr. KEMKAR. OK.

Dr. FLEMING. Ms. Ishee, not Mr. Kemkar, he is fine, but Ms. Ishee we are unable to hear.

The CHAIRMAN. All right. Please do that. And I will advise you if we can't hear you.

Mr. Markey is recognized.

Mr. MARKEY. Thank you.

Mr. Kemkar and Ms. Ishee, we want to thank you. You and the others who have worked on this report deserve our gratitude for serving our country so ably in a time of national crisis and for giving us a blueprint for preventing another catastrophic spill. So we thank you for that.

Mr. Kemkar, you helped in the drafting of the 30-day report, including the Executive Summary; is that correct?

Mr. KEMKAR. Yes.

Mr. MARKEY. You were interviewed by an agent with the Department of the Interior's Office of the Inspector General about the editing of the report. You told the agent that there was no intention to misrepresent the views of the peer reviewers. Were you being truthful?

Mr. KEMKAR. Yes, sir.

Mr. MARKEY. At the time the report was released, you didn't think the Executive Summary implied the peer reviewers' support of the 6-month moratorium, did you?

Mr. KEMKAR. I did not. That is correct.

Mr. MARKEY. In fact, the Executive Summary attributed the 6-month moratorium recommendation to Secretary Salazar. It read,

and I quote, "The Secretary recommends a 6-month moratorium on permits for new wells being drilled using floating rigs." It says "the Secretary recommends," is that correct?

Mr. KEMKAR. That is correct, sir.

Mr. MARKEY. So, at that time, you believed that it was clear the recommendation for a 6-month moratorium came from Secretary Salazar, did you not?

Mr. KEMKAR. Yes, I did.

Mr. MARKEY. Now, in the body of the report which followed the Executive Summary, it contained no reference to the 6-month moratorium. The Executive Summary concluded with the following: Quote, "The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering."

At the time, did you understand that to refer to the body of the report? Is that not correct?

Mr. KEMKAR. I did. And that is a very important point. The recommendations contained in the report were the technical safety recommendations. And the language, as you just read, very clearly said that the recommendations contained in the report were reviewed by the safety experts, as you have said.

Mr. MARKEY. And, again, I keep saying to the majority, bring in Secretary Salazar. Just have him sit here and answer all of these questions. Just ask him to come in, not these two people. Just bring in the Secretary, and I think he can explain it to you. But we are ignoring the person who says he made the recommendation, you know? And I think it would clarify a lot, but you continue to refuse to have the Secretary even come here.

Now, Ms. Ishee, you reviewed drafts of the report, is that correct?

Ms. ISHEE. Yes, I did.

Mr. MARKEY. Now, your responsibility in reviewing the drafts was to ensure the technical accuracy of the report, is that correct?

Ms. ISHEE. Primarily the technical accuracy of the technical recommendations. I was focused, working with MMS staff, primarily on identifying and developing the technical safety recommendations in the report and any other places in the report, including the Executive Summary, which might reference those, trying to ensure that they were consistent.

Mr. MARKEY. Now, what role, if any, did you play in editing the Executive Summary and the recommendation for a 6-month moratorium?

Ms. ISHEE. My role in editing the Executive Summary was primarily limited to ensuring that the description of the technical recommendations was consistent with the body of the report. In other words, that in developing the Executive Summary, we didn't lose something in translation from the body of the report.

I don't recall editing or commenting on the moratorium, the policy decision for the moratorium.

Mr. MARKEY. So you had nothing to do with the 6-month moratorium recommendation. Is that what you are saying?

Ms. ISHEE. I don't recall being involved in discussions or in the editing of that.

Mr. MARKEY. Thank you.

To your knowledge, did anyone in the Administration intend to imply that the external reviewers endorsed the 6-month moratorium?

Ms. ISHEE. No, sir.

Mr. MARKEY. Did you ever hear any conversation between Administration officials or Department of the Interior staff about using the external reviewers as political cover for the 6-month moratorium?

Ms. ISHEE. No.

Mr. MARKEY. No. And at any point in time did Secretary Salazar shy away from saying that it is his recommendation?

Ms. ISHEE. To the best of my understanding, the Secretary has consistently said that the moratorium decision was his decision.

Mr. MARKEY. Did you, Mr. Kemkar, ever hear that there was need for political cover for the Secretary to make a 6-month moratorium recommendation?

Mr. KEMKAR. No, sir. It was his decision.

Mr. MARKEY. OK. And was there any attempt to publicly claim that the peer reviewers supported the 6-month moratorium? Was that ever put out there?

Mr. KEMKAR. No. And, in fact, all the public materials that were related to this release—the press release, the transmittal cover memo—all specifically, explicitly said that the Secretary made the decision to recommend the moratorium.

Mr. MARKEY. So, again, there is no evidence that Secretary Salazar ever wanted any political cover. He made the decision. He stood up. He said, let's call a time out, make sure we know what we are doing. And he did so boldly, courageously, historically.

And we should just bring him in here, and he will just tell you he was going to stand up and make the decision. And so, having these people here is just wrong, and I continue to maintain that we are just investigating the wrong thing in the Gulf of Mexico.

The CHAIRMAN. The time of the gentlemen has expired.

I would just advise the Committee that the Secretary is always welcome to come in front of this Committee. But the Secretary was invited here on a coal issue and did not come when he was invited.

And I have personally talked to the Secretary and said that if he comes up here he should be prepared to answer questions as to why he has not answered the subpoenas that were given to him last spring. And if you follow the logical extension of that, he would have to be prepared to explain why he should not be held in contempt because he hasn't complied with the subpoenas.

Now, that is the conversation that I had with the Secretary. He, of course, is always welcome to be here.

I recognize the gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman.

And I know I certainly, personally, look forward to any time Secretary Salazar would come. Not that I will get answers to my questions, but I just look forward and relish those opportunities.

My friend, the Ranking Member, had indicated to the effect that the BP damages from *Deepwater Horizon* will probably not be ever investigated or pursued, and I hope that is not the case.

I realize from reports I had read that the reason the Administration delayed was that BP was telling them, we got it under control.

They were negotiating with BP to come out in support of the “cap and trade” bill, and they wanted a big energy company to come out in support of it, and that may have been the reason that damages continued unabated for so long before this Administration ever stepped up.

My friend also said Congress has put oil ahead of people, and I want to let him know that is not true of the people I know in this body and in this Committee. But I do know that there are people in my district—women, single moms—who are saying, “We cannot afford these gas prices. We are barely getting by. Please help us.” I don’t consider putting oil ahead of people when I try to help a single mom by doing what we can to bring down the price of gasoline that has been artificially increased because of the war against all of the above. I know the President says he is for “all of the above,” but then we find out that apparently just means he is for “all above the ground.” But he has a war, with the Secretary of the Interior and this Department, with things underground, using the EPA, the Department of the Interior. The people that are hurting are real people, and that is who we want to help.

There was also mention of voting giveaways to the oil companies. We have researched every which way we can, and we hear giveaways, we hear subsidies. A subsidy is defined as a gift or grant of money. We cannot find a single gift or grant of money to a single oil company, unless there was some special deal with BP, trying to get them to come out in support of cap and trade. But, otherwise, we can’t find anything. And so there are no giveaways.

Now, oil companies are allowed to deduct the price of doing business. And the things that this President proposed in his job-killing bill actually will kill independent oil producers in America that produce 94 or 95 percent of all the oil and gas wells drilled and operated in America. And all it will do is send more energy, more money to the Middle East. And we understand there is some kind of special feelings there, with this Administration.

The government has a responsibility to be honest, and if the government intentionally misled or recklessly misled the American people and this Committee, it is important that we find out. That is why, after over 200 years of jurisprudence, the rules of evidence are that the credibility of a witness and, in our case, of an agency is always relevant. That is why this hearing is relevant. That is why it is important. If there was a misleading, a misrepresentation, then it is important that we get to the bottom of it.

Mr. Kemkar, I want to know: Do you personally, anywhere within your control, anywhere that you have access, have copies of the documents, any of the documents that were requested by the subpoena?

Mr. KEMKAR. Yes. As I said to the Chairman, I do have access to documents at the Department—

Mr. GOHMERT. OK.

Mr. KEMKAR [continuing]. That would be relevant.

Mr. GOHMERT. At which department?

Mr. KEMKAR. At the Department of the Interior, at work.

Mr. GOHMERT. Where you are working right now. OK. But you were directed specifically not to produce those.

Mr. KEMKAR. Yes.

Mr. GOHMERT. And I may have missed it, but what is the name of the person that so directed you?

Mr. KEMKAR. I was directed by the Office of the Solicitor, specifically by the Acting Principal Deputy Solicitor.

Mr. GOHMERT. And that would be?

Mr. KEMKAR. That would be Mr. Jack Haugrud.

Mr. GOHMERT. OK, thank you.

And I would also add to your direction from them that we direct that you not eliminate, destroy, give back, give away any of those documents currently under your control. OK?

Mr. KEMKAR. Yes, sir.

Mr. GOHMERT. All right, thank you.

And what was the legal basis, the privilege that was being claimed when you were directed not to turn those documents over?

Mr. KEMKAR. The Solicitors have directed me that those documents are properly considered agency documents under their custody and control and that I am not authorized to produce them to the Committee myself.

Mr. GOHMERT. Did they give any reason why those documents would be privileged and not be available, is national security at risk if your documents are provided?

Mr. KEMKAR. No, they did not provide any national security reason to me, just that they are agency documents and that I personally—

Mr. GOHMERT. OK.

Mr. KEMKAR [continuing]. Am not authorized to produce them.

Mr. GOHMERT. All right, thank you.

Do you know of any national security risk if you turn those documents over?

Mr. KEMKAR. I don't.

Mr. GOHMERT. All right, thank you.

I yield back.

The CHAIRMAN. The time of the gentlemen has expired.

The Chair recognizes the gentleman from the Northern Marianas, Mr. Sablan.

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

And, Mr. Kemkar and Ms. Ishee, thank you very much for joining us this morning.

I cannot agree more with Mr. Gohmert because the islands I represent, gasoline could be as high as \$6.25 a gallon. And the BP disaster does not just raise gas 15 time zones away, it affects us also, but there were people that were killed.

Mr. Chairman, when we were having this conversation earlier in a previous meeting, I also asked that we invite the Secretary of the Interior to our offices as individual Members. In my personal office, my staff do things that sometimes I don't like, but I am ultimately responsible. And I would like to see Secretary Salazar come here and respond to our questions, rather than bringing in these two fine officials.

I would also like to say that, at this time, we have 50 percent more floating rigs in the Gulf than before the BP disaster, just to set the record straight also here, because somebody said that, you know, the absence of floating rigs may be the cause of high gasoline on the mainland.

The majority of this Committee has refused to invite the CEOs of largest oil companies to testify on what changes they have made as industry leaders to improve the safety of offshore drilling following the spill. In fact, BP's CEO, Mr. Dudley, has never testified before Congress since assuming that position.

We didn't cause that disaster; BP did. And we need to know from them why it happened. And we need to know from the heads of the largest oil companies that should come before Congress so that the American people can hear what actions they have taken to improve the safety of offshore drilling and assume a leadership role in developing a new safety culture.

Mr. Chairman, at this time, I yield my time to Ranking Member Markey.

Mr. MARKEY. I thank you very much. And let me just follow up on what you just said.

I mean, here is the beauty of the Obama "drill, baby, drill" program. On the day George W. Bush walked out of that White House, our country was 57 percent dependent upon imported oil. And today, under President Obama, just 3½ years later, we are down to 45 dependence upon imported oil. Now, that is a real tribute. That hasn't happened ever.

We are at an 18-year high for drilling in our country, and, by the way, we are also at an 18-year low for our greenhouse gases going up into the atmosphere. What a record. What a great President. What a great oil and gas President. What a great environmental President. You just can't top that record.

Because the numbers, the arithmetic—it is all arithmetic. Now, here is the problem. The numbers didn't add up for President Bush, but the numbers, the arithmetic—it is not even math. It is not calculus, it is not trigonometry. Just simple arithmetic: 57 percent dependence with Bush, 45 percent for Obama. Wow, what a record.

Good luck, everybody. Good luck trying to twist that around. Good luck on that arithmetic.

Mr. GOHMERT. Will the gentleman yield?

Mr. MARKEY. And so I just have a hard time believing that you are going to try to make that case. That is why the polling says that Obama has a 10- to 13-point lead over Romney on energy issues, because you keep going down an empty hole. OK? Obama is over here really drilling and doing a good job bringing up that oil for the American people.

Mr. Kemkar, I want to ask you about how the edits were made in the final stages. These were incremental edits made by you, Steve Black, and Joseph Aldy at the White House, is that correct?

Mr. KEMKAR. That is correct, sir.

Mr. MARKEY. Yes. In an earlier draft that Mr. Aldy sent to Mr. Black and you, the moratorium recommendation appeared under a subhead labeled "Additional Recommendations." This section followed a summary of recommendations from the body of the report; is that correct?

Mr. KEMKAR. That is correct.

Mr. MARKEY. Yes. Then Mr. Black sent a draft back to Mr. Aldy that removed the "Additional Recommendations" subhead. However, the technical peer-reviewed recommendations were still sepa-

rated from the moratorium recommendation by a chart listing the technical recommendations; is that correct?

Mr. KEMKAR. That is correct.

Mr. MARKEY. Yes. You then sent a draft to Mr. Black that moved the moratorium recommendations above the chart because you thought the Secretary's policy recommendations deserved prominence; however, the language stating that the recommendations in this report were peer-reviewed still appeared just after the chart with the peer-reviewed technical recommendations. Is that correct?

Mr. KEMKAR. That is correct.

Mr. MARKEY. Yes. So at 2:00 a.m. Mr. Aldy then sent the final draft to Mr. Black and you that moved the chart listing the peer-reviewed technical recommendations to the very end of the Executive Summary. That collapsed the moratorium recommendation and the language stating that the recommendations in this report were peer-reviewed. Is that correct?

Mr. KEMKAR. Yes.

Mr. MARKEY. OK. So the chronology hardly suggests a conspiracy to mislead. It was incremental, accidental editing done by a team of people under enormous pressure. Is that not correct?

Mr. KEMKAR. It is correct.

Mr. MARKEY. Thank you. I appreciate that.

Mr. KEMKAR. Thank you.

The CHAIRMAN. The Chair recognizes the gentleman from California, Mr. Denham.

Mr. DENHAM. Thank you, Mr. Chair.

And I am actually encouraged to see the Ranking Member, not even he could get that spin out without breaking a smile on that one because it was comical.

I do agree that imports are down, greenhouse gases are down. But if you are going to champion the fact that our businesses are shutting down and that people are not able to afford gas to put in their car, that that is somehow some kind of great record, it is not the kind of record I want to have in my district, where we have twice the national average, where power plants are shutting down, businesses are shutting down because of this President and the policies that he is producing.

So certainly not a record that I would want to run on. Seeing the unemployment rate continuing to skyrocket is disappointing for our Nation.

And I yield the balance of my time to Mr. Gohmert.

Mr. LAMBORN. Lamborn.

Mr. DENHAM. Lamborn. Sorry.

Mr. LAMBORN. Well, I thank the gentleman for yielding.

Mr. GOHMERT. I would be glad to take it. I mean, I have a lot I want to say.

Mr. LAMBORN. Well, I thank the gentleman for yielding.

And thank you both for being here.

Ms. Ishee, I want to focus on your role in some of the early meetings of the drilling safety group. We have documents where you were copied on emails that included drafts of the drilling moratorium report.

Also on those emails was the Acting Inspector General, Ms. Kendall, and others for comments or on invitations for meetings where

the draft report was discussed. Ms. Kendall has recently testified before Congress that she attended these meetings, arguing that she was an active listener.

Were you all in the same room, including Ms. Kendall, when they had these meetings and phone calls?

Ms. ISHEE. I will just say as a preface, quick preface, to make clear what my answer is, that was an extremely busy time, and there were a tremendous number of meetings on a tremendous number of topics related to this bill. So I will give you the best of my recollection as to those particular ones.

I do recall that, early on, the Safety Oversight Board had asked those who were working, myself and others, on the safety report, if they had briefings from MMS staff, informational briefings such as on what BOPs were and what deepwater drilling was all about, if they could be included in those briefings.

As I recall, the reason for that was that MMS was being asked—

Mr. LAMBORN. And was she in the room for some of these same meetings with you?

Ms. ISHEE. My recollection is that she was in the room for possibly one of those informational briefings.

Mr. LAMBORN. Now, what was the purpose of sending drafts of the outline and report to her? And why would Mr. Black be asking for comments if he didn't want comments from her?

Ms. ISHEE. I don't recall that she was sent drafts of the report. She may have been CC'ed, copied on outlines, the early outlines of the report. And I don't know why Mr. Black would have asked for comments, except that possibly if she were CC'ed on them—copied on them, I should say—that often we were copied on documents that we weren't directly—

Mr. LAMBORN. Do you remember if at any time she had comments or made recommendations, whether it was by email or in person, over the phone?

Ms. ISHEE. I don't recall any comments received from her, no.

Mr. LAMBORN. Do you know if any minutes or notes were kept from these meetings or if the meetings or calls were recorded?

Ms. ISHEE. Not to the best of my knowledge.

Mr. LAMBORN. Was the draft report discussed at any of these meetings, the report we are talking about here?

Ms. ISHEE. As I said, I only recall one meeting that she may have been at, which was an informational briefing. That would have been very early on, and we would not have yet developed the report, to the best of my recollection. So I don't recall whether, though, the report itself was mentioned.

Mr. LAMBORN. Was the moratorium discussed at that or any of these similar meetings?

Ms. ISHEE. Not at all, to the best of my recollection, no.

Mr. LAMBORN. So your testimony is that the moratorium was not discussed.

Ms. ISHEE. I believe it was not.

Mr. LAMBORN. You and Mr. Kemkar were both copied on a May 17th email from Steve Black to Wilma Lewis and Mary Kendall thanking them for participating on the call with the peer-review experts and sending copies of the draft report recommendations.

Do you object to his use of the term “participating” to describe their roles?

Ms. ISHEE. My recollection is that they may have been copied on some of those emails. I don’t know if they participated in the calls.

Mr. LAMBORN. So you think he was not using the right determination of their role?

Ms. ISHEE. I don’t recall whether that email was sent to them specifically or whether they were just copied on it.

Mr. LAMBORN. It says, “Wilma et al., thank you for participating on the call today with the NAE identified experts. I would be grateful for your comments and any suggested changes. As always, please do not forward beyond this group except on an as-needed basis and with appropriate caution.”

So he thanked them for participating. Do you disagree? Do you object to that use of language by Mr. Black?

Ms. ISHEE. I don’t remember the specific email that you are referring to, so I don’t know the context of it exactly.

I don’t recall personally participating or being aware of their actual participation. So I don’t recall. You know, I don’t know the total context of that email. We had a million emails, it seemed, around that period.

Mr. LAMBORN. And very quickly, one last question. Did you watch the August 2nd testimony where she testified?

Ms. ISHEE. Yes, sir, I did.

Mr. LAMBORN. And what was your reaction to her answers?

Ms. ISHEE. As I recall, I thought she sounded truthful.

Mr. LAMBORN. You thought she sounded truthful.

Thank you. I yield back.

The CHAIRMAN. The time of the gentlemen has expired.

The Chair recognizes the gentleman from New Mexico, Mr. Luján.

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

We need to be aware of what we say, Mr. Chairman. When we say that the President supports terrorist regimes? I don’t think anyone in here really believes that, Mr. Chairman, and that is dangerous. We love our country, and our President loves our country.

We are here to talk about—again, we have talked about this several times. Why are we here? Why are we having hearings about what happened in the Gulf? Lives lost; devastation that took place in the Gulf; trying to get to the point where we don’t want something like that to happen again. I don’t think anybody does, especially our Members that represent the beautiful districts that were impacted.

You know, I imagine, Mr. Chairman, that when young people, as part of their school day, are watching us and some of them tune into C-SPAN in their civics classes to watch the way we interact with one another—a couple weeks ago, Members were pretty tough on you. And I know when I go back home, people ask me about, where is the civility? Where is the respect? Where can we find a way to respectfully disagree but ask the tough questions that need to be asked, in a way that answers the questions, not just beats up our witnesses?

And, Mr. Chairman, look, when we talk about the price at the pump, the President doesn’t want higher prices at the pump. Heck,

I don't even think Governor Romney wants higher prices at the pump. That is not what this is about. What can we do to lower prices at the pump? And I have asked this every time we have had a hearing on anything that has to do with fuel prices and with oil or gas.

Why can't we move a bipartisan piece of legislation that many of us in this room are both co-sponsors of called the Natural Gas Act that will be able to empower 18-wheelers to move natural gas on the interstate system? Why? We want to stop sending money to rogue nations; we want to keep those dollars here in America? Let's move this bill. Let's move this bill and work with our partners in the Senate to get it to the President and lower prices for the American consumer. Increase demand for what we are seeing with the impact of natural gas. Why can't we do it?

We don't have to wait for an election. We don't have to wait until next year. We have this week and next week left before the election, maybe another week if it is not taken away, to move this legislation. Let's get it done. Let's send the right message to the American people and to American businesses.

I certainly hope, Mr. Chairman, that is something that we concede. Many of us have talked to one another about this bill. Let's move it. Let's get it to the Floor and pass it and get it done.

But we have heard a lot about the dispute over the recommendation of a 6-month moratorium or a pause. I think you can interchange those words. Now when I was home, Mr. Chairman, sometimes I would say "pause," sometimes I would say "moratorium," sometimes we would say "stop." And I use them interchangeably because when we had those Webster dictionaries up here—and I think that staff can get them out if we need to pull them out again, Mr. Chairman, we can look at them.

But as we look at this, the 6-month moratorium has ended, and now there are 50 percent more offshore drilling rigs operating in the Gulf than before the BP spill. And we are a little safer because of it, 50 percent more. Oil production is at a 14-year high, right, 18? I apologize, Mr. Chairman. I said 14, I meant 18. I stand corrected. Natural gas at an all-time high of production.

Dr. FLEMING. Would the gentleman yield?

Mr. LUJÁN. In a second, Mr. Fleming. My time is going to run out here.

And our dependence on foreign sources of oil is at a 20-year low. Fifty percent more offshore drilling rigs operating in the Gulf than before the spill.

Instead of wasting our time on this baseless investigation, we should be looking into how these reforms are progressing and how the industry is implementing them so we can prevent more lives from being lost, so we can still hold what is happening with production, so we can help the American people.

Mr. MARKEY. Would—

Mr. LUJÁN. And if we are serious about this, let's pass an amendment that says what is being produced in America is going to be for American use. That is the only way to guarantee that increased production in the United States will have an impact on the pump.

I yield to Ranking Member Markey.

Mr. MARKEY. Thank you.

A little arithmetic. When Bush left, 750,000 jobs a month were being lost. We went to 10.2 percent unemployment under the Bush recession. Now it is at 8.1 percent. Get the arithmetic on that: 10.2 percent, Bush; 8.1 percent now.

And the Dow went to 6,500 under Bush's recession. It is now at 13,000. So, if you are in the 4th grade, you go, 6,500 times 2, double, equals 13,000.

So do the arithmetic, and what do the Republicans say? Let's go back to Bush's policies. Well, the arithmetic doesn't add up. Who wants to go back to 10.2 percent unemployment with his policies and 6,500 on the Dow, when it is 13,000 on the Dow and 8.2 percent?

The arithmetic just doesn't work for you guys, OK? This is what you are down to, investigating these two people on an editing change.

The CHAIRMAN. The time of the gentlemen has expired.

The Chair recognize Dr. Fleming.

Dr. FLEMING. Thank you, Mr. Chairman.

Mr. Chairman, I don't blame the minority for wanting to change the subject on this.

First of all, production offshore and on Federal lands is down 15 percent. Yes, net production is up overall, but that is on private lands, that is the private sector. Everything that this President has touched has reduced the production of oil. I think the gentleman's rig count is way off. I don't think there is any increase in rig count whatsoever.

But it is more than that; it has affected gas prices. Gas prices are at an all-time high. What about jobs in Louisiana? There has been a net loss of 19,000 jobs as a result of the moratoria, \$1.1 billion of lost wages to people in Louisiana, and a net negative impact of \$12 billion to the local economy.

Now, what about this executive report? Supposedly, it was an editing mistake or something like that. I find that just amazing because, first of all, as I said, this report led to a moratorium, a 6-month moratorium. When this information came out, the President went back and did another moratorium. The court struck it out, and then he did it again. So it is very obvious what the intent was here.

But this is what it says: "Drilling operation should cease as soon as safely practicable for a 6-month period." The very next sentence says, "The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering."

It is obvious what is going on there. That was intended. And the follow-up moratorium fully support that.

So here are my questions, and again, I say to our witnesses today that your credibility is on the line here.

Mr. Kemkar, from the limited number of documents made available to the Committee, it appears that you had a significant role in recruiting and negotiating with the peer reviewers and in helping to coordinate the Department's response to their complaints.

Question one: Was there ever discussion with the peer reviewers on the difference between technical safety recommendations that

they would review and political recommendations that they would not?

Mr. KEMKAR. No, sir. There was no discussion at all about the moratorium or any other political recommendations. It was clear to them from the outset, based on my involvement with them, that their work was limited to that on which they were expert: the technical safety recommendations that were the main focus of the report.

Dr. FLEMING. All right. So there was no indication that they would support a moratorium?

Mr. KEMKAR. Well, just to clarify, there was no indication of what their opinion at all was—

Dr. FLEMING. Well, that was not the question. The question is, did they indicate that it would, and your answer is, no, there was nothing that would suggest that.

Was a moratorium recommendation or any short-term full stop in the drilling operation ever discussed with the peer reviewers before the report was issued?

Mr. KEMKAR. It was present in the May 25th draft that they saw, but for the reason that I just stated, it wasn't discussed with them, because it wasn't their role to comment on it.

Dr. FLEMING. Why was the Department so reluctant to have the moratorium peer-reviewed?

Mr. KEMKAR. Well, it is not, sir, that the Department was reluctant. It is just that there were separate tracks, there were separate decisions, there was one set of decisions that was happening—

Dr. FLEMING. Well, sir, the sentences that I said were conflated here. They were put right next to each other. First, yes, there is going to be a 6-month moratorium, and very next sentence says that the peer reviewers agree with the recommendations. But you are saying that they were totally disassociated. That makes no sense.

Mr. KEMKAR. Well, Congressman, if you heard Congressman Markey's chronology, I think that laid bare the difference of what was happening here. It was a series—

Dr. FLEMING. I don't believe Congressman Markey was involved in that process, so I am not going to lend credibility to that.

Was it because the Department was afraid that they would say it would not increase safety?

Mr. KEMKAR. I am sorry, Congressman?

Dr. FLEMING. Well, again—

Mr. KEMKAR. Could you repeat that?

Dr. FLEMING. Yes, a follow-up question. Is there any indication, did they indicate in any way that any moratoria at all would increase safety?

Mr. KEMKAR. They did not comment, or neither were they asked to comment, on a moratorium.

Dr. FLEMING. OK. So there was no reason to believe, at least from the experts, that safety would be enhanced in any way through any moratoria.

Mr. KEMKAR. Just to repeat, they were never asked about—

Dr. FLEMING. But they never volunteered it, either, did they?

Mr. KEMKAR. That is right.

Dr. FLEMING. OK.

Mr. KEMKAR. Yes.

Dr. FLEMING. It appears that the peer reviewers were asked to provide comments on the May 17th version of the draft report recommendations, as well as the later May 25th version that was apparently sent to the White House.

Question: Did either of these versions sent to the peer reviewers contain a draft of the Executive Summary?

Mr. KEMKAR. The May 25th report did, yes.

Dr. FLEMING. OK. Did either of those drafts given to the peer reviewers discuss the moratorium?

Mr. KEMKAR. The May 25th draft did, yes.

Dr. FLEMING. And can you connect that in any way for us, what the draft said and how that related to the peer-review process?

Mr. KEMKAR. Sure, I am happy to try. Again, this was just over 2 years ago. But in preparing for this hearing, I did review several of the documents, so if this can be helpful to the Committee, let me try to lay it out.

As we discussed earlier, the draft that they saw on the morning of May 25th at 9:30 a.m. and we discussed that evening at 5:00 p.m. contained in the Executive Summary a listing of the Secretary's moratorium recommendation under a sub-header that said "Additional Measures."

So, to connect it, over the next several days, over the next 2 days, the whole report, including the Executive Summary, underwent a series of additional edits. Some of those edits included removing that "Additional Measures" sub-header but still retaining a huge, page-long chart in between the Secretary's policy recommendation and the technical safety recommendations.

And then that version was sent over to White House staff, Mr. Aldy in particular, the evening of Wednesday, May 26th. And that version came back further edited from Mr. Aldy, with that chart moved to become Table Executive Summary 1.

And I believe that the confluence over the series of edits there, of copyedits, basically led to the confusion. Because once the chart was removed and that sub-header was removed, by different people, over a series of edits, working in a team, that basically the distinction—

Dr. FLEMING. I understand.

Just as I yield back, let me just say that—

The CHAIRMAN. The time has expired.

Dr. FLEMING [continuing]. It is pretty obvious that it was not by accident; it was by intent.

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

Mr. FLORES. Thank you, Mr. Chairman.

Mr. Kemkar, Committee staff were allowed to review but they weren't give a copy of the May 25th memo that you were just talking about with Mr. Fleming. And that was the draft of the Executive Summary that we have been talking about.

That draft references an Appendix A that doesn't appear in the final version of the report. And that appendix appears to suggest that the Department was considering and the peer reviewers were asked to consider, rather than a blanket moratorium, a process that would allow operators to resume operations quickly if they

could satisfy a list of safety requirements that were included in that Appendix A.

In the final version of the report, the Appendix A was changed. It now lists the peer reviewers, and the blanket drilling moratorium was imposed instead.

I want your help to understand what was in the original Appendix A that the Administration refuses to share with the Committee but that was a key component of the peer-reviewed document. Indeed, it appears that the original Appendix A counteracts what the Administration ultimately did when it imposed the drilling moratorium.

So my questions are this. Who wrote the original Appendix A?

Mr. KEMKAR. I don't recall.

Mr. FLORES. OK.

Mr. KEMKAR. There were a number of drafts going around. I don't recall.

Mr. FLORES. Number two, why won't you share the original Appendix A with Congress, when it is part of our constitutionally mandated oversight duty to look at things like this?

Mr. KEMKAR. Congressman, I appreciate the oversight duty of this Committee. I am not personally involved in the production of documents to the Committee. I am here as a fact witness to help the Committee with what I can tell them.

Mr. FLORES. Did the version of the drilling report that went to the White House include the safety review process that we talked about in the original Appendix A?

Well, let me rephrase that. Did the version of the drilling report that went to the White House include the safety review process, apparently referred to as Appendix A, that would allow operators to resume drilling if they met certain safety requirements?

Mr. KEMKAR. Sorry, Congressman, I am not following. Can you tell me, when you say it went to the White House, what day—just—I don't understand the question.

Mr. FLORES. On the May 25th draft, there was an Appendix A that had this temporary pause in drilling, have operators comply with a safety review process, and then a quick restart of drilling. That was in the original Appendix A, apparently.

Now, did the version of the drilling report that went to the White House have that Appendix A in it?

Mr. KEMKAR. Without having the documents in front of me, I couldn't say whether it was included or not.

Mr. FLORES. OK. So you probably won't have the answer to the next question: How did that safety review process work? Do you know?

Mr. KEMKAR. When you say the safety review—

Mr. FLORES. In the original Appendix A, it had the pause, then a safety review, and then a restart.

Mr. KEMKAR. I couldn't say. No, I don't—

Mr. FLORES. Don't know how it works.

Mr. KEMKAR. Yes. Sorry.

Mr. FLORES. It appears that no one asked the peer reviewers whether a blanket 6-month moratorium would increase safety. I mean, we have kind of said that already.

Were the peer reviewers asked to review and comment on the process set forth in the Appendix A that was in the original May 25th draft?

Mr. KEMKAR. Again, without remembering exactly what is in that appendix, the clearest way I can say it is, the peer reviewers were asked to review that on which they were expert: technical safety recommendations—nothing else, nothing less.

Mr. FLORES. OK. So we don't know the answer to this one: Did they comment that it would have been safer and a lot less economically harmful to do that instead of a blanket moratorium?

Mr. KEMKAR. You are correct; we don't know the answer to that.

Mr. FLORES. OK.

And then last, but not least, why were shallow-water operations included in the ultimate moratorium when this accident occurred on a deepwater drilling rig in conditions that are totally different, technically and operationally, as compared to each other?

Mr. KEMKAR. Congressman, if you are asking me about the substance of the moratorium, as Special Assistant, I was not involved in the policymaking decisions—

Mr. FLORES. Did you hear anybody talk about it?

Mr. KEMKAR [continuing]. About whether to implement the moratorium. And my focus was based on this report and moving it forward, getting it done under incredible pressure and in a tight timeline.

Mr. FLORES. I understand that, but did you overhear anybody, I mean, the Secretary or your boss, talking about, let's go ahead and throw in shallow-water operations, too, so we can throw another several thousand people out of work?

Mr. KEMKAR. No, sir.

Mr. FLORES. You didn't?

Mr. KEMKAR. No.

Mr. FLORES. OK. All right. I yield back.

Mr. LAMBORN. [presiding.] The Chair recognizes Representative Landry of Louisiana.

Mr. LANDRY. Ms. Ishee, as part of this investigation into the drilling moratorium report, the IG interviewed Steve Black, Neal Kemkar, and your former boss, Ms. Liz Birnbaum. However, the IG never requested documents from you or interviewed you, even though Ms. Birnbaum suggested they do so.

According to her, there was a lot—and I will quote—and this is an exhibit that I have. According to her, there was a lot of interest in the report from the White House, and you worked with several people from the White House on developing the drilling moratorium. That is the exhibit up here. That is from her comments.

Can you tell me exactly who you worked with from the White House?

Ms. ISHEE. Yes. Early in the process, maybe early May, as I said, MMS was providing staff support to the Office of the Secretary, which was developing the report. And early on, we understood that the report would be developed in coordination and consultation with White House staff.

And so, very early in the process, we were put in touch with White House staff. I may even have had some communication via email with career staff at the White House and others about—

Mr. LANDRY. Any particular people that come to mind by name?

Ms. ISHEE. I recall that the agencies that were involved were some career folks at OMB, some at CEQ. I believe there were people from—

Mr. LANDRY. How about Carol Browner?

Ms. ISHEE. I don't recall Carol Browner being—

Mr. LANDRY. Heather Zichal?

Ms. ISHEE. Pardon me?

Mr. LANDRY. Heather Zichal, Z-I-C-H-A-L?

Ms. ISHEE. Heather—

Mr. LANDRY. Joe Aldy—Heather?

Ms. ISHEE. I am sorry. Ms. Zichal may have been copied on some of those early emails.

Mr. LANDRY. Joe Aldy?

Ms. ISHEE. Yes, I believe he was copied, yes, or—

Mr. LANDRY. OK.

Ms. ISHEE [continuing]. Yes, was involved.

Mr. LANDRY. Do you remember having any electronic exchanges by email or other documents reflecting these communications?

Ms. ISHEE. Yes. Especially early in the process, there were a few communications between White House staff, who were helping with the report, especially the informational sections of the report but possibly others, and my staff and I. Particularly, they gave suggestions on ideas that may be addressed in the report, for example.

Mr. LANDRY. According to the IG's transcript, you had informed Ms. Birnbaum that the moratorium had been inserted into the report's Executive Summary by Steven Black at the direction of the White House. Is that correct?

Ms. ISHEE. I don't recall saying those precise words to Ms. Birnbaum, but I do recall that I explained to her that the Executive Summary had been drafted by the Office of the Secretary in coordination with the White House.

Mr. LANDRY. Do you remember specifically about the insertion of the moratorium?

Ms. ISHEE. Yes, my recollection of the conversation I had with Ms. Birnbaum was that she asked me why the moratorium language had been placed in the Executive Summary, and my recollection is that I explained to her that the Office of the Secretary had been drafting the Executive Summary. I had not been involved in the discussions about that policy decision, but I assumed that—I knew that the Secretary's Office and the White House had been consulting together on this. And so, therefore, I assumed that this was in consultation with the White House.

Mr. LANDRY. So you don't know exactly who inserted the moratorium language into the Executive Summary. Would that be a fair statement? I mean, you can make an assumption, I mean, I would hate for you to go on record on an assumption; that wouldn't be very fair. That is OK, I am just curious.

But somebody did insert it into the Executive Summary. By deductive reasoning, it would either be the White House or the Secretary's Office. Would that be a fair statement?

Ms. ISHEE. I don't know if that would be a fair statement or not. I don't know who inserted that language. But I do know that the

Secretary's Office was drafting the Executive Summary in coordination with White House staff.

Mr. LANDRY. Did you ever have any conversations with the White House about the decision to insert the moratorium into the Executive Summary or have any conversations at all with the White House concerning the language of the moratorium?

Ms. ISHEE. I don't recall having any conversations of that nature.

Mr. LANDRY. OK.

Mr. Chairman, I yield back.

The CHAIRMAN. [Presiding.] The Chair recognizes the gentleman from California, Mr. McClintock.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

Mr. Kemkar, Ms. Ishee, you have both refused to comply with a lawful subpoena issued by the U.S. House of Representatives. That is a very, very serious and grave matter.

Now, Mr. Kemkar, you testified earlier that you had been advised by the Solicitor General that you should not provide the Committee with these subpoenaed documents?

Mr. KEMKAR. No, sir. By the Office of the Solicitor at the Department of the Interior.

Mr. MCCLINTOCK. Is not the Office of the Solicitor General advisory and not authoritative?

Mr. KEMKAR. I am sorry? The Office of the Solicitor General is not involved here. The Office of the Solicitor at the Department of the Interior has instructed me that the documents that the Committee seeks are agency records and that I am not authorized to—

Mr. MCCLINTOCK. Are they in a position of authority over you, or is this simply advice that you are taking?

Mr. KEMKAR. They have directed me accordingly.

Mr. MCCLINTOCK. So this is an authority over you that has directed you not to comply with a lawful congressional subpoena?

Mr. KEMKAR. Yes.

Mr. MCCLINTOCK. So your refusal, then, to comply with the subpoena is on the grounds that you were acting under the orders of a superior; is that correct?

Mr. KEMKAR. What I have said and will say again is that I have not been authorized to produce documents to the Committee because the Office of the Solicitor at the Department of the Interior has instructed me that I am not authorized.

Mr. MCCLINTOCK. Which is a superior to you.

Mr. KEMKAR. They are the Department's lawyers, and they have instructed me—

Mr. MCCLINTOCK. If they are the Department's lawyers, they are giving you advice; they are not directing you to take actions.

Are you taking this action on your own authority, or has somebody in a superior position directed you to take it?

Mr. KEMKAR. The Solicitors at the Department of the Interior have instructed me that—

Mr. MCCLINTOCK. On whose authority, Mr. Kemkar, have you refused to comply with a lawful congressional subpoena?

Mr. KEMKAR. The Acting Principal Deputy Solicitor of the Department of the Interior, Mr. Jack Haugrud.

Mr. MCCLINTOCK. Who is your superior.

You keep dancing around the question, Mr. Kemkar, and I am getting a little tired of it.

Mr. KEMKAR. Well, I—

Mr. MCCLINTOCK. Are you doing this on your own authority, or are you doing this on the Department's authority—because you have been directed by a superior?

Mr. KEMKAR. I have been directed by the Department, yes.

Mr. MCCLINTOCK. All right.

Ms. ISHEE, is that your response, as well?

Ms. ISHEE. I have not provided documents to the Committee because, yes, I have been instructed by the Department that I don't have authority to provide agency records.

Mr. MCCLINTOCK. Which is a superior over you.

Ms. ISHEE. Yes, sir.

Mr. MCCLINTOCK. So you are not taking this on your own authority but on the authority of a superior?

Ms. ISHEE. That is correct.

Mr. MCCLINTOCK. I am going to read to both of you a ruling by the Federal Court in *United States v. Tobin*. "Noncompliance with a congressional subpoena by government officials may not be justified on the ground that they were acting under the orders of a superior."

You have both testified that that is the grounds for which you have refused to comply with the subpoena. Are you aware that your statements expose you to being held in contempt of the Congress?

Mr. Kemkar?

Mr. KEMKAR. I was not aware of that, Congressman. And I would hope that—

The CHAIRMAN. All right. Well, then, now that you aware of it, will you now produce those documents, yes or no?

Mr. KEMKAR. No, sir.

Mr. MCCLINTOCK. Ms. Ishee?

Ms. ISHEE. My understanding is that the documents requested by the Committee are agency records. They are not my records, sir. So I have been instructed that I am not authorized—

Mr. MCCLINTOCK. You have been subpoenaed to produce them. You have refused to produce them based on the directions of the superior. You have just been informed that the Federal courts have held that that is not grounds for refusal to comply.

The question I have put to you is, will you now produce those documents? Yes or no?

Ms. ISHEE. I haven't read that decision, so I don't know the full parameters of—

Mr. MCCLINTOCK. Will you now produce those documents, yes or no?

Ms. ISHEE. But, no, I am not in a position to produce those documents.

Mr. MCCLINTOCK. Mr. Chairman, I believe the House should proceed to hold Mr. Kemkar and Ms. Ishee in contempt and to pursue what legal sanctions against them that are available to us.

Mr. LUJÁN. Mr. Chairman?

Mr. MCCLINTOCK. That is not a motion; that is an opinion.

Don't interrupt me, Mr. Luján. I am acting on my time.

Mr. LUJÁN. Mr. Chairman, point of clarification?

Mr. MCCLINTOCK. I am not yielding to Mr. Luján.

The CHAIRMAN. Would the gentleman yield?

Mr. MCCLINTOCK. No, I do not yield to Mr. Luján.

The CHAIRMAN. Will you yield to me?

Mr. MCCLINTOCK. Yes.

The CHAIRMAN. As I mentioned in my opening statement, there is a great deal of frustration on the part of the Chairman and the majority of this Committee of not getting information from this Administration.

And I also said in my opening statement that we will go to where we need to go in order to get the information that we are asking. And that certainly would be part of where that process would go, because that is given to us under the authority of the rules of the House. And I intend to go as far as we need in order to get that information.

Mr. LUJÁN. Mr. Chairman?

The CHAIRMAN. The time of the gentleman has expired.

Does the gentleman have a point of order?

Mr. LUJÁN. Yes, sir.

The CHAIRMAN. Well, then state the point of order.

Mr. LUJÁN. Mr. Chairman, the reason that I was seeking to get the recognition of the Chair, I appreciate the scolding of my colleague, not to interrupt him, but his words were "I move," Mr. Chairman. We can go back and check the transcripts.

I was only seeking the Chair's recognition to object to the motion, which, under my understanding of the rules, would require unanimous consent. That is the only reason I was seeking that.

Mr. MCCLINTOCK. Mr. Chairman?

The CHAIRMAN. I will let the gentleman from California respond.

Mr. MCCLINTOCK. The gentleman needs to listen more carefully. I did not say that I moved. I said, "Mr. Chairman, I believe that this House should proceed," and I do.

The CHAIRMAN. Clarification is made.

Mr. Holt is recognized for 5 minutes. The gentleman from New Jersey, Mr. Holt?

Mr. HOLT. May I defer?

The CHAIRMAN. Of course you can. Forever?

Mr. HOLT. I pass.

The CHAIRMAN. Forever?

Mr. HOLT. For the moment, Mr. Chairman. Thank you.

The CHAIRMAN. For the moment.

Mr. Lamborn is recognized for 5 minutes.

Mr. LAMBORN. Thank you, Mr. Chairman. And I am going to yield my time to a representative, a colleague on this Committee, who has been a watchdog on a very vital energy issue for the future of our country, Representative Johnson of Ohio.

Mr. JOHNSON. I thank you, Mr. Lamborn, for yielding.

Ms. Ishee, as you know, this Committee sent letters to the Department in February and April of 2011 requesting information about the rewrite of the stream buffer zone rule. It also issued subpoenas earlier this year, which the Department has not fully complied with.

Given your role in coordinating OSM's search for documents, when you did you become aware that there were audio recordings of the meetings with the contractors?

Ms. ISHEE. Sir, I appreciate the question. I will say that I did not prepare, in advance of this hearing, for questions related to that topic. I will answer what I can, but I don't—

Mr. JOHNSON. Well, in the notification for this hearing, ma'am, it was clear that we were going to be addressing the moratorium and other matters. And you were clearly involved in OSM, as the assistant to Director Pizarchik, so these questions are certainly germane to what we have here. So I would expect you to be prepared when you come before this Committee.

So, again, when did you become aware that there were audio recordings of meetings with the contractors?

Ms. ISHEE. Again, sir, if I may, I am happy to answer your questions to the best of my ability. I came prepared specifically on the questions that were outlined—

Mr. JOHNSON. You have a memory, Ms. Ishee. You have a memory. Are you aware that there are audio recordings of meetings with the contractors?

Ms. ISHEE. Yes, and I will—

Mr. JOHNSON. OK. You are aware that there are audio recordings. Are you also aware that those audio recordings have not been provided to this Committee, as required by the subpoena?

Ms. ISHEE. I will say that I will be happy to answer questions. I don't remember—

Mr. JOHNSON. Are you aware that—

Mr. LUJÁN. Mr. Chairman?

Mr. JOHNSON. How many of these recordings have been provided?

Mr. LUJÁN. Mr. Chairman, a point of order?

Mr. JOHNSON. I will not yield, Mr. Chairman.

The CHAIRMAN. The gentleman states a point of order.

State your point of order.

Mr. LUJÁN. Mr. Chairman, "Committee Oversight of the Department of the Interior: Questioning of Key Department of the Interior Officials" pertaining to the spill in the Gulf is what this hearing is about, is it not?

The CHAIRMAN. On the point, the title of this Committee hearing is "Committee Oversight of Department of the Interior: Questioning of Key Department of the Interior Officials." That is what the title of this hearing is about.

In the letter that was sent to Ms. Ishee and Mr. Kemkar, on the second page, the second full paragraph, it says, in preparing for your appearance, you should be prepared to answer questions and so forth. And it says "other departmental matters of which you may have personal knowledge."

This falls into that category, the line of questioning that Mr. Johnson is asking. It falls in line and consistent with the request.

Mr. LUJÁN. So, Mr. Chairman, any unrelated issues to the report is fair game? That is sufficient notice to the witnesses?

The CHAIRMAN. Well, only when it is germane. And, in this particular case, Mr. Johnson's line of questioning to Ms. Ishee is germane because it is personal knowledge that they may have.

Reset the time for Mr. Johnson. It was 2:45, so let's reset it to 2:45.

Mr. Johnson is recognized.

Mr. JOHNSON. Ms. Ishee, I have a copy of the email that you sent to the Department asking for those records to be collected. How many of these recordings have been collected? Dozens? Hundreds? Thousands? Any idea?

Ms. ISHEE. Sir, I don't—

Mr. JOHNSON. You sent the email, and certainly they would be responding to you.

Ms. ISHEE. That is correct. And I will say I don't recall directly that specific email or what was contained in it. I—

Mr. JOHNSON. Well, we can show it to you. It is up there on the screen, so you can see what was in it. It says, collect the records, all the records, as requested by Chairman Hastings.

So how many documents have been collected? Any? Has your Department received any documents as a response to this email?

Ms. ISHEE. Sir, I do recall that we received documents. I don't recall how many.

Mr. JOHNSON. Do you know if these documents are just sitting in a file somewhere collecting dust, or are they organized and prepared to be sent to this Committee?

Ms. ISHEE. The Department provides the records specifically to the Committees, sir, and I don't know the status of those. It has been several months since I stopped working with OSM, and I don't recall the status of those or know.

Mr. JOHNSON. OK. Ms. Ishee, you have held a number of very interesting and varied jobs at the Department during the Obama Administration. First, you were a Deputy Director in the Minerals Management Service, where you were involved in developing the drilling moratorium report. After that, you moved to the Office of Surface Mining Reclamation and Enforcement, where you worked as Senior Advisor to Director Pizarchik.

Since the start of the Obama Administration, OSM has been working to rewrite the stream buffer zone rule. And the Department even entered into a settlement agreement with environmental groups, promising to finalize a new rule in July of 2012. But months later, the rule still hasn't been proposed, let alone finalized.

Mr. Pizarchik recently testified before the Committee that the Department was devoting significant resources to revising the stream buffer zone rule, but he did not know when it would be proposed or finalized.

So do you know what the timing is for proposing this rule? Is it after the election in November?

Ms. ISHEE. I don't know what the time is. No, I don't.

Mr. JOHNSON. OK. Do you know the status of the environmental impact statement and regulatory impact analysis that were nearly complete 1 year ago?

Ms. ISHEE. To the best of my understanding, that is still under consideration by the agency.

Mr. JOHNSON. Do you know if OSM is still working on these activities today, on these documents today?

Ms. ISHEE. To the best of my knowledge, the agency continues to work on the issues.

Mr. JOHNSON. I said the Office of Surface Mining and Reclamation. Are they working on this activity today?

Ms. ISHEE. Yes, sir, that is what I said, the agency. I am sorry, I meant the OSM. To the best of my understanding, they are continuing to work on that, yes.

Mr. JOHNSON. OK. Is there an internal deadline for this work to be completed?

Ms. ISHEE. If there is, I don't know what that is. I don't know.

The CHAIRMAN. Time of the gentleman has expired.

Mr. JOHNSON. Mr. Chairman, I have additional questions, but I will yield back. I see my time has expired.

The CHAIRMAN. Time has expired.

Mr. HOLT, are you ready?

Mr. HOLT. Yes, Mr. Chairman.

The CHAIRMAN. You are recognized for 5 minutes.

Mr. HOLT. Thank you. I would like to talk a little bit about peer review.

The OMB guidance to all departments and agencies entitled, "Final Information Quality Bulletin for Peer Review," states that, quote, "To the extent permitted by law, each agency shall conduct a peer review on all influential scientific information that the agency intends to disseminate. Peer reviewers shall be charged with reviewing scientific and technical matters, leaving policy determinations for the agency," end quote.

I trust that everyone involved in reports from the Department of the Interior is familiar with that OMB guidance. Are you familiar with that OMB guidance, let me ask both of you.

Ms. ISHEE. I am not personally familiar with it, although it sounds familiar. But I don't personally know the contents.

Mr. HOLT. Well, my question—yes, sir?

Mr. KEMKAR. The same.

Mr. HOLT. Yes. My question for you is this: Was it the Department of the Interior's understanding that the peer reviewers were reviewing scientific and technical matters for this report?

Mr. KEMKAR. I can speak to that. Yes.

Ms. ISHEE. That was my understanding.

Mr. HOLT. Thank you.

To your knowledge, did anyone at Interior ever tell the peer reviewers that they would be signing off on or have veto authority over the Department's policy decisions?

Mr. KEMKAR. No.

Ms. ISHEE. To the best of my understanding, no.

Mr. HOLT. OK. So, as you understand it, it was not the job of the peer reviewers to sign off on the Secretary's policy recommendations for a 6-month moratorium recommendation, was it?

Mr. KEMKAR. It wasn't. That is correct.

Mr. HOLT. It was not.

Now, typically, just because something is peer-reviewed doesn't mean that the peer reviewers support all of the conclusions. Peer review is done, as we have just established, for technical and scientific accuracy and integrity. This is consistent with the OMB guidance.

The Executive Summary concludes with the line, quote, "The recommendations in this report were peer-reviewed by seven experts identified by the National Academy of Engineering," end quote.

Some of the peer reviewers seem to have read that statement and the words "peer-reviewed" to mean "supported." They thought the text was saying that they supported everything in the report and Executive Summary.

If they interpreted these words, "peer-reviewed," to mean supported in full by the expert panel, was that, according to your understanding, a correct interpretation of the statement?

Mr. KEMKAR. I can speak to that.

No. According to my understanding of the situation, as you have stated, the peer reviewers were explicitly asked to review that on which they were expert, the technical safety recommendations, and only that.

Mr. HOLT. All right. Further on this subject, why did the Interior Department seek the assistance of peer reviewers in preparing this report? This is maybe a little bit repetitive, but I do want to establish this.

Mr. KEMKAR. Sure. Well, let me take the opportunity to bring us back to May of 2010, it was a crisis moment, a very important set of recommendations in a very compressed period of time, and—

Mr. HOLT. I am looking for, actually, a shorter answer. Why do you have peer reviewers?

Mr. KEMKAR. Oh. Well, frankly, just to make sure that those recommendations are as sound as they can be, to make sure that offshore oil and gas drilling is done as safely as possible in the future.

Mr. HOLT. And how did the Department find these peer reviewers?

Mr. KEMKAR. The Department reached out to the National Academies of Science, and Dr. Peter Blair sort of canvassed the field of experts and suggested these seven.

Mr. HOLT. OK. And the Academy of Engineering.

Mr. KEMKAR. Yes, the Academy of Engineering specifically.

Mr. HOLT. Mr. Kemkar, were you the primary contact for the peer reviewers?

Mr. KEMKAR. I was one of them, sir, yes.

Mr. HOLT. One of them. OK.

Can you describe the relationship between the Department and the peer reviewers? Was it a good working relationship?

Mr. KEMKAR. In my view, it was a fantastic working relationship. These were dedicated men working as volunteers in an area in which very few people in the country were expert. And we had a great relationship.

Mr. HOLT. And leading up to the final report, the reviewers praised the work that—

Mr. KEMKAR. Yes.

Mr. HOLT [continuing]. Was in this report, I believe.

Mr. KEMKAR. Memorably, one of them, who was a professor at his day job, said, "This is excellent work. A-plus on this report."

Mr. HOLT. OK. When the Department heard that there were some complaints from reviewers, Secretary Salazar immediately sent public letters to the reviewers making clear that the moratorium recommendation was his, not theirs; is that correct?

Mr. KEMKAR. That is correct.

Mr. HOLT. And who decided to send that letter?

Mr. KEMKAR. That letter went out under Deputy Secretary Hayes's signature.

Mr. HOLT. OK. And was there support within the Department for sending those letters, that public letter?

Mr. KEMKAR. To the best of my knowledge, yes, sir.

Mr. HOLT. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

And thank you to the witnesses.

Mr. Kemkar, the IG interviewed you in July 2010. And, according to the IG's interview summary, you said you did not know who drafted the Executive Summary, just that it was the result of a lot of back-and-forth between the Department and the White House staff, such as Joe Aldy, but that you did the final review of the White House edits that contained the inaccurate peer-review language. Is that accurate?

Mr. KEMKAR. Yes. I told the interviewers from the Inspector General's Office—

Mr. THOMPSON. Do you feel any responsibility for causing the confusion about the moratorium and whether the peer reviewers supported it?

Mr. KEMKAR. Sir, as I read that document, I did not read it the way that the peer reviewers did. The language in the report itself, the text of it says, "the recommendations contained in this report." I wasn't really familiar with the report and—

Mr. THOMPSON. So your answer is, no, you don't feel any responsibility for causing any of the confusion.

Mr. KEMKAR. Sitting here today, I, of course, can see how they have made themselves clear on how they see it. When I read it at that time, I didn't see it that way.

Mr. THOMPSON. So your answer is you think it might be possible that—

Mr. KEMKAR. I am sorry?

Mr. THOMPSON. So your answer is you think it might be possible that you helped to create the confusion.

Mr. KEMKAR. No, sir. What I am saying is, at that time, I didn't read it that way.

Mr. THOMPSON. OK.

Mr. KEMKAR. Sitting here today, after seeing the way the NAE experts reacted, I can see what they are saying.

Mr. THOMPSON. Well, you certainly have me confused.

Now, given your involvement in preparing the drilling moratorium report and given your awareness of Mary Kendall's involvement, you are in a unique position to assist the IG's investigation.

What was your reaction to learning that the IG was conducting an investigation, given your awareness of Mary Kendall's participation in meetings and access to the drafts leading up to the final report?

Mr. KEMKAR. I was contacted by representatives from the Office of the Inspector General, who informed me that they were con-

ducting an investigation, asked for an interview, which I granted with two agents, I think Agent Humbert and another agent.

Mr. THOMPSON. During that interview, did you discuss Mary Kendall's participation with the IG investigators?

Mr. KEMKAR. I am sorry, Mary Kendall's participation in what, sir?

Mr. THOMPSON. Participation in the meetings and access to the drafts leading up to the final report.

Mr. KEMKAR. No.

Mr. THOMPSON. Do you think Ms. Kendall should have recused her office from investigating?

Mr. KEMKAR. I have no opinion on that.

Mr. THOMPSON. OK. Did you have any discussions with Steve Black or anyone else about their interviews with the IG's investigators?

Mr. KEMKAR. The way it happened is, they asked me for an interview, and I granted it, and I spoke to them directly.

Mr. THOMPSON. All right. Now, according to the IG interview summary, you discussed having email exchanges with White House officials on Carol Browner's staff discussing the edits in the draft report. Did you discuss providing these documents to the IG?

Mr. KEMKAR. They did not request the documents.

Mr. THOMPSON. So the IG never requested the documents. Did you offer them?

Mr. KEMKAR. Yes. I said I had the documents and yes, I did.

Mr. THOMPSON. Would these documents or others have corroborated your statements to the IG that the edits were not intentional?

Mr. KEMKAR. Yes.

Mr. THOMPSON. And were there any communications with anyone else outside of the Department discussing the moratorium or edits to the report, including OMB? And did you or anyone else receive edits from OMB?

Mr. KEMKAR. I am sorry—oh, just to the last question, I believe the Department did receive edits from OMB, yes.

Mr. THOMPSON. I understand that you have been on detail from the Department to the White House, serving as a climate change policy expert, and you played a central role in developing the drilling report.

Were you at the Department or at the White House at the time of the Committee's April 2011 request?

Mr. KEMKAR. It would depend on the date of the request. I began my detail in May. Actually, I began my detail in May 2011. So I guess I was still at the Department.

Mr. THOMPSON. So you would have been there. Or you—

Mr. KEMKAR. I would have been at the Department in April of 2011—

Mr. THOMPSON. OK. Great.

Mr. KEMKAR.—on detail in May of 2011.

Mr. THOMPSON. Thanks for the clarification.

Mr. KEMKAR. Sure.

Mr. THOMPSON. When were you made aware of the Committee's April 2011 document request?

Mr. KEMKAR. I can't say with any certainty, but within weeks after the request, probably.

Mr. THOMPSON. Were you ever asked to search for or collect documents for this investigation, or did the Department somehow collect them in your absence?

Mr. KEMKAR. I have not been involved in the document production for this request.

Mr. THOMPSON. And did you ever take notes at any meetings where the drilling report or the moratorium was discussed?

Mr. KEMKAR. The Department has access to all my records.

Mr. THOMPSON. OK. Were these identified in the search, your notes?

Mr. KEMKAR. Again, I have not been involved with the document production request. I am here as a fact witness today. So I really couldn't speak to what has been identified and what hasn't.

Mr. THOMPSON. And just briefly, finally, have you ever deleted any emails or other documents concerning the moratorium or the drilling report?

Mr. KEMKAR. No.

Mr. THOMPSON. OK.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman.

Ms. Ishee, at the time of the *Deepwater Horizon* explosion, you were Deputy Director of the Minerals Management Service. Can you tell us about the state of offshore drilling safety at the time of the spill and why the report recommended new safeguards?

Ms. ISHEE. Well, as I think many of you know, the explosion had occurred on the *Deepwater Horizon*, and the Macondo well was spilling into the Gulf. So, at that time, there was a tremendous amount of attention focused on containing that spill, which had not been contained, certainly, at the time we were working on the report. And I do know that the MMS staff and Department staff were very, very concerned about addressing that spill, a spill of national significance which was, at that time, soiling coastlines and coating seabirds and having a tremendous negative impact on both the fisheries industries, the commercial recreational industries.

And I do know that in our conversations, or those that I was aware of, with industry, they were equally concerned that the cause of this be identified and that additional measures be put in place to make sure that accidents like this did not happen again.

Mr. KILDEE. And for both witnesses, can you tell us what happened after the report was issued to implement its recommendations?

Ms. ISHEE. Well, I can sort of answer that.

The Department moved forward to implement these recommendations in a number of regulatory actions. They had an interim final safety drilling rule, which has now been finalized.

They also issued a rule on safety environmental management systems, which contains regulations for organizational management so that everybody on board a rig understands what to do in case of an emergency. That rule has also been finalized, and I believe the Department has proposed another version of that.

The Department has also issued an NTL, notice to lessees and operators, with some of the provisions from the recommendation.

So my understanding is that the Department has moved forward to successfully implement the recommendations in the report and that industry is working very hard to make sure they are complying with those.

Mr. KILDEE. Isn't it true that a number of recommendations for various rulemakings and safeguards are still being developed?

Ms. ISHEE. I believe the Department is working with a number of groups to continue to look very closely at what additional measures, if any, ought to be taken, including working closely with industry organizations to examine future actions.

The Department is also taking the high number of recommendations that have come in from the many studies and commissions that were put in place after the *Deepwater Horizon*, and they are working very hard to implement those recommendations, as well.

Mr. KILDEE. OK. My final question, is deepwater drilling safer today, and will it be even safer in the future, because of the report and the adoption of the recommendations?

Ms. ISHEE. I think there is very substantial agreement, both within the Department and throughout the industry, that, yes, the industry is safer now on the basis of these recommendations and their implementation and other measures that have been examined and implemented since the Macondo spill; that, yes, the industry is safer in the Gulf of Mexico and anywhere offshore the United States than it was before this spill, yes, sir.

Mr. KILDEE. Thank you. And I thank you for your work. Thank you very much.

Thank you, Mr. Chairman.

Mr. LUJÁN. If the gentleman would yield?

Mr. KILDEE. I would be happy to yield.

Mr. LUJÁN. Mr. Kildee, thank you so much.

I guess for the media in the room today, breaking news, the word "pause" and "moratorium" have been interchanged. That is why we are here.

And if we could just take a minute to go back to try to remember what Secretary Salazar and the United States of America were going through at the time that this moratorium was put in place. People died, again.

The companies that were responsible for this spill had issued a plan and gave assurances that they could stop the oil from spilling. We know that wasn't true.

At the same time, something else happened in America, let us not forget, as well, that they were trying to push landfill waste as part of one of their solutions to plug this hole. That didn't seem to work either.

But something else happened in America about the same time. Toyota had a recall, a pause, a moratorium, because their pedals were stuck. And at the time that these articles were written, at least 34 people's deaths were attributed to this pause, to this temporary stopping of production and sales in this area.

You know, let me just read again. "Moratorium," definition: a suspension of action. When we look at "pause": to stop temporarily and remain.

I mean, Mr. Chairman, there has to be a way for us to go back and remember again what happened here. And I appreciate the commitment here to get to the bottom of this, but I think that we would concur that the words—

The CHAIRMAN. The time—

Mr. LUJÁN [continuing]. Have been interchanged.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Virginia, Mr. Wittman.

Mr. WITTMAN. Thank you, Mr. Chairman.

I would like to yield my time to the gentleman from Louisiana, Mr. Landry.

Mr. LANDRY. Thank you, Mr. Wittman.

For the media, breaking news, OK, breaking news. Mr. Luján has just given us a great example of why this moratorium was unnecessary. Because not all wells drilled in the Gulf of Mexico are exactly the same, just like all cars built by different manufacturers are not the same. You see? And so what he has done is given us a great example that if the Administration had listened to the scientific community and to the experts, that the moratorium was unnecessary.

The reason we are here is to show the American people that its government hurt them in the pocketbook, and that this Administration had the ability to take a pause, like Toyota did, and said, “BP, you have to stop drilling. But, Shell, you drill differently than BP and you can keep doing it.”

You see, that is the smoke and mirrors that occur here on this Hill that those people who are watching, those children in their civics lessons, they can’t discern, they don’t understand. They don’t understand why this government is so dysfunctional.

Now—

Mr. LUJÁN. Would the gentleman yield?

Mr. LANDRY. The gentleman will not yield, since you wouldn’t yield to some of my colleagues.

However, here is what I want the two of you to understand. There are some jobs that are inherently dangerous in this country. Wouldn’t you both agree with that, OK. There are jobs that are inherently dangerous, that regardless of how much the government believes that it can mother-hen over, they are going to be inherently dangerous.

We understand that in Louisiana and in the Gulf of Mexico. Because the same people who lost loved ones in the Gulf of Mexico—and we should never forget those tragic 11 lives that were lost; it was a tragic event—they came here to this very Hill to plead with the Administration not to implement this moratorium because of the devastating effect it would have on families in and around the Gulf Coast.

My district was ground zero for both the oil spill and the effects of this moratorium.

I appreciate what all you guys are doing, OK? Your superiors are throwing you completely under the bus. All right? That is not how the system is supposed to work, guys. You should be answering these questions based upon the information that you have, and not taking directives to protect people who don’t deserve that protection.

Now, Ms. Ishee, are you aware of any discussions or documents where Secretary Salazar, David Hayes, or Steven Black, or anyone else at the White House expressed concern that the moratorium could result in a loss of jobs and greater economic harm to the region?

Ms. ISHEE. I don't recall. I don't recall. I don't recall that prior to the issuance of the findings of the 30-day report, I don't recall being involved in discussions or communications specifically related to a decision as to whether to impose a moratorium—

Mr. LANDRY. So at any time when they discussed a moratorium, was economic harm or job loss ever raised?

Ms. ISHEE. It was not raised to me prior to finalization of the 30-day report, I don't believe.

Mr. LANDRY. Mr. Kemkar?

Mr. KEMKAR. Congressman, I wasn't involved in the policy decision relative to the moratorium.

Mr. LANDRY. No, no, no. I am not asking if you were involved in the policy decisions. I am asking you if you ever heard anyone, during the time that you were involved in any of these discussions, talk about economic harm or job loss. Yes or no?

Mr. KEMKAR. No.

Mr. LANDRY. Thank you.

Ms. Ishee, are you aware or did anyone recommend not moving forward because of economic harm?

Ms. ISHEE. Are you speaking about the moratorium, sir?

Mr. LANDRY. About the moratorium, right.

Ms. ISHEE. Again, I don't recall being involved in discussions, myself, personally, about inserting that decision into the report. I don't know what discussions they may or may not have had.

Mr. LANDRY. Do you think they just didn't care about it, the economic impact?

Ms. ISHEE. Do I think that? No, I don't think that they didn't care.

Mr. LANDRY. OK. Mr. Chairman?

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New York, Mr. Tonko.

Mr. TONKO. Thank you, Mr. Chairman.

The majority has insinuated that Administration officials intentionally misrepresented the views of the report's peer reviewers for political cover. Yet, the press release announcing the report makes no mention of the peer reviewers. Rather, it says the recommendation for a 6-month moratorium came from Secretary Salazar.

For both witnesses, if you would please respond. Was there ever any talk about needing political cover for the 6-month moratorium recommendation?

Ms. ISHEE. I never heard any such—

Mr. KEMKAR. Neither did I, sir.

Mr. TONKO. So the answer from both of you is "No."

Was there any attempt to publicly claim that the peer reviewers supported the 6-month moratorium?

Mr. KEMKAR. No, not that I am aware of. As you indicated, the press release did not mention them. And the cover letter that was attached to the top of this report explicitly said that this was a recommendation by the Secretary.

Mr. TONKO. So you both stand by “no” as an answer?

Ms. ISHEE. That is correct.

Mr. TONKO. Thank you. The Administration did not need, nor did it seek, political cover for the moratorium. Eleven men were dead, and oil was gushing into the Gulf. A 6-month timeout was a minimal response.

In contrast, the House Republicans are in desperate need of political cover. These years of oil-industry boosterism based on faulty promises of safety and environmental responsibility are, indeed, an embarrassment. This investigation is an attempt to change the subject.

So I say to the majority, congratulations, you have revealed the plan to create political cover for misguided and misinformed policy. Of course, it turns out that plan is yours and not the Administration’s.

For both of you witnesses, can you please take us back to April 2010, BP’s *Deepwater Horizon* well has exploded. Nearly 60,000 barrels of oil are pouring into the Gulf each day. What is happening at the Interior Department at that time, and what prompts the move to work on this 30-day report?

Mr. KEMKAR. I can start, and then I will turn it over to Ms. Ishee.

At that time, as you have suggested, there is oil gushing into the Gulf. It is not clear when or even if the spill will be capped. The President has directed the Secretary to look at, even before any of the root-cause investigations are done, to look at what immediate measures, interim measures, can be taken. It is an all-hands-on-deck approach through a number of people at the Department and, frankly, across the Administration to really respond to this national crisis.

This one report was just a small part of this all-hands-on-deck effort and folks working as many hours as they could in the day to respond to this national crisis. That is my recollection.

Mr. TONKO. Ms. Ishee?

Ms. ISHEE. Yes, that is correct with my recollection, as well, that, at the time, there was, as I said in my statement I think, there was intense scrutiny from around the world on this spill. This was the largest spill that had ever occurred in the United States, possibly offshore, at all. And there was intense media interest, both domestic and international, as I have said. Of course, Members of Congress had tremendous interest in this.

Within the Federal Government, the agency was getting a number of requests, frankly, overwhelming, to a large extent, for briefings, for information papers, for documents, for background information, for updates on what was going on at the time. So we were definitely in, being a small agency, definitely in a very crisis-response sort of mode and working literally 12-, 14-, 16-, 18-hour days around the clock, trying to respond as responsibly as we could to the multiple demands made on staff, on resources and departmental resources. And the 30-day report, as Mr. Kemkar said, was a part of that effort.

Mr. TONKO. Thank you, to each of you. I want to thank both of our witnesses for their service to our country. There was a crisis, and you stepped up, the Department stepped up. You deserve our

gratitude, certainly not the questions you are getting at this hearing.

I want to add additional context to this discussion. There was a transmittal letter from Secretary Salazar to the President that accompanied the 30-day report. This one-page letter included the following paragraph, and I quote: “In addition to approving the important recommendations in this report, I also recommend that you impose a moratorium on all oil and gas drilling activity from floating rigs for 6 months. A moratorium would enable the Department to develop additional details regarding several of the recommendations, while also providing the Presidential commission with an opportunity to comment upon and potentially adjust the recommendations as part of the comprehensive review.”

This paragraph clearly distinguishes the moratorium recommendation from the other peer-reviewed technical recommendations. It recommends the moratorium as complementary to the peer-reviewed technical recommendations, and not part of those recommendations.

Would both of our witnesses agree with that assessment?

Mr. KEMKAR. I would.

Ms. ISHEE. Yes, sir.

Mr. TONKO. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN OF SOUTH CAROLINA. Thank you, Mr. Chairman.

You know, I am amazed at the level of arrogance that we witness from this Administration and the levels of obstruction we have witnessed, not just with this agency, but agencies of this Administration to CYA—the failure to admit that a lot of decisions are made for political reasons.

I looked at the White House website. In the section on transparency and open government, it says this in the first line: “My Administration,” the Obama Administration, “is committed to creating an unprecedented level of openness in government.” But yet, we are not going to get the documents that a congressional subpoena requires.

So if this is an unprecedented level of openness in government—it is unprecedented. It is unprecedented in the wrong way, though, because there is no openness in government.

And I want to remind the Administration that, as much as they wanted to strike a blow at big oil—and they did—in the Gulf of Mexico with this moratorium, let us not forget that it wasn’t just big oil that felt the effects of this. This was tens of thousands of families that were dramatically affected in their livelihoods, their ability to produce an income, having to move and seek jobs in other parts of the country.

And so, with that, Mr. Chairman, I will yield the balance of my time to Mr. Landry.

Mr. LANDRY. Thank you, Mr. Duncan. Thank you for always working to help those people down on the Gulf Coast to get some of those jobs back.

Ms. Ishee, I just want to continue on for a minute. Do you believe that it was always or were you ever part of or heard of any discussions or know of any emails whereby an extended moratorium was discussed prior to receiving the peer-review report? In other words, before the National Academy of Sciences had issued a report, that the White House or the Secretary's Office had already been discussing a 6-month moratorium?

Ms. ISHEE. I am sorry, when you say "the National Academy of Sciences had issued a report," which report do you mean?

Mr. LANDRY. Well, before they had even commented, before they had gotten any peer comments, before there were any outside or third-party discussions, or before they were brought into the discussion, just within the White House or the Interior Department, were they discussing a 6-month moratorium?

Ms. ISHEE. I don't know. I was not involved in any such discussions.

Mr. LANDRY. And you know of no emails that may have gone back and forth whereby they may have discussed a 6-month moratorium prior to getting any independent advice?

Ms. ISHEE. I will say there were many discussions going on. So, to the best of my recollection, I was not personally involved in discussions, prior to the issuance of the 30-day report, of the imposition of a moratorium. I don't recall being—

Mr. LANDRY. Mr. Kemkar?

Mr. KEMKAR. Likewise, sir. To the best of my recollection, I was not involved in any of the policy decisions to institute a moratorium, I only focused on preparing the report itself.

Mr. LANDRY. OK, thank you.

Mr. Chairman, I would like to yield my time to Mr. Johnson.

Mr. DUNCAN OF SOUTH CAROLINA. Mr. Chairman, I yield back the balance of my time to Mr. Johnson.

Mr. JOHNSON. I thank the gentleman for yielding.

Ms. Ishee, we were on the subject earlier of the stream buffer zone rule and the settlement that had been reached. Are you aware of any discussions with the litigants to give them an update?

Ms. ISHEE. I don't know what discussions are currently happening, as, again, I don't have a clear recollection of matters from that time period, as I haven't refreshed my recollection on any of that. But I don't know what discussions might be going on currently.

Mr. JOHNSON. Are you aware of any discussions with OMB or the White House on the status or the timing of this rule?

Ms. ISHEE. I don't know what discussions may or may not be occurring on the timing or the status of the rule.

Mr. JOHNSON. Have you received or seen any emails regarding a new deadline for proposing the stream protection rule?

Ms. ISHEE. Again, sir, I am not currently working on that matter directly, and I don't know what—

Mr. JOHNSON. Before you left?

Ms. ISHEE. Before I left, I don't recall what—I—

Mr. JOHNSON. If there has been no communication, then do you have any idea why the litigants have not complained? Do you have an opinion about why the litigants have not complained about the delay in meeting the settlement agreement deadline?

Ms. ISHEE. I don't know the mindset of the litigants, no, sir.

The CHAIRMAN. The gentleman's time has expired, but he has his own time, so I recognize him for 5 minutes.

Mr. LUJÁN. Mr. Chairman, a point of order?

The CHAIRMAN. Point of order.

Mr. LUJÁN. Mr. Chairman, the minority strenuously objects to your allowing Mr. Johnson to proceed with the line of questioning unrelated to the topic the witnesses were—

The CHAIRMAN. That is not a point of order.

The gentleman from Ohio is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman.

Is there an understanding in place with these environmental groups that the rule cannot be issued until the political winds are more favorable? Are you familiar with anything about that?

Ms. ISHEE. I am sorry, sir. Again, could you repeat your question? I apologize.

Mr. JOHNSON. Sure. I said, are you aware, is there any understanding in place with these litigants, the groups that filed the settlement case that was settled in the first place, that the rule cannot be issued until the political winds are more favorable?

Mr. LUJÁN. Mr. Chairman, point of order. And my point of order is—

The CHAIRMAN. The gentleman is recognized for his point of order.

Mr. LUJÁN. Mr. Chairman, my point of order is based on what I believe to be a violation of Committee rules. If I could state my point of order, Mr. Chairman?

The CHAIRMAN. State your point of order.

Mr. LUJÁN. Again, Mr. Chairman, the minority strenuously objects to your allowing Mr. Johnson to proceed with the line of questioning to the topic witnesses were invited here to testify about.

Committee Rule 3(d) clearly states that a Member shall limit his remarks to the subject matter under consideration. The Chairman shall enforce the proceeding provision. It is not sufficient for the Chairman to state that the invitation to the witnesses asked them to be prepared to answer questions about, and I quote from the letter that was submitted on August 30th to Mr. Neal Kemkar and Ms. Katherine Ishee, "other Department matters of which they may have personal knowledge."

Both the Committee's subpoenas to these witnesses and the letters you have sent to them very clearly are focused on the editing of the report on the 30-day moratorium. To allow a line of questioning to proceed on an unrelated rulemaking is unfair to the witnesses as an inclusion and a deceptive, underhanded tactic that is beneath the dignity of this Committee.

In the future, I would ask that the Chair keep the hearing focused on the specific issues that the witnesses have been asked to appear for, Mr. Chairman. And, again, the letter, I think this is very clear. The first paragraph includes the Gulf of Mexico drilling moratorium, and the fifth paragraph, the second full paragraph on page 2, includes an adequate description of what the witnesses were prepared for.

The CHAIRMAN. The Chair will rule on your point of order.

Again, the agenda for today's meeting is the "Committee Oversight of Department of the Interior: Questioning of Key Department of the Interior Officials." That is what the title of this hearing is, and his line of questioning is consistent with that.

The second point is in the letter, "other departmental matters of which you may have personal knowledge." Again, Mr. Johnson's line of questioning falls within that realm.

So your point of order is not well-taken, and—

Mr. LUJÁN. Mr. Chairman, if I may, though, the paragraph 5, second full paragraph on page 2 of the letter, I will quote: "In preparing for your appearance, you should be prepared to answer questions on: number one," which is bulleted, "your roles in assisting with developing, reviewing, and editing the drilling moratorium report; number two, how the moratorium decision was made without any technical or scientific analysis; number three, whether the peer-review language in the drilling moratorium report was intentionally misrepresented to justify the economically devastating moratorium decision; and, number four, the activities of the Office of Inspector General and other departmental matters of which you may have personal knowledge."

I think that it was specific and I think that the letter was well-written, Mr. Chairman. The majority staff did a phenomenal job with laying out their argument associated with why the witnesses should be here today. And that is all that I am asking, Mr. Chairman, so I appreciate your—

The CHAIRMAN. And I appreciate the gentleman saying that, but in the Chair's interpretation, because of the title of the hearing, information from Department of the Interior, and with that phrase, which you read, after four, that it is consistent with the line of questioning of Mr. Johnson.

Mr. LUJÁN. Thank you for the consideration, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman.

Ms. Ishee, only days after coming into office, the Obama Administration decided to scrap the 2008 rule and tried to replace it without following notice and comment rulemaking requirements.

This just seems to have been the start of the Department's rushed and sloppy efforts to rewrite the rule in coordination with environmental groups who had sued and settled with the government, as opposed to taking time to see whether the 2008 rule would work and to involve the States and regulated community who would be impacted by the rule change.

Why did the Administration rush to rewrite the rule rather than wait for the rule to be implemented, the 2008 rule to be implemented, to see whether it would work or not?

Ms. ISHEE. Congressman, I appreciate your questions and your line of questions, but I will say I do know that the Director was here to testify, and I believe the Director was able to answer questions more specifically on that topic.

Mr. JOHNSON. No, I am asking you. I am not asking the Director; I am asking you. You were the Executive Assistant to the Director, so I am asking you.

Ms. ISHEE. I am sorry, sir, what was your question specifically?

Mr. JOHNSON. Why did the Administration rush on rewrite the rule rather than wait for the rule to be implemented to see whether it worked?

Ms. ISHEE. I don't have specific recollections of those matters, but, again, if the Congressman would like specific answers and I would have the opportunity to refresh my recollection, I would be happy to work with the Department to get you answers back in writing.

Mr. JOHNSON. OK, that would be great. What role has OSM's hasty and fumbling attempts to rewrite the rule had in causing regulatory uncertainty in States and in the mining industry, resulting in job loss and decreased coal production?

Ms. ISHEE. Again, I am sorry, sir, the specific question is?

Mr. JOHNSON. What role has OSM's hasty and fumbling attempts to rewrite the rule had in causing regulatory uncertainty in States and in the mining industry, resulting in job loss and decreased coal production?

Ms. ISHEE. I don't believe the agency has proposed a rule yet, sir. So I don't know what impacts a rule that hasn't—

Mr. JOHNSON. No, I didn't say the proposed rule. I said the attempts to rewrite the rule, the uncertainty that has been created as a result of their attempt to rewrite the rule. Do you have an opinion on how that uncertainty has caused the States and the mining industry problems in terms of job loss and decreased coal production?

Ms. ISHEE. I mean, just as a general topic, I would say that agencies work on proposed rules all the time. I am not aware of any particular—

Mr. JOHNSON. Let's move into something more specific, then. How did you respond to complaints from States that OSM did not give them sufficient time to review or provide a meaningful opportunity to comment on a draft environmental impact statement in support of the rule change?

Ms. ISHEE. Again, I hesitate to give answers when I haven't refreshed my recollection because I have not done that in preparation for this hearing.

Mr. JOHNSON. Well, let's go to Exhibit 1, if we could. There is an email to you that you were clearly identified on that says—if I am not mistaken, it says, "This letter is on the way from WGA." Hopefully that will help your memory some.

Ms. ISHEE. With great apologies, I actually cannot read that from here, so I can't tell. I will rely on what I can hear from you, sir.

Mr. JOHNSON. OK, well, I can read it for you. What is circled in red up there is your name in the "to" line. And what it says is, "FYI, this letter is on the way from WGA."

So you received the letter from the States, from the Western Governors' Association, saying that they were concerned about the time that they were given, or lack of time that they were given, to comment.

Ms. ISHEE. And I am sorry, can you tell me who the email is from and to?

Mr. JOHNSON. Yes. The letter is from Gail Adams on February 28, 2011, and it is to Mary Katherine Ishee. That is you, right?

Ms. ISHEE. Yes, sir.

Mr. JOHNSON. OK. "FYI, this letter is on the way from WGA." And it accompanies, and has an attachment, the Western Governors' Association letter to Secretary Salazar in which they talk about their concerns over the amount of time that they had to provide meaningful comments on the draft environmental statement.

So what response—how did you respond to receiving that email and that letter?

Ms. ISHEE. I can say, in general, responses within the agency would have been for the—letters would come into the agency, and there would be program responses to allow them to understand what the facts were, and then that would be drafted.

Mr. JOHNSON. Well, Mr. Chairman, I yield back.

I will say that the people in my district in the State of Ohio are still outraged at this Administration's attack on the coal industry. And it is unfortunate that we are simply not getting answers from the Administration on this issue.

The CHAIRMAN. I appreciate the gentleman's remarks.

And I have purposely tried to be a little bit flexible on the time on both sides because I think this issue and the other issues that we are talking about is very important.

Let me just make an observation, as we conclude this hearing. In testimony of what we have heard, this has always been characterized as just a mistake or a misunderstanding. But when you have such an immediate response by the peer reviewers and I acknowledge, the peer reviewers said that the work was good; they felt that they were part of the process. Mr. Kemkar testified to that extent.

But when you have such a firestorm afterwards, where they say the placement—and, frankly, I don't know how anybody, although you testified otherwise, I don't know how anybody can say that this was peer-reviewed, would come to any other conclusion than the peer reviewers.

So the issue, then, is, how did that come about? And that is really all we are asking. And the line of questioning on the other side of the aisle was, was there intention? And the response was, well, no, there was no intention. OK, fine. Produce the documents. What is there to hide?

And in regard to the documents, the reason that we subpoenaed you for those documents is because we want to get the information. I acknowledge the Department of the Interior hasn't given us a good reason. They have not asserted Executive Privilege, for example, on that. That would be their fallback position.

So I will just simply say, in light of what line of questioning that Mr. McClintock had of you and your responsibility to produce those documents and my response to him about how this Committee intends to go as far as we need to to get that information, and again, if there is nothing there, what is there to hide?

So I would ask you to maybe reconsider what your thoughts were, and this will—

Mr. LUJÁN. Mr. Chairman, if I could ask unanimous consent?

The CHAIRMAN. I will recognize the gentleman for unanimous consent.

Mr. LUJÁN. Chairman, thank you for your indulgence.

I would ask unanimous consent to submit a statement into the record, a three-page statement.

[The prepared statement of Mr. Luján follows:]

Statement of The Honorable Ben Ray Luján, a Representative in Congress from the State of New Mexico

I want us all to remember what was going on at the time Secretary Salazar made the recommendation for a six-month drilling moratorium in the Gulf. More than 60,000 barrels of oil per day were spilling into the Gulf. Despite the assurances that had been made by BP in its oil spill response plan that, as we know now, was seriously inadequate in containing the spill.

That was the reason we had a moratorium. It was clearly demonstrated that there was no plan to contain the Macondo well and a moratorium was necessary to assess and contain the damage. My colleagues act as if the Administration pulled this moratorium out of thin air, or as if there was some internal conspiracy within the Department of Interior to stop drilling in the Gulf. These assumptions are ludicrous and we must remember the seriousness of the situation and the tremendous damage the spill caused.

I'd like to point out the fact that BP, in its scrambling to deal with the spill, made increasingly desperate attempts to stop the spill including the infamous "Junk Shot" where they shot golf balls and bits of shredded rubber into the oil spewing well to try and plug it.

The last thing we needed at that time was a second disaster, as it was clear BP could not respond to the first. That is the point here. Secretary Salazar implemented a drilling moratorium to stop further damage, not to arbitrarily penalize oil companies.

I want to reference the Wall Street Journal article entitled "Effort to Plug Well Hangs in Balance" published on May 29, 2010. This article outlined the many failed attempts to plug the well and the public's outrage at the spill.

U.S. NEWS

May 29, 2010

Effort to Plug Well Hangs in Balance

By MIGUEL BUSTILLO and GUY CHAZAN

GRAND ISLE, La.—BP PLC struggled for a second day Friday to stop the oil gushing from the area where the *Deepwater Horizon* blew up, as President Obama traveled here to try to assure residents the federal government is doing everything it can to protect them.

BP said its "top kill" procedure is beating back the Gulf of Mexico oil leak, but the job is not finished.

The president's visit to Grand Isle, a thin barrier island on the far southern tip of Louisiana about two and a half hours south of New Orleans, came as BP faced a day of stops and starts in its latest effort to stem the flow of oil. In the operation, known as a "top kill," heavy drilling liquids were being pumped into the well to stem the gushing oil.

The president's trip came after several days of rising criticism in Washington and from local and state officials, coastal residents and fishermen that his administration hasn't taken command of the Gulf spill. It was Mr. Obama's second trip to the Louisiana coast since the *Deepwater Horizon* exploded April 20, killing 11, rupturing the pipe below and setting off the largest oil spill in U.S. history.

After picking up tar balls on a beach here, Mr. Obama met the governors of Louisiana, Alabama and Florida and local officials. Nearby, a young man held a hand-written sign reading, "Clean up the Gulf," in black letters resembling dripping oil.

Flanked by the governors, the president acknowledged the frustration and anger wouldn't lift until the flow is stopped and the oil is cleaned. But he gave what he called a solemn pledge: "We will hold ourselves responsible to do what it takes, as long as it takes, to stop this catastrophe, to repair the damage and to keep this region on its feet."

His brief visit, interrupting a Memorial Day vacation in Chicago, followed a series of moves Thursday that included slamming the brakes on offshore oil drilling and accepting the resignation of his top oil regulator.

Though some Louisianans have expressed wariness of the government since Hurricane Katrina in 2005, it has taken time for anger over the oil spill to build. Some

residents were initially optimistic about the Obama administration's promise to respond swiftly to the disaster.

Weeks later, the oil threatens to degrade Louisiana's fragile marshlands, doing long term damage to the state's vital fishing and tourism industries. And initial hopefulness has eroded in recent days as the federal government has continued looking for direction to BP, which has been unable to put a stop to the runaway spill despite company and government spending of more than \$930 million.

President Obama said experts were ready to intervene if the "top kill" operation failed. Doug Suttles, BP's chief operating officer, said Friday afternoon it was still unclear whether the procedure had been a success, although it was "going basically according to plan."

The company has already started discussing a new back-up plan, which could be deployed in a couple of days, and would involve cutting and removing the damaged pipe from which the crude is leaking. BP would then lower a containment dome onto the top of the huge stack of valves standing on the seabed known as a blow-out preventer and bring oil and gas through it up to a waiting vessel on the surface.

In the meantime, BP continued Friday periodically pumping heavy fluid under pressure into the blowout preventer and then monitoring the results. Theoretically, the fluid should be heavy enough to counteract the pressure of the oil surging upwards. If the operation proves successful, cement would then be injected into the well to seal it.

"Throwing multiple levels of bureaucracy and politically fearful middle managers into a project does not tend to get things done quickly or efficiently."—Tom Tucker

The company was also injecting junk, such as golf balls and shredded tires, to plug leaks in the blowout preventer. Mr. Suttles said that was "helping to some degree."

All these procedures would still be stop-gap measures until a relief well can be drilled, which will take two months or more.

Meanwhile, as oil has begun washing ashore, state and local officials have begun complaining more vocally about a lack of assistance from the federal government on the front lines of the disaster.

Louisiana U.S. Sen. David Vitter, a Republican, called the federal response "B.S." and suggested the president cancel his weekend vacation Friday during a radio interview with always-lively New Orleans talk radio station WWL, which serves as a lightning rod for local angst.

One caller grumbled, "Is the Louisiana fishing industry not on the 'too big to fail' list?"

Louisiana Gov. Bobby Jindal, a Republican, this past week criticized federal authorities for not providing enough boom to protect the Louisiana coastline, while local parish leaders complained that it is taking too long to cut through federal red tape and obtain permission to build sand berms along the coast to block oil from moving inside.

"I'm not for bigger government, but it is time for the president to take over," Billy Ward said Friday as he walked along Grand Isle's beach. "BP cut corners and now all of southern Louisiana is suffering. If you can't fish here, this island is dead."

The beaches here, which would have swelled this holiday weekend with visitors, were blocked off with wooden "Beach Closed" signs largely and devoid of visitors Friday other than cleanup crews.

An unusually high number of crews arrived in yellow school buses Friday morning, worked feverishly to tidy up the beaches prior to the president's arrival, and then quickly left after he flew past, angering some locals.

"Right when the helicopters got out of view, they took their work clothes off and threw them in the trash," said Bill Hadaway, 58, an electrical contractor.

Mr. LUJÁN. And, also, Mr. Chairman, unanimous consent to submit an article from the McClatchy-Tribune News Service, Sunday, May 9, 2010, from cleveland.com titled, "Oil Spill Junk Shot: BP Tries Tire Shreds, Golf Balls to Clog Leak."

The CHAIRMAN. Without objection, that will be part of the record. [The article submitted for the record by Mr. Luján follows:]

The Miami Herald.

Oil spill junk shot: BP tries tire shreds, golf balls to clog leak

Published: Sunday, May 09, 2010, 4:26 PM Updated: Sunday, May 09, 2010, 4:32 PM By McClatchy-Tribune News Service The Plain Dealer

JENNIFER LEBOVICH, DONNA MELTON and PATRICIA MAZZEI, McClatchy Newspapers

BILOXI, Mississippi—If you can't turn it off, try clogging it: Golf balls and shredded tires may be the latest solution to stop a leak spewing crude into the Gulf, a top Coast Guard official said Sunday morning.

"The next tactic is going to be something they call a junk shot," U.S. Coast Guard Commandant Thad Allen said on Face the Nation.

"They're actually going to take a bunch of debris, shredded up tires, golf balls and things like that and under very high pressure shoot it into the preventer itself and see if they can clog it up and stop the leak," Allen said. The concept has been used before but is "exotic" and Allen cautioned there were difficulties with that plan as well.

It was not clear when such a plan—developed by BP—might be put in place.

But the effort to plug one of the leaks with debris came as the oil giant was reassessing its options, a day after an attempt to lower a 78-ton dome over the largest leak hit a major setback.

Crystals clog concrete dome

Ice-like crystals clogged the inside of the steel-and-concrete dome during attempts to put it in place on Saturday.

On Saturday, the crystals forced officials to move the steel-and-concrete dome, which is still on the sea bed, some 650 feet away from the well—and to scramble to find ways to stop the water-and-gas crystals from forming.

Despite the let down, officials said they are looking for other ways to make the dome work.

Continued efforts to combat the oil plume on the water's surface and the leak a mile below come as tarballs were reported over the weekend in an Alabama island.

As of Sunday morning, the U.S. Coast Guard reported 17 flights had been conducted Saturday which dropped 41,690 gallons of dispersal fluid onto the slick.

On Saturday, more than 20 boats had skimmed 21,851 barrels of oily water from the Gulf. And over 928,265 feet of boom has been laid out or assigned to a vessel to protect the coasts of Louisiana, Mississippi, Alabama and Florida.

The dome was considered the best short-term solution to stop much of the spill.

Officials had hoped to contain 85 percent of the estimated 210,000 gallons gushing daily from the well by funneling oil to the surface from the dome, which is really a 78-ton box with a pyramid on the top. The 40-foot box took about two weeks to build.

Hydrate slush lifts dome

But the crystals, which are called hydrates and resemble slush, obstructed the flow of the oil, said Doug Suttles, chief operating officer of BP, the London-based company that owns the leaking well. They also made the dome too buoyant, which prevented the dome from making a water-tight seal as planned.

Hydrates form when gas and water mix at low temperature and high pressure, as occurs at the bottom of the sea.

Suttles said experts will spend the next few days looking at possible solutions, while other surface efforts continue, like burning oil and using chemicals called dispersants to break up the oil.

The *Deepwater Horizon* oil rig exploded April 20 about 50 miles off the Louisiana coast. Suttles said six BP employees were among the 126 people on the rig when it exploded. They had been there to discuss safety after the rig had gone more than 2,500 days without a significant accident.

"This rig had an outstanding record," Suttles said.

Eleven people were killed in the explosion—although the BP employees escaped safely.

Sen. Bill Nelson attacks big oil

On Sunday, Florida Sen. Bill Nelson appeared on CNN and said Big Oil has stymied congressional efforts to crack down on safety.

"Big oil wants its way," the Florida Democrat said. "They've been trying to bully their way to drill off the coast of Florida . . ." Nelson said congressional hearings were "what a number of us have been calling for. And we could never get to first base because big oil would flex its muscle, call in its votes and we could never get

anything done. Tragically, it's going to take this disastrous oil spill to finally clamp down on it."

Alabama Republican Sen. Richard Shelby meanwhile, suggested it was the White House's responsibility. Although no cause has yet been identified for the explosion, Shelby charged, "a lot of this could have been prevented. I don't know where the regulators were on this, they certainly were asleep," he said. "And where was BP? Were they trying to do this on the cheap?"

In the days before the attempt to lower the dome over the leak, officials had warned that problems could arise with the dome plan, which had never before been carried out at the depth of the leaking oil well, 5,000 feet below the surface of the Gulf of Mexico.

BP officials had specifically cautioned that crystals would be a challenge and had pumped warm water down a hose to keep the temperature high enough to prevent the crystals from forming. But that was not enough, Suttles said.

He added the crystals are not difficult to unclog—they melt when the box is lifted higher in the water. The trick is to keep the gas and water from crystallizing while keeping the box on the sea bed.

[IMAGE] View full size Associated Press An oil-stained cattle egret rests on the deck of the supply vessel Joe Griffin at the site of the *Deepwater Horizon* oil spill containment efforts in the Gulf of Mexico off the coast of Louisiana Sunday, May 9, 2010. There might be ways to do that, according to Suttles. Options include heating the dome or injecting methanol, a chemical frequently used as a solvent, inside the box.

But officials kept expectations low.

"It's very difficult to predict whether we will find solutions," Suttles said.

Tar balls washing up

Meanwhile, a Coast Guard official reported tar balls believed to be from the spill were washing up on an Alabama barrier island, according to The Associated Press.

More than 60 miles west, a representative from Biloxi's Ship Island Excursions said people were taking ferries Saturday, loaded with beach equipment for a day of fun in the sun.

"The beaches are beautiful and the water's great," Kevin Buckel said. He said no signs of oil were reported during their two trips out Saturday, and he expected the same results Sunday.

"We're hoping for the best," he said.

Nearly one million feet of oil-absorbing boom has been placed along Gulf shores in preparation for oil reaching land, Suttles said.

About 2.1 million gallons of an oil-water mix has been collected since the spill began, the Coast Guard said Saturday, and almost 290,000 gallons of dispersants have been used to break up the oil on the water's surface.

"I don't think any of us know at this time what the impacts will be on the environment or the economic issues associated with this spill," said Coast Guard Rear Adm. Mary Landry, who is helping coordinate the federal response to the spill.

Friday's calm weather allowed for five successful burns of oil on the water's surface, though no more burns would likely take place until Monday because of inclement weekend weather.

Suttles said a hotline has received more than 35,000 calls from people about the spill, more than half of them asking to help.

The Coast Guard and the Minerals Management Service of the U.S. Interior Department will begin a joint investigation Tuesday to identify the factors leading to the explosion and oil spill. Public hearings for the investigation will be held Tuesday and Wednesday in New Orleans.

Congressional committees have also announced they will hold hearings on the spill.

Melton, of the *Sun Herald*, reported from Biloxi, Miss.; Mazzei, of *The Miami Herald*, reported from Miami. Lesley Clark and Christina Veiga of *The Miami Herald* also contributed to this article.

The CHAIRMAN. And I also ask unanimous consent that the exhibits used during this hearing be included in the record. And, without objection, that will be so ordered.

[NOTE: The exhibits have been retained in the Committee's official files.]

The CHAIRMAN. Once again, I thank both of you for coming here.

This is a serious matter. We are simply trying to get information. And if there is nothing there to hide, then why not produce the documents? Very straightforward. And you have been called up here, and we asked for your documents. You haven't complied with that, but that matter is not over.

And so, with that, with no business to come before the Committee, the Committee stands adjourned.

[Whereupon, at 12:25 p.m., the Committee was adjourned.]

