



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3298

Subject: Establishment of the Outer Continental Shelf Safety Oversight Board

Sec. 1 Purpose. This Order establishes within the Department of the Interior the Outer Continental Shelf (OCS) Safety Oversight Board which shall report to the Secretary and the Deputy Secretary jointly. The purpose of this action is to ensure timely, high-level review and implementation, as appropriate, of recommendations to address the Department's current and future responsibility for management and administration of the OCS program.

Sec. 2 Background. The proper management, administration, regulation and oversight of exploration and drilling operations for hydrocarbons on the OCS are among the Department's most significant responsibilities. These complex exploration and drilling operations affect important human and environmental considerations and warrant the highest level of oversight within the Department. To address these issues, the Department is establishing a high-level team to review and oversee OCS operations to support reasoned and fact-based recommendations for potential improvements.

Sec. 3 Authority. This Order is issued under the authority of Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and 43 U.S.C. § 1348, the Outer Continental Shelf Lands Act.

Sec. 4 Establishment of the OCS Safety Oversight Board.

a. **Membership.** The members of the OCS Safety Oversight Board shall be the Assistant Secretary - Policy, Management Budget, the Assistant Secretary - Land and Minerals Management, and the Inspector General.

b. **Leadership.** The Assistant Secretary - Land and Minerals Management shall serve as the Chair of the OCS Safety Oversight Board.

c. **Duties.** The duties of the OCS Safety Oversight Board shall include:

(1) Providing oversight, support, and resources to the Minerals Management Service (MMS) regarding its responsibilities in the Joint Investigation into the marine casualty, explosion, fire, pollution, and sinking of the mobile offshore drilling unit Deepwater Horizon which included loss of life in the Gulf of Mexico on April 21-22, 2010 (Joint Investigation); see *Joint Department of the Interior and Department of Homeland Security Statement of Principles and Convening Order*, dated April 27, 2010, and attached hereto as Exhibit A.

(2) Providing the Secretary and the Deputy Secretary with periodic progress reports regarding the Joint Investigation as appropriate.

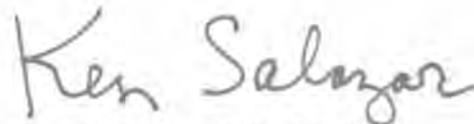
(3) Providing recommendations regarding interim measures that may enhance OCS safety including, but not limited to, issues of concern identified by the Joint Investigation or other investigations.

(4) Making recommendations to the Secretary and the Deputy Secretary to improve and strengthen the Department's overall management, regulation, and oversight of OCS operations including, but not limited to, undertaking further audits or reviews, and reviewing existing authorities and procedures.

d. To support the operation of the OCS Safety Oversight Board, the Board members are authorized to assign subordinate staff to perform specific work in support of the Board's duties and to procure the services of outside resources and experts as necessary.

Sec. 5 Implementation. The Deputy Secretary is responsible for ensuring implementation of this Order.

Sec. 6 Effective Date. This Order is effective immediately and shall remain in effect until it is amended, superseded, or revoked, whichever occurs first. The termination of this Order shall not nullify implementation of the requirements and responsibilities set forth herein.



Secretary of the Interior

Date: APR 30 2010

**JOINT DEPARTMENT OF THE INTERIOR
AND
DEPARTMENT OF HOMELAND SECURITY
STATEMENT OF PRINCIPLES AND CONVENING ORDER
REGARDING
INVESTIGATION INTO THE MARINE CASUALTY, EXPLOSION, FIRE,
POLLUTION, AND SINKING OF MOBILE OFFSHORE DRILLING UNIT
DEEPWATER HORIZON, WITH LOSS OF LIFE
IN THE GULF OF MEXICO 21-22 APRIL 2010**

1. The Department of the Interior and the Department of Homeland Security (collectively, "the Agencies") have determined that a joint investigation ("Joint Investigation") of the April 21-22, 2010 explosion and sinking of the mobile offshore drilling unit DEEPWATER HORIZON is warranted. Therefore, the Agencies hereby adopt the following statement of principles and convening order regarding the Joint Investigation. Each Agency, at its discretion, may elect to adopt additional internal measures to govern direction and oversight of their respective portion of the Joint Investigation.
2. The Outer Continental Shelf Lands Act ("OCSLA") grants the Secretaries of the Agencies the authority to investigate incidents resulting from operations on the U.S. Outer Continental Shelf ("OCS"). 43 U.S.C. § 1348. The Minerals Management Service ("MMS"), a unit of the Department of the Interior, and the United States Coast Guard ("USCG"), a component of the Department of Homeland Security, have identified a process for conducting investigations under the authority of the OCSLA in a Memorandum of Agreement ("MOA"), dated 27 March 2009. As set forth in the MOA, the MMS investigates incidents associated with, *inter alia*, exploration and drilling operations for hydrocarbons on the OCS, and the USCG investigates, *inter alia*, deaths, injuries, property loss, and environmental damage arising from such incidents.
3. A Joint Investigation is hereby convened in accordance with the MOA, as modified herein. The Joint Investigation is classified as a Coast Guard Marine Board of Investigation within the meaning of 46 C.F.R. § 4.09 and a Panel Investigation within the meaning of 30 C.F.R. § 250.191. The Joint Investigation is convened pursuant to agency authorities and will be conducted pursuant to the procedures contained in 43 U.S.C. § 1348, 14 U.S.C. § 141, 46 U.S.C. §§ 6301 *et seq.*, 33 C.F.R. § 140, Subpart C; 30 C.F.R. §§ 250.186-191, and 46 C.F.R. Part 4.
4. The Agencies intend to conduct the Joint Investigation as follows: The MMS and the USCG will co-chair the Joint Investigation. The Joint Investigation team will investigate thoroughly the matter hereby submitted to it in accordance with the provisions of 43 U.S.C. § 1348, 46 U.S.C. § 6301 *et seq.*, and the applicable regulations thereunder. The Joint Investigation shall have the powers of both Agencies, and, for the public hearing portions of the Joint Investigation, shall follow the policies and procedures for a Marine Board of Investigation contained in 46 C.F.R. § 4.09 and the Coast Guard Marine Safety Manual, Volume V. In cases where the procedures of a Marine Board of Investigation and a Panel Investigation appear to differ, the procedures for a Marine Board of Investigation shall govern. Any issue involving procedure may be referred to

the Chief of the Accident Investigation Board of the MMS, and the Chief of USCG Office of Investigations and Casualty Analysis. They will refer any unresolved procedural issue to the Chief, Office of Offshore Regulation, MMS, and the Commandant, Director of Prevention Policy (CG-54), USCG, who will consider the matter together and provide guidance jointly to the Joint Investigation.

5. Upon completion, the Joint Investigation team will issue a single report to the Director, MMS, and the Commandant, USCG, containing the evidence adduced, the facts established thereby, and its conclusions and recommendations. The report shall meet the requirements of both the MMS and USCG. Any conclusions or recommendations concerning commendatory actions or misconduct which would warrant further inquiry shall be referred by separate correspondence to the cognizant Regional Coordinator or District Commander. Similarly, any information warranting further evaluation for potential civil violations or criminal activity shall be referred in accordance with applicable procedures. On days that the Joint Investigation conducts a public hearing, a daily summary of significant events shall be transmitted to the Chief of the Accident Investigation Board and the Chief of USCG Office of Investigations and Casualty Analysis. The Joint Investigation team will report its progress, as may be requested by superior authority designated by the Department of Interior or the Department of Homeland Security.

6. The report should be completed and submitted simultaneously to the Director, MMS, and the Commandant, USCG, within nine months of the convening date. If this deadline cannot be met, at least thirty calendar days prior, a written explanation for the delay and the expected completion date shall be submitted to the Director, MMS, and Commandant, USCG. The Joint Investigation team is encouraged to submit interim recommendations intended to prevent similar casualties, if appropriate, early in the Joint Investigation.

7. Prior to submission of the team's report to the Director, MMS, and the Commandant, USCG, the Joint Investigation team will confer with the Chief of the Accident Investigation Board and the Chief of USCG Office of Investigations and Casualty Analysis, both of whom will review the report and reconcile any remaining issues to the maximum extent practicable. If the respective Chiefs are unable to reconcile any remaining issues, they will elevate the issues to appropriate officials within their respective Agency.

8. The Director, MMS, and the Commandant, USCG, will jointly sign and release the final report. If either Agency differs with the other concerning any conclusions or recommendations, either Agency may issue a supplemental or separate report.

9. David Dykes, MMS, and Captain Hung Nguyen, USCG, are designated as Co-Chairs of the Joint Investigation. Other Members and the Recorder of the Joint Investigation will be designated by separate correspondence, and each Agency has the right to be equally represented. Agency costs for the Joint Investigation shall be borne by the Agency incurring the expense.

10. The Government of Marshall Islands, the flag state administration of the DEEPWATER HORIZON has requested to participate in this Joint Investigation. It shall be designated as a Party In Interest and given the rights associated with such status in accordance with 46 U.S.C. § 6303.



THAD W. ALLEN
Admiral, U.S. Coast Guard
Commandant

Date: APR 28 2010



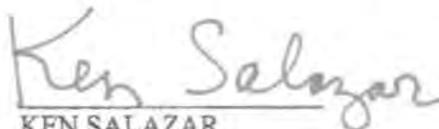
JANET NAPOLITANO
Secretary
Department of Homeland Security

Date: APR 27 2010



S. ELIZABETH BIRNBAUM
Director
Minerals Management Service

Date: APR 27 2010



KEN SALAZAR
Secretary
Department of the Interior

Date: APR 27 2010

Cwcej o gpv2

Meeting Change:

Calendar Entry

Subject: CONFIRMED: Follow up call with NAE Peer Review Panel (30-Day Safety Report attached)

When

Date: Tuesday 05/25/2010

Time: 05:00 PM - 06:30 PM (1 hour 30 minutes)

Chair: [Neal Kemkar](#)

Sent By: [Kemkar, Neal](#)

Invitees

Required (to): [Kallie Hanley](#); [Mary Katherine Ishee](#); [Ned Farquhar](#); [Steve Black](#); [Carmiece Graves](#); [Wilma Lewis](#); [Paul Mussenden](#); [Rhea Suh](#); [Mary Kendall](#); [William Hauser](#)

Optional (cc): MaryKatherine.Ishee@mms.gov

Where

Location: Room 6130 or call-in number

Importance: High

Attachments: [Interim Measures Report 100525 nk FINAL.pdf](#)

When: Tuesday, May 25, 2010 5:00 PM-6:30 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Room 6130 or call-in number

Note: The GMT offset above does not reflect daylight saving time adjustments.

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Conference call-in number: 605-477-3000

Participant access code: 950768#

See attached final draft document for discussion this evening.

DEPARTMENT OF THE INTERIOR



**INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT
ON THE OUTER CONTINENTAL SHELF**

MAY 27, 2010

INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF

EXECUTIVE SUMMARY

Overview

On April 20, 2010, an explosion and fire erupted on an offshore drilling rig in the Gulf of Mexico called the *Deepwater Horizon*, which had just completed an exploratory well 52 miles from shore in 4,992 feet of water. Eleven members of the crew are missing and presumed dead. The remainder of the crew abandoned the rig and was rescued by a nearby supply vessel, the *Damon Bankston*. The fire destroyed the rig, which sank on April 22, 2010. The resulting oil spill has been declared “a spill of national significance” and could become one of the oil industry’s gravest disasters. Crude oil continues to flow from a broken pipe on the seafloor, has spread across thousands of square miles, and is damaging local economies, sensitive coastlines and wildlife throughout the Gulf region. On April 30, 2010, the President directed the Secretary of the Interior to conduct a thorough review of this event and to report, within 30 days, on “what, if any, additional precautions and technologies should be required to improve the safety of oil and gas exploration and production operations on the outer continental shelf.” This report responds to the President’s directive.

Recommendations

The Secretary recommends a series of steps immediately to improve the safety of offshore oil and gas drilling operations in Federal waters and a moratorium on certain permitting and drilling activities until the safety measures can be implemented and further analyses completed.

The report recommends a number of specific measures designed to ensure sufficient redundancy in the blowout preventers (BOPs), to promote the integrity of the well and enhance well control, and to facilitate a culture of safety through operational and personnel management (see Table ES-1). Recommended actions include prescriptive near-term requirements, longer-term performance-based safety measures, and one or more Department-led working groups to evaluate longer-term safety issues. The recommendations take into account that drilling activities conducted in the deepwater environment create increased risks and challenges.

Key recommendations on BOPs and related safety equipment used on floating drilling operations include:

- *Mandatory inspection of each BOP to be used on floating drilling operations to ensure that the BOP:* meets manufacturer design specifications, taking into account any modifications that have been made; is compatible with the specific drilling equipment on the rig it is to be used on, including that the shear ram is compatible with the drill pipe to be used; has not been compromised or damaged from previous service; is designed to operate at the planned operating depth. Certification of these requirements will be made publicly available.

- *Requirement of new safety features on BOPs and related backup and safety equipment including: a requirement that BOPs have two sets of blind shear rams spaced at least four feet apart to prevent BOP failure if a drill pipe or drill tool is across on set of rams during an emergency; requirements for emergency back-up control systems; and requirements for remote operating vehicle capabilities. The Department will develop new surface and subsea testing requirements to verify reliability of these capabilities.*
- *Overhaul of the testing, inspection and reporting requirements for BOP and related backup and safety equipment to ensure proper functioning, including new means of improving transparency and providing public access to the results of inspections and routine reporting.*

Key recommendations on well control systems include:

- *Development of enhanced deepwater well-control procedures.*
- *Verification of a set of new safeguards that must be in place prior to displacement of kill-weight drilling fluid from the wellbore.*
- *New design, installation, testing, operations, and training requirements relating to casing, cement or other elements that comprise an exploratory well.*
- *A comprehensive study of methods for more rapid and effective response to deepwater blowouts.*

Key recommendations on a systems-based approach to safety:

- *Immediate, enhanced enforcement of current regulations through verification within 30 days of compliance with the April 30, 2010, National Safety Alert.*
- *Enhanced requirements to improve organizational and safety management for companies operating offshore drilling rigs.*
- *New rules requiring that offshore operators have in place a comprehensive, systems-based approach to safety and environmental management.*

The Secretary also recommends temporarily halting certain permitting and drilling activities. First, the Secretary recommends a six-month moratorium on permits for new wells being drilled using floating rigs. The moratorium would allow for implementation of the measures proposed in this report and for consideration of the findings from ongoing investigations, including the bipartisan National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.

The Secretary further recommends an immediate halt to drilling operations on the 33 permitted wells, not including the relief wells currently being drilled by BP, that are currently being drilled using floating rigs in the Gulf of Mexico. Drilling operations should cease as soon as safely

practicable for a 6-month period.

The [recommendations](#) contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering. Those experts, who volunteered their time and expertise, are identified in Appendix 1. The Department also consulted with a wide range of experts from government, academia and industry.

Relationship to Ongoing Investigations

This 30-day review has been conducted without the benefit of the findings from the ongoing investigations into the root causes of the explosions and fire on the Deepwater Horizon and the resulting oil spill (collectively “BP Oil Spill”) including if there were any violations of existing safety or construction law, gross negligence, or willful misconduct. In the coming months, those investigations will likely suggest refinements to some of this report’s recommendations, as well as additional safety measures. Nevertheless, the information currently available points to a number of specific interim recommendations regarding equipment, systems, procedures, and practices needed for safe operation of offshore drilling activities.

Furthermore, because the purpose of this review is to recommend immediate measures to improve the safety of offshore drilling activities, nothing in this report should be used to influence or prejudice any ongoing investigations, or impact any current or future litigation.

Table ES-1. Recommendations for Increased Safety Measures

Recommendations	Key Components (with implementation plan)
Blowout Preventer (BOP) Equipment and Emergency Systems	<ul style="list-style-type: none"> • Order re-certification of subsea BOP stacks (immediately) • Order BOP equipment compatibility verification (immediately) • Establish formal equipment certification requirements (rulemaking)
New Safety Equipment Requirements and Operating Procedures	<ul style="list-style-type: none"> • Develop new BOP and remote operated vehicle (ROV) testing requirements (immediately) • Develop new inspection procedures and reporting requirements (immediately) • Develop secondary control system requirements (emergency rulemaking) • Establish new blind shear ram redundancy requirements (emergency rulemaking) • Develop new ROV operating capabilities (rulemaking)
Well-Control Guidelines and Fluid Displacement Procedures	<ul style="list-style-type: none"> • Establish new fluid displacement procedures (immediately) • Establish new deepwater well-control procedure requirements (emergency rulemaking)
Well Design and Construction – Casing and Cementing	<ul style="list-style-type: none"> • Establish new casing and cementing design requirements – two independent tested barriers (immediately) • Establish new casing installation procedures (immediately) • Develop formal personnel training requirements for casing and cementing operations (rulemaking) • Develop additional requirements for casing installation (rulemaking) • Enforce tighter primary cementing practices (rulemaking) • Develop additional requirements for evaluation of cement integrity (immediately) • Study Wild-Well intervention techniques and capabilities (immediately)
Increased Enforcement of Existing Safety Regulations and Procedures	<ul style="list-style-type: none"> • Order compliance verification for existing regulations and April 30, 2010, National Safety Alert (immediately) • Adopt safety case requirements for floating drilling operations on the Outer Continental Shelf (emergency rulemaking) • Adopt final rule to require operators to adopt a robust safety and environmental management system for offshore drilling operations (rulemaking) • Study additional safety training and certification requirements (rulemaking)

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I. INTRODUCTION

On April 20, 2010, the crew of the Transocean drilling rig *Deepwater Horizon* was preparing to temporarily abandon BP's discovery well at the Macondo prospect 52 miles from shore in 4,992 feet of water in the Gulf of Mexico. An explosion and subsequent fire on the rig caused 11 fatalities and several injuries. The rig sank two days later, resulting in an uncontrolled release of oil that has been declared a spill of national significance. The Nation faces a potentially massive and unprecedented environmental disaster, which has already resulted in the tragic loss of life and personal injuries as well as significant harm to wildlife, coastal ecosystems, and other natural resources. The disaster is commanding the Department of the Interior's resources as we work to ensure that the spill is stopped and the well permanently plugged; that our natural resources along the Gulf Coast are protected and restored; and that we get to the bottom of what happened and hold those responsible accountable.

On April 30, 2010, the President ordered the Secretary of the Interior to evaluate what, if any, additional precautions and technologies should be required to improve the safety of oil and gas exploration and production operations on the Outer Continental Shelf (OCS). In addition to this review of the OCS regulatory structure, the President recently created the bipartisan National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. The President established the National Commission to examine the relevant facts and circumstances concerning the root causes of the BP Oil Spill, to develop options for guarding against, and mitigating the impact of, oil spills associated with offshore drilling, and to submit a final public report to him with its findings and options for consideration within six months of the date of the Commission's first meeting.

In addition, the Departments of the Interior and Homeland Security are undertaking a joint investigation into the causes of the BP Oil Spill, including holding public hearings, calling witnesses, and taking any other steps necessary to determine the cause of the spill. Several committees in Congress have held and will continue to hold hearings on the events associated with the BP Oil Spill. Respecting the ongoing investigations, this report does not speculate as to the possible causes of the BP Oil Spill. This report is intended to identify an initial set of safety measures that can and will be implemented as soon as practicable to improve the safety of offshore oil and gas development.

To provide context for the safety recommendations, this report presents a history of OCS production, spills, and blowouts, a review of the existing U.S. regulatory and enforcement structure, a survey of other countries' regulatory approaches, and a summary of existing Minerals Management Service (MMS)-sponsored studies on technologies that could reduce the risk of blowouts.

In compiling the recommendations presented in this report, the Department has drawn from expertise within the Federal Government, academia, professional engineers, industry, and other governments' regulatory programs. In particular, seven members of the National Academy of Engineering peer reviewed the recommendations in this report. The Department received ideas from the Department of Energy National Laboratories on ways to improve offshore safety. Appendix 1 lists expert consultations for this report.

This report examines all aspects of drilling operations, including equipment, procedures, personnel management, and inspections and verification in an effort to identify safety and environmental protection measures that would reduce the risk of a catastrophic event. (A brief primer on offshore drilling technology and systems is included in Appendix 2). In particular, this report examines several issues highlighted by the BP Oil Spill regarding operational and personnel safety while conducting drilling operations in deepwater environments.

While technological progress has enabled the pursuit of deeper oil and gas deposits in deeper water, the risks associated with operating in water depths in excess of 1,000 feet are significantly more complex than in shallow water. This report describes safety and environmental issues involved in offshore drilling, including the unique challenges associated with drilling operations in deepwater.

The recommendations address well-control and well abandonment operations; specific requirements for devices, such as blowout preventers (BOPs) and their testing; industry practices; worker training; inspection protocol and operator oversight; and the responsibility of the Department for safety and enforcement.

In developing the recommendations contained in this report, the Department has been guided by the principle that feasible measures that materially and undeniably reduce the risk of a loss-of-well-control event should be pursued. Therefore, some recommended measures—particularly those the Department intends to implement immediately—are necessarily prescriptive. At the same time, the Department is examining innovative ways to promote a culture of safety for offshore operations by addressing the human element of operations. The Department is committed to moving to finalize a rulemaking that would require operators to adopt a systems-based approach to safety and environmental management. This rule would require operators to incorporate global best practices regarding environmental and safety management on offshore platforms into their operating plans and procedures. In finalizing this rulemaking, the Department will analyze carefully the current circumstances in the Gulf of Mexico and lessons learned from the ongoing investigation into the causes of the BP Oil Spill.

To realize an improved margin of safety associated with the recommended equipment standards and operating procedures, the report proposes new inspection and verification measures, which the Department will implement. Several of these efforts will also allow the public to access information about the inspection and verification structures, to promote confidence that: (1) the Federal Government undertakes appropriate actions to review, audit, and confirm industry performance; and (2) industry follows the best possible practices and the new set of regulatory requirements.

A comprehensive set of reforms encompassing all aspects of oil and gas development on the OCS simply could not be fully developed in the 30-day timeframe of this report. With respect to some safety measures, the Department will undertake further study—with appropriate input from independent experts, academia, industry, and other stakeholders—to develop new regulations and other appropriate steps to promote drilling safety. These Department-led strike teams will also help to inform the work of the President's new bipartisan National Commission. Finally, this report does not address several important issues associated with the safety of offshore

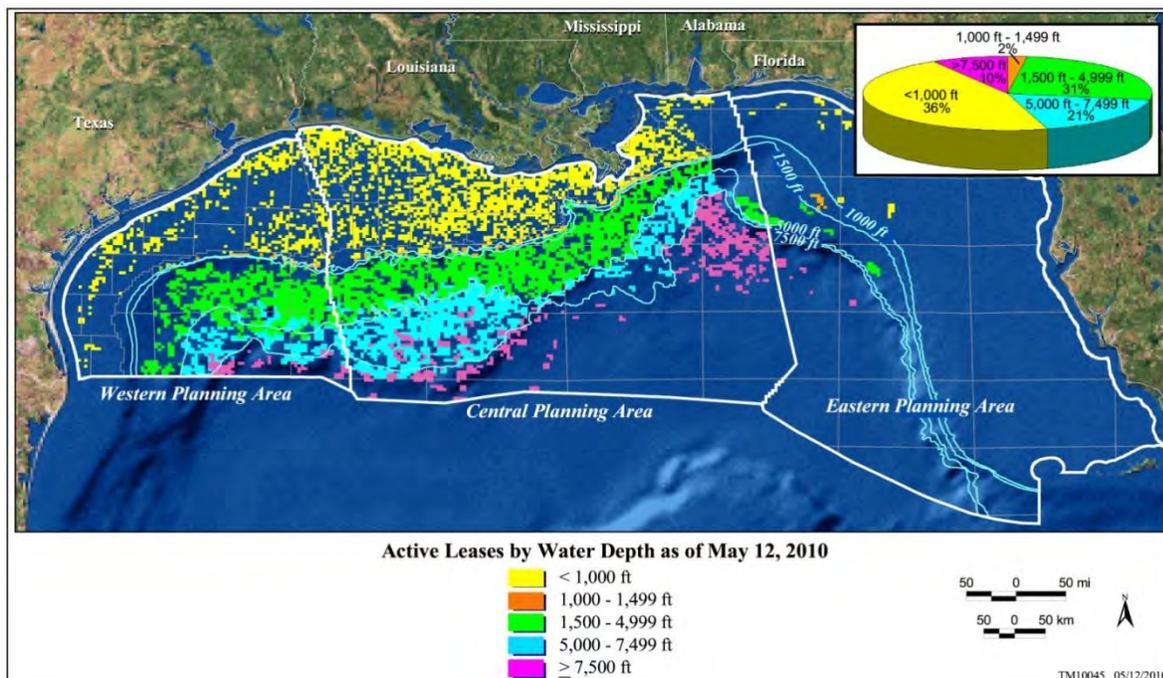
drilling that implicate shared responsibilities with other departments and agencies. For example, the Department will work in close cooperation with the Department of Homeland Security, including the United States Coast Guard, the Environmental Protection Agency, and other agencies to evaluate and improve oil spill response capabilities and industry responsibilities.

II. OFFSHORE OIL AND GAS PRODUCTION

A. Federal OCS Oil and Gas Activities

The Gulf of Mexico provides 97 percent of Federal OCS production. The Gulf of Mexico has nearly 7,000 active leases (see Figure 1), 64 percent of which are in deepwater. The Pacific OCS has 49 active leases off the coast of Southern California, 43 of which are producing. There have been no Pacific OCS lease sales since 1984. Alaska has 675 active leases and production from a single joint State-Federal field. The Atlantic does not have any active leases or production.

Figure 1
Gulf of Mexico OCS Active Leases



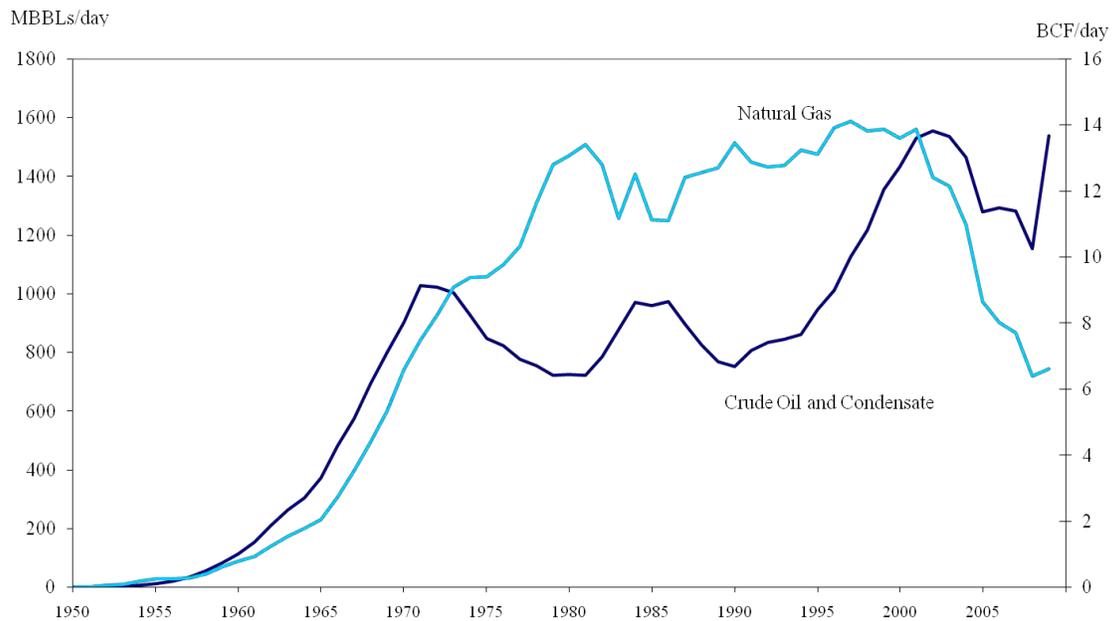
Source: Minerals Management Service Database, 2010.

Since 1947, more than 50,000 wells have been drilled in the Federal Gulf of Mexico, and there are now approximately 3,600 structures in the Gulf. In 2009, production from these structures accounted for 31 percent of total domestic oil production and 11 percent of total domestic, marketed natural gas production. Oil production in 2009 represented the second highest annual production for the Gulf of Mexico OCS (see Figure 2). Minerals Management Service Database, 2010.

Since the first major deepwater leasing boom in 1995 and 1996, a sustained and robust expansion of deepwater drilling activity has occurred, largely enabled by major advances in drilling

technology. In 2001, U.S. deepwater offshore oil production surpassed shallow water offshore oil production for the first time. By 2009, 80 percent of offshore oil production and 45 percent of natural gas production occurred in water depths in excess of 1,000 feet, and industry had drilled nearly 4,000 wells to those depths. In 2007, a record 15 rigs were drilling for oil and gas in water depths of 5,000 feet or more in the Gulf of Mexico. Operators have drilled about 700 wells in water depths of 5,000 feet or greater in the OCS. While fewer wells are drilled in the OCS today, they tend to be more sophisticated with higher per-well production levels than those in the past.

Figure 2
Gulf of Mexico OCS Oil and Gas Production



Source: Minerals Management Service Database, 2010.

Since 1953, the Federal Government has received approximately \$200 billion in lease bonuses, fees, and royalty payments from OCS oil and gas operators. Last year, the Federal OCS leasing revenue was \$6 billion. The OCS oil and gas industry provides relatively high-paying jobs in drilling and production activities, as well as employment in supporting industries. Offshore operations provide direct employment estimated at 150,000 jobs. Minerals Management Service Database, 2010.

B. OCS Petroleum Spills

Since the 1969 Santa Barbara, California, oil spill, there have been relatively few major oil spills from offshore oil and gas operations in the U.S. and around the world. Yet several notable blowouts have occurred, including one in June 1979, when the Ixtoc I exploratory well located about 50 miles off the Yucatan Peninsula blew out and was not brought under control until March 1980, releasing over three million barrels of oil off the coast of the Mexican state of Campeche. In 2009, the Australian Montara well in the Timor Sea blew out and was not brought under control for more than 10 weeks, releasing oil into the open ocean and forming a thin sheen covering up to 10,000 square miles. Nevertheless, the relatively infrequent occurrence of a major oil spill from an offshore drilling operation has led many to view these operations as safe.

From 1964 to 2009, operators in the Federal OCS produced about 17.5 billion barrels of oil (crude oil and condensate). Over this same time, the total estimated petroleum volume spilled from OCS activities was approximately 532,000 barrels, or 30.3 barrels spilled per million barrels produced. The spill rates from OCS platform and rig activities improved each decade from the 1960s through the 1990s, although the past decade reversed this trend (see Table 1). The oil spilled from OCS rigs and platforms over the past 30 years totaled about 27,000 barrels, illustrating how a catastrophic spill like the current BP Oil Spill can vastly exceed the impacts of typical spills on the OCS.

Table 1
Crude Oil Spills from Platform and Rigs from Federal OCS Activities, 1960-2009

Time Period	OCS Oil Production (Thousand Barrels)	Number of Spills	Barrels Spilled (Thousand Barrels)	Thousand Barrels Produced per Barrel Spilled
1960-1969	1,460,000	13	99	15
1970-1979	3,455,000	32	106	33
1980-1989	3,387,000	38	7	473
1990-1999	4,051,000	15	2	1,592
2000-2009	5,450,000	72	18	296

Note: Only covers spills of 50 barrels or more.

Source: Minerals Management Service Database, 2010.

Blowouts represent a type of loss of well control event that can result in large discharges of oil into the natural environment. Since 1970, the number of blowouts per number of wells drilled has varied significantly from year to year. From 1964 through 1970, a total of approximately 178,000 barrels of oil was spilled on the Federal OCS as a result of blowout events (see Table 2). Of this total, about 13,000 barrels resulted from blowouts related to external forces, such as hurricanes and ship collisions. An additional 30,000 barrels were released when a production fire resulted in the loss of well control of 12 wells on a production platform. The remaining

135,000 barrels that were released during blowouts occurred during drilling, well completion, or workover operations.

Table 2
Blowout Events Exceeding 1,000 Barrels on the Federal Outer Continental Shelf, 1964-2009

Year	Description of Event
1964	Two blowouts associated with a hurricane event that destroyed four platforms. Total of 10,280 barrels crude oil spilled.
1965	One blowout associated with drilling. 1,688 barrels condensate spilled.
1969	One blowout that occurred when a supply vessel collided with a drilling rig during a storm and sheared the wellhead. 2,500 barrels crude oil spilled.
1969	One blowout (Santa Barbara, California) was associated with drilling. 80,000 barrels spilled.
1970	One blowout was caused by a fire in the production area that resulted in the loss of control of 12 wells on the platform. 30,000 barrels crude oil spilled.
1970	One blowout associated with wireline work during workover operations. 53,000 barrels spilled.

Source: Minerals Management Service Database, 2010.

After these blowouts, in the period from 1971 through 2009, a total of approximately 1,800 barrels was spilled on the Federal OCS as a result of blowout events. Of that amount, 425 barrels were blowouts resulting from hurricane damage. An additional 450 barrels occurred at an oil pump during production operations. Since 1956, 15 blowouts resulted in at least one fatality; three of these events occurred after 1986.

While the rate of blowouts per well drilled has not increased, even as more activity has moved into deeper water, the experience with the BP Oil Spill illustrates the significant challenges in containing a blowout in deepwater, as compared to containing a blowout in shallower water.

III. EXISTING WELL CONTROL STUDIES

The Department has conducted research related to offshore oil and gas exploration, development, and production for two purposes: (1) to augment the overall knowledge base in the field, and (2) to identify information supporting new or modified requirements in a regulation or recommended practices. The Department maintains interagency agreements and working arrangements for research with other Federal agencies who share responsibility for regulatory oversight of OCS operations, including the Departments of Commerce, Energy, and Transportation.

Through the Technical Assessment & Research (TA&R) Program, the Department studies the operational safety, technology, and the pollution prevention and spill response capabilities

associated with offshore operations. The TA&R Program serves ~~to~~ promote new technology and safety through the funding of collective research with industry, academia, and other government agencies and disseminate findings through a variety of public forums.” *Minerals Management Service Engineering and Research Branch 2008-2012 Strategic Plan*. This program has funded or co-funded numerous studies investigating the use of well control techniques and equipment, including those associated with drilling fluid of a specified weight and circulation, cement with a specific bond and integrity, casing with a specific design, pressure control safety valves, and BOPs (see Table 3 for a list of well control studies funded by the Department since 1990). These studies have led to offshore drilling safety improvements around the world.

Table 3
TA&R Funded Well Control Research, 1990-2010

Study No.	Title of Study	Completion Date
8	Blowout Prevention Procedures for Deepwater Drilling	1978 to 2003
150	Floating Vessel Blowout Control	December 1991
151	Investigation of Simulated Oil Well Blowout Fires	1989 to 1993
170	Improved Means of Offshore Platform Fire Resistance	1991 and 1994
220	Study of Human Factors in Offshore Operations	1995 to 1997
253	Blowout Preventer Study	December 1996
264	Development of Improved Drill String Safety Valve Design and Specifications	1996 and 1998
319	Reliability of Subsea Blowout Preventer Systems for Deepwater Applications–Phase II	November 1999
382	Experimental Validation of Well Control Procedures in Deepwater	December 2005
383	Performance of Deepwater BOP Equipment During Well Control Events	July 2001
403	Repeatability and Effectiveness of Subsurface-Controlled Safety Valves	March 2003
408	Development of a Blowout Intervention Method and Dynamic Kill Simulated for Blowouts in Ultra-Deepwater	December 2004
431	Evaluation of Secondary Intervention Methods in Well Control	March 2003
440	Development and Assessment of Well Control Procedures for Extended Reach and Multilateral Wells	December 2004
455	Review of Shear Ram Capabilities	December 2004

463	Evaluation of Sheer Ram Capabilities	September 2004
519	Drilling and Completion Gaps for High Temperature and High Pressure In Deep Water	June 2006
540	Risk Assessment of Surface vs. Subsurface BOP's on Mobile Offshore Drilling Units	August 2006
541	Application of Dual Gradient Technology to Top Hole Drilling	November 2006
566	Using Equipment, Particularly BOP and Wellhead Components in Excess of the Rated Working Pressure	October 2006
582	A Probabilistic Approach to Risk Assessment of Managed Pressure Drilling in Offshore Drilling Applications	October 2008
631	Risk Profile of Dual Gradient Drilling	Estimated completion in September 2010
640	Risk Analysis of Using a Surface Blow Out Preventer	April 2010

Note: This report includes hyperlinks to the reports via the study numbers.

Source: Minerals Management Service Database, 2010.

These studies have examined, among other things, blind shear ram capabilities, back-up BOP systems, and drilling and cementing design and operations, which have informed the setting of Department regulations. For example, the 1999 *Reliability of Subsea BOP systems for Deepwater Applications* (study number 319) recommended modifying testing regulations to ensure that the testing of variable pipe rams appropriately account for the diameters of all the sizes of pipe in use in a given drilling project. The Department used this recommendation in revising its 2003 final drilling regulations.

The 2002 *Review of Shear Ram Capabilities* (study number 455) identified issues associated with the cutting power of shear rams, which are intended to cut through drill pipe when the well must be secured in an emergency situation. The Department adopted the report's recommendation that the BOP must be capable of shearing pipe planned for use in current drilling programs under 30 CFR 250.416(e). This regulation requires the submittal of information demonstrating that shear rams on the proposed BOP stack can cut drill pipe under maximum anticipated surface pressure.

The 2004 *Evaluation of Sheer Ram Capabilities* (study number 463) expanded on the analysis in study number 455 through an evaluation of BOP shear rams under the most demanding conditions. In this study, 214 pipe samples were tested against various ram models, and 16 (7.5 percent) were unsuccessful in shearing the pipe below a certain pressure (3,000 pounds per square inch). All 16 of these cases involved a particular combination of shear ram and pipe, which was found unsuitable for actual drilling operations. The results of this study confirmed the regulatory decision to require operators to submit documentation that shows the shear rams are capable of shearing the pipe in the hole under maximum anticipated surface pressures.

The 2003 *Evaluation of Secondary Intervention Methods in Well Control* (study number 431) reviewed the design and capabilities of various secondary BOP intervention systems used in practice. Secondary intervention represents an alternate means to operate BOP functions in the event of total loss of the primary control system or a means to assist personnel during situations involving imminent equipment failure or well-control problems. This study discusses the possible use of acoustic systems in the Gulf of Mexico. According to the report, there remain significant doubts about the ability of an acoustic control system to provide a reliable emergency back-up to the primary control system during an actual well flow event.

IV. LEGAL FRAMEWORK, INSPECTIONS, AND ENFORCEMENT

A. Statutory Authority

In 1953, the Congress passed the Outer Continental Shelf Lands Act (OCSLA) that defines the OCS as any submerged land outside state jurisdiction and established Federal jurisdiction over these waters and all resources they contain. The OCSLA also set Federal responsibilities for managing and maintaining the OCS subject to environmental constraints and safety concerns. The legislation authorized the Department to lease areas of the OCS for development and to regulate offshore operations and development. Since then, the OCSLA has been amended to address changing issues, including the 1978 requirement for the Department to develop 5-year leasing program schedules after consideration of environmental, social, and economic effects of natural gas and oil activity on OCS resources, location-specific risks, energy needs, laws, and stakeholder interests. This amendment also requires the Department to seek a balance between potential damage to the environment and coastal areas and potential energy supply. The first 5-year leasing program started in 1980 and the current 5-year plan ends in 2012.

Congress has also enacted laws to promote production in frontier areas like the Gulf of Mexico deepwater. For example, the 1995 Deepwater Royalty Relief Act encouraged oil and gas development in the Gulf of Mexico in water depths greater than 200 meters (656 feet) through royalty relief. Royalty relief incentives were also offered to encourage production from wells drilled for deep natural gas (greater than 15,000 feet or 4,572 meters total depth) on new leases located in shallow waters (less than 200 meters). The Energy Policy Act of 2005 included additional incentives for oil and gas development in offshore areas to stimulate production in deepwater and expanded the OCSLA to include the areas offshore Alaska for royalty suspension.

Oil and gas leasing and operations are subject to environmental reviews under the National Environmental Policy Act (NEPA). On May 14, 2010, Secretary of the Interior Ken Salazar and the Council on Environmental Quality Chair Nancy Sutley announced a full review of NEPA compliance for oil and gas activities on the OCS, and accordingly, NEPA will not be covered in this report.

B. Regulations

Under the OCSLA, the Secretary of the Interior, through the MMS, manages and regulates leasing, exploration, development, and production of resources on the OCS. Current regulations are a combination of prescriptive and performance-based measures.

Prescriptive regulations specify rules or courses of action that must be explicitly followed in order to comply with regulation. A prescriptive approach sets clear rules for industry to follow. Performance-based regulations, in contrast, specify objectives for industry to achieve but allow flexibility in the technology and approaches used to meet these objectives. This approach allows improved technologies and methodologies to be incorporated into industry practices without major revisions to regulations and puts the onus on industry to develop systems for continuous improvement of safety and environmental protection practices. Internationally, many countries (e.g., United Kingdom, Norway, and Australia) are moving toward more performance-based regulations. The Department also incorporates by reference recommended practices and standards from industry associations and technical standard setting groups such as the American National Standards Institute, API standards and recommended practice documents, and National Association of Corrosion Engineers documents. The Department also issues Notice to Lessees (NTLs) to clarify and provide direction on regulatory requirements.

The regulations in 30 CFR 250 govern important drilling operations on the OCS. Subpart D covers all aspects of the drilling operation including permitting, casing requirements, cementing requirements, diverter systems, BOP systems, drilling fluids requirements, equipment testing, and reporting. The minimum requirements for BOPs are stated in detail, including system components, surface and subsea BOP stacks, associated systems and equipment, choke manifolds, kelly valves, drill-string safety valves, maintenance and inspections, pressure tests and additional testing, and recordkeeping. Subpart Q covers decommissioning, which includes temporary abandonment of wells. These regulations are mainly prescriptive in nature, and convey the minimum requirements for safe operations.

While regulations governing OCS exploration, development, and production activities have been largely prescriptive, the Department has been considering more performance-based approaches. For example, the 2002 Subpart O (30 CFR 250.1500) training rule is a performance-based regulation. In addition, the Department has incorporated by reference nearly 100 consensus standards into current offshore operating regulations. In this way, the Department imposes a responsibility on operators to ensure safe operations through compliance with prescribed standards as well as compliance with performance-based, overarching measures. As such, it is the responsibility of operators to meet the requirements of 30 CFR 250.401:

What must I do to keep wells under control? You must take necessary precautions to keep wells under control at all times. You must: (a) Use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick and...(e) Use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

Review of Applications for Permit to Drill (APDs)

Upon receipt of an APD, the Department reviews the approval documents for the Exploration or Development Plans for conditions that apply to the APD or the well's proposed location. The Department also assesses whether the applicant has oil spill financial responsibility coverage.

The Department conducts an engineering review of the APD, to check the proposed drilling rig's maximum operating limits for drilling depth and water depth to ensure appropriateness for the proposed well program. The review consists of, but is not limited to, the proposed procedure, well location and directional program, geological and geophysical hazards, subsurface environment for pore pressure and fracture gradient, wellbore design and schematic, design calculations for pressure containment during drilling and completion, cement volumes, and testing pressures for the well control equipment, casing and casing shoe. This review is performed for shallow and deepwater drilling operations, and a hurricane risk assessment is performed during hurricane season. The Department reviews APDs to determine how the proposed operation satisfies the regulations in meeting its objective of safely reaching a targeted depth. This review includes an assessment of:

- well casing setting depths determined by formation strength, predicted formation fluid pressure, drilling mud weight limits, any anticipated subsurface hazards;
- effectiveness of well casing strength for pressure containment at its specified depth;
- effectiveness of cementing the well casing after successfully securing and isolating the hydrocarbon zones or any encountered subsurface hazards; and
- maintaining well control by adjusting drilling mud properties and the use of well control equipment such as diverters and BOPs.

The Department reviews the operator's plans and APDs to verify the use of best available and safest technology (BAST), and inspections verify the use of approved equipment and maintenance thereof.

Upon completing the engineering review, the Department may approve the APD with conditions if warranted, return it to the operator for modifications, or deny it. If the applicant makes changes to the drilling application, the Department must grant approval before the applicant performs its work.

C. Inspections

The Department maintains a comprehensive inspection program to promote the safety of offshore oil and gas operations on the OCS. This program places inspectors offshore on drilling rigs and production platforms to enforce operator compliance with Federal safety and environmental protection requirements. When a drilling rig enters Federal waters to drill a well, Federal inspectors will meet the rig where it is moored to provide training to the rig operators about the Federal regulatory structure. At this time, inspectors will conduct a drilling inspection

of the equipment. It is Departmental policy for inspectors to inspect the rig once on location every 30 days.

For production platforms, it is practice for initial inspections to take place during the fabrication of the platform at a shipyard. Federal inspectors and engineers review the flow diagrams and charts to determine if the specific facility meets regulatory requirements. A complete production inspection of the facility occurs typically about 30 to 45 days after a production platform is installed.

After operations begin, the Department conducts additional announced and unannounced inspections. Inspectors typically give the operator a few days notice for announced inspections. Inspectors also fly to platforms or rigs unannounced, and in such cases, inspectors contact the operator as they approach the facility. These unannounced inspections foster a climate of safe operations, maintain an inspector presence, and allow regulators to focus on operators with a poor performance record. They are also conducted after a critical safety feature has previously been found defective during previous inspections or by operator reporting.

During a drilling inspection an inspector typically conducts the following:

- a general safety walk through of the facility looking for general housekeeping hazards related to slips/trips/falls/railings/open gratings;
- verification of the location of gas detectors/hydrogen sulfide detectors/mud volume detectors;
- verification that the mud trip tank is operational and properly marked (graduated), that appropriate quantities of a mud weighting material are onboard (barite), and that the drilling mud currently in use has been periodically tested and is of the proper density as indicated in the APD (viewing mud logger's report);
- verification that proper well control data relative to the well depth and type of tubulars (drill pipe, casing) in the well is clearly marked and posted on the rig floor and that there are remote BOP and Diverter control panels on the facility;
- verification that equipment is properly grounded and that drill string safety valves with proper wrenches for the diameter of drill pipe or casing currently in the well are located on the drill floor in an open position and within easy access to rig personnel;
- verification that the crown block safety device is installed and operational and that fresh air intakes are properly located on the rig;
- verification that diesel engines have required shut down devices, that breathing air is properly labeled, that engine exhaust is insulated;

- verification that crane load charts on platform rigs have been recorded, that all equipment has proper catch basins/drains/curbs/gutters/drip pans, that the facility is properly marked as to location, that the facility is properly lighted;
- if drilling is being conducted on a production facility, verification that there is an operational Emergency Shut Down device on the rig floor;
- verification of the status/switch position of the BOP pumps that the stand-by pump operates in an automatic fashion, that the accumulator bottles are in service;
- review the BOP tests records;
- checks the Subpart O well control status of contractor and lessee employees;
- checks for certain Potential Incidents of Noncompliance, which allow the inspector to check for general competency related to drilling operations; and
- inspectors may test, randomly or as a result of a safety concern, an offshore employee's competency with various safety devices.

The records check and documentation components of a drilling inspection apply to equipment, procedures, and operations that were conducted prior to the inspector boarding the facility, including but not limited to casing, cement, diverter, and BOP pressure testing results, casing setting depths, cement volumes, proper wait on cement time, formation pressure integrity tests, formation evaluation tests, required well control drills, hydrogen sulfide training certifications, and gas detector and hydrogen sulfide detector calibration records. Furthermore, the inspector confirms that proper paperwork is available in regard to any granted departures approved during the drilling of the well which were not previously approved in the APD.

During 2009, industry drilled a total of 331 wells in the Gulf of Mexico, and the MMS Gulf of Mexico Region conducted the following types and numbers of inspections:

- 561 drilling inspections;
- 3,678 production inspections;
- 268 well workover and well completion inspections;
- 6,804 meter inspections;
- 82 abandonment inspections;
- 4,837 pipelines inspections; and
- 3,342 personal safety inspections, on behalf of the U.S. Coast Guard.

E. Enforcement

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

The OCSLA (43 U.S.C. § 1334(a)(2)) and regulations at 30 CFR 250.181-188 authorize the Secretary to cancel a lease or permit if, after opportunity and notice for a hearing, it is determined that: (1) continued activity would probably cause serious harm or damage to life, property, the environment, minerals, or national security or defense; (2) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable time; (3) the advantages of cancellation outweigh the advantages of continued activity; and (4) a suspension has been in effect for at least five years or the termination of suspension and lease cancellation are at the request of the lessee.

Regulations appearing in 30 CFR 250.135-136 provide for a disqualification process for operators exhibiting chronic poor compliance. This procedure allows operators to be placed on probation and requires that they submit Performance Improvement Plans. This gives the operator an opportunity to improve their performance. Should it not improve during a specified time, the operator may be disqualified from operating a given facility, including up to any and all facilities. Ultimately, an operator can go through Departmental debarment procedures that would prevent it from transacting any business with the Federal Government.

Under 43 U.S.C. § 1350(b) of the OCSLA, as amended, and regulations appearing at 30 CFR 250.200-206, civil penalties can be assessed for failure to comply with responsibilities under the law, a lease, a license, a permit, or any regulation or order issued pursuant to the Act. In addition to the enforcement actions specified above, civil penalty of up to \$35,000 per violation per day may be assessed if: (1) the operator fails to correct the violation in the amount of time specified on the INC; or (2) the violation resulted in a threat of serious, irreparable, or immediate harm or damage to life, property, minerals, or the environment. On a drilling rig, for example, 160 items are checked for potential violations. If significant enough, the violation may call for the particular well component or the entire complex to be shut in. In 2009, drilling operations of 20 facilities were shut-in.

V. REGULATORY AUTHORITY AND REQUIREMENTS IN OTHER NATIONS

There have been and continue to be a number of approaches for regulating offshore drilling activity. Some countries have adopted a prescriptive approach directing offshore oil and gas activities through detailed regulations and requirements, while other regulatory bodies have adopted a performance-based approach. Some regulators have adopted a hybrid approach by being prescriptive in areas deemed critical, while also establishing broad performance parameters where they deem industry needs the latitude to meet particular objectives.

There is a major difference among offshore oil and gas regulators in the number of technical standards referenced within their regulations, and the effect of referenced standards. For example, in the United Kingdom, the standards are not compulsory, while in the United States, referenced standards have the same status as regulations. A standard is a formal document that establishes or defines a method or practice; these may also be called recommended practices. Some of the standards developing organizations, referenced in the regulations, include API, American Society of Mechanical Engineers, and American National Standards Institute. The following summarizes the regulatory structures in Norway, the United Kingdom, Australia, and Canada.

Norway

Over the past 40 years, Norway has moved from a prescriptive to a performance-based approach for regulating offshore oil and gas. Like the United States today with joint regulatory oversight of mobile drilling rigs by the Department and the U.S. Coast Guard, Norway originally regulated mobile units through its maritime authority and fixed installations by the Norwegian Petroleum Directorate (NPD).

Over time, the NPD has developed new approaches, including “compliance responsibility” that required companies to verify that their business was run acceptably and in line with the rules. The NPD eliminated the concept of inspection and replaced it with the concept of “supervision.” They also replaced the term “approvals” with “consents.” Supervision spans audits, verification, investigations, and most significantly, interaction with industry in the form of studies, professional seminars, and the development of regulations. These changes transformed the earlier approvals system that had the effect of the NPD being a virtual guarantor that company activities were acceptable into one centered on the concept of consent.

Since this major change in 1985, the trend has been away from prescription towards a regulatory approach based more on performance and risk management. Also, a series of reforms has resulted in regulations that are aligned with the changes in regulatory approach. Norway’s regulatory requirements are general and primarily specify the conditions or functions that must be achieved to be compliant. Within this framework, companies have the freedom to choose practical solutions along with the responsibility to ensure compliance. To avoid misunderstandings about requirements for complying with the regulations, non-binding recommendations and guidelines have also been issued that reference reputable Norwegian and/or international industrial standards for structures, equipment, or procedures. These recommendations and guidelines rely primarily on Det Norske Veritas *Offshore Standards* that

provide technical requirements and acceptance criteria and *Recommended Practices* for proven technology and sound engineering practice.

This approach also means that the regulator must keep abreast of and participate in developing and revising industry standards to ensure that they remain relevant and reflect best practice. Supervision by the regulator involves checking whether the administrative management systems at the companies ensure acceptable operation. This auditing must be conducted by personnel who have special technical and management expertise and experience.

The NPD acknowledges that the requirements for successfully delivering performance-based regulations demands extensive participation from industry, employees, and the regulator in terms of expertise, management and flexibility. To achieve a safe and environmentally responsible offshore work environment, strategic, and operational plans must be drawn up, selected development measures implemented, progress monitored and corrective action taken when problems arise.

The Petroleum Safety Authority Norway (PSA) was established as an independent government regulator in 2004. It took over the safety department of the NPD and continued its role. Its authority was also extended to cover supervision of safety, emergency preparedness, and the working environment for petroleum-related plants and associated pipeline systems on land. Norway is working toward harmonizing their regulations for offshore and land-based petroleum operations under the PSA.

United Kingdom

The UK safety regulation is predominantly performance-based. Indeed, the safety case concept for offshore oil and gas operation began after the 1988 explosion and resulting fire of a North Sea oil production platform called Piper Alpha, which killed 167 men. The subsequent investigation led to the issuance of the Public Inquiry into the Piper Alpha Disaster (the Lord Cullen report) and the reorganization of the UK offshore safety laws from prescriptive to a safety case approach. UK standards describe objectives, and operators can select the methods and equipment used to achieve these objectives and meet their statutory obligations. Complementing the safety case regulations are approved codes of practice and guidance documents.

The UK regulates offshore oil and gas through the Health and Safety Executive (HSE). The core activities of HSE are safety case assessment, verification, inspection, investigation, and enforcement. The approval process for the HSE is case-specific, and each case must be accepted and approved before offshore installation operates. A government inspectorate is in place as an assurance mechanism. The HSE oversight includes over 300 installations including, production platforms, Floating Production Storage and Offloading units, and mobile offshore drilling units. Other legislation is applied offshore on an activity basis. In 1992, the Offshore Installation (Safety Case) Regulations were introduced into the UK sector. These require all fixed and mobile offshore installations operating in UK waters to have a safety case which must be reviewed and approved by the Health and Safety Executive.

Australia

The organization responsible for regulating Australia's oil and gas industry is The National Offshore Petroleum Safety Authority, an independent statutory agency designated under the Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006*. This organization implements a performance-based regulatory approach. The regulator is responsible for providing assurance that the operators address risks identified by a safety case. The organization includes a joint government inspectorate, and requires third party validations for regulatory assurance. Each manned facility is inspected at least once every year. The inspections are planned and usually take several days. The subject of planned inspections includes both control and management of major equipment and occupational health and safety.

The primary features of the Australian regulatory system are:

- Duties of care: Specific categories of persons (operators, employers, etc.) who are involved in offshore petroleum activities at facilities are required to "take all reasonably practicable steps" to protect the health and safety of the facility workforce and of any other persons who may be affected.
- Consultation provisions: Mechanisms are set out that will enable effective consultation between each facility operator, relevant employers, and the workforce regarding occupational health and safety.
- Powers of inspectors: Inspectors are granted powers to enter offshore facilities or other relevant premises, conduct inspections, interview people, seize evidence and otherwise take action to ensure compliance by parties with legal obligations.
- Standards and best practices are based on a safety case approach, similar to that specified in the UK regulatory system.

Canada

The Canada-Nova Scotia Offshore Petroleum Board (C-NSOPB) and the Canada Newfoundland & Labrador Offshore Petroleum Board (C-NLOPB) are responsible for the regulation of petroleum activities in the Nova Scotia, Newfoundland, and Labrador offshore areas. Their principle responsibilities include ensuring health and safety for offshore workers, protection of the environment, conservation of offshore petroleum resources, compliance with legislative provisions regarding employment and industrial benefits, issuance of licenses for offshore exploration and development, and resource evaluation. Both boards are independent joint agencies of the Government of Canada and their respective provinces. Each work activity proposed in the offshore area related to exploration, drilling, production, conservation, processing, or transportation of petroleum requires the authorization of the responsible board. Assurance mechanisms include board inspections, audits and investigations programs, and industry self inspections. Operators are required to submit reports detailing the status of their work programs on an ongoing basis, along with other documentation to demonstrate compliance with regulatory requirements. The C-NSOPB oversees one operational natural gas project

comprised of five production platforms and one 26-inch pipeline. The C-NLOPB oversees three oil projects comprised of Floating Production Storage and Offloading units and one integrated drilling/production accommodation installation.

VI. RECOMMENDATIONS FOR IMMEDIATE ACTION TO IMPROVE OFFSHORE DRILLING SAFETY

The BP Oil Spill demonstrates the possibility of a catastrophic event (or multiple catastrophic failures) and, therefore, the need to ensure that oil and gas development on the Outer Continental Shelf can be conducted safely and that another event like the BP Oil Spill never occurs again.

This 30-day review has of necessity been conducted without the results of the ongoing investigations into the precise causes of the event. A series of other investigations will determine those causes in the coming months. Nevertheless, this report makes a set of interim recommendations based upon what is known about the equipment, systems, and practices necessary for safe operation. For example, the BP Oil Spill has underscored that as drilling activity moves increasingly into very deep water environments, it is important to reevaluate whether the best practices for safe drilling operations developed over the years need to be bolstered to account for the unique challenges of drilling in deepwater. In addition, the presumed failure of the BOP points to a need to examine standards specifically related to BOP safety.

With that context in mind, the recommendations are designed to address specific policies, practices, and procedures, which the Department has identified as important for workplace and environmental safety, even before completion of the investigation into the event. Many of the near-term recommendations are prescriptive in nature, reflecting the importance of addressing immediate needs while the Department conducts a more comprehensive examination of the entire regulatory program and determines whether additional performance-based standards are necessary.

Implementation of these recommendations is expected to improve safety of offshore drilling operations. In the coming months, these measures will be refined and supplemented based on recommendations from other reviews and investigations, including from continuing work at the Department as described below, from the Joint Investigation and from the independent bipartisan commission established by the President.

Each recommendation below is accompanied by a brief discussion of the context of the recommendations and an explanation of how it will enhance the safety of future OCS drilling activities. Each is also identified with regard to priority of expected implementation. Certain measures are intended for immediate implementation (within the next 30 days), through issuance of either a NTL, internal Departmental guidance, or in the case of a safety and environmental rule, through publication of the final rulemaking.

Other recommendations will be addressed through emergency rulemaking, where appropriate. It is the intent of the Department to issue expeditiously interim final rules to implement these recommendations. Such rules will become effective immediately upon issuance, but will also be

opened for public review and comment and may be adjusted after comments are received through the appropriate process.

Finally, several recommendations require further study and, therefore, will be addressed through notice and comment rulemaking. The Department will immediately establish strike teams within the Department to further develop these measures. These strike teams will address the highly technical and complex issues raised and will seek input as appropriate from academia, industry, and other technical experts and stakeholders. The teams will present their recommendations for additional environmental protection and safety measures within six months. Recommendations will be implemented as expeditiously as possible through formal rulemaking. The recommendations from these strike teams may also inform the efforts of the President's new bipartisan National Commission.

A primer on offshore drilling technology and systems describes many of the terms used in the below recommendations (see Appendix 2).

The specific recommendations of the Department follow:

I. Blowout Preventer Equipment and Emergency Systems

BOPs and Emergency Systems: BOPs are used to control the release of oil and gas in the event of loss of well control. Current drilling regulations impose specific requirements addressing BOP systems, including requirements for annular preventers and the primary systems that control those preventers, as well as pipe and blind-shear rams.

Although the regulations do not require specific secondary control systems (back-up systems) including subsea BOP safety systems, which are designed to shut-in the wellbore automatically during emergency events the Department only approves permits for which they are secondary control systems. These safety systems include autoshear and deadman systems. Emergency events could include the loss of communication and power between the surface and the BOP stack or an unplanned disconnect of the marine riser from the BOP stack. In addition, all Gulf of Mexico drilling rigs are currently equipped to use a remote operated vehicle (ROV) to provide secondary control of the subsea BOP stack, and most provide other tertiary control systems as well. The ROV intervention capability is limited on some subsea BOP stacks while others have the ability to control multiple functions.

A. Certification of Subsea BOP Stack

Recommendation 1 – Order Immediate Re-certification of All BOP Equipment Used in New Floating Drilling Operations

Prior to spudding any new well from a floating vessel, the operator will be required to obtain a written and signed certification from an independent third party attesting that, on or after the date of this report, a detailed physical inspection and design review of the BOP has been conducted in accordance with the Original Equipment Manufacturer specifications and that: (i) the BOP will operate as originally designed, and (ii) any modifications or upgrades to the BOP stack

conducted after delivery have not compromised the design or operation of the BOP. This certification must be submitted to the Department and made publicly available. Prior to deploying the BOP, the operator must also verify that any modifications or upgrades to the BOP are approved by the Department and that documentation showing that the BOP has been maintained and inspected according to the requirements in 30 CFR 250.446(a) and other applicable standards and is on file with the Department and available for inspection.

Recommendation 2 – Order BOP Equipment Compatibility Verification for Each Floating Vessel and for Each New Well

For each new well, the Department will require, as part of a structured risk management process, the operator to obtain an independent third party verification that:

- The BOP stack is designed for the specific drilling equipment on the rig and for the specific well design including certification that the shear ram is appropriate for the drilling project.
- The BOP stack has not been compromised or damaged from previous service.
- The BOP stack will operate in the water depth in which it will be deployed.

Recommendation 3 – Develop Formal Equipment Certification Requirements

The Department will investigate new certification requirements for BOP equipment and other components of the BOP stack such as control panels, communication pods, accumulator systems, and choke and kill lines. In addition, the Department will develop a system to make BOP certifications publicly available in order to increase transparency and accountability.

B. New Safety Equipment Requirements and Operating Procedures

Recommendation 4 – New Blind Shear Ram Redundancy Requirement

The BOPs used in all floating drilling operations will be required to have two sets of blind shear rams spaced at least four feet apart (to prevent system failure if drill pipe joint or drill tool is across one set of rams during an emergency).

Recommendation 5 –Secondary Control System Requirements and Guidelines

The Department will establish clear requirements for secondary BOP control systems on all subsea BOPs and for systems that address well-control emergencies. These requirements will include:

- ROV intervention capabilities for secondary control of all subsea BOP stacks, including the ability to close all shear and pipe rams, close the choke and kill valves and unlatch the lower marine riser package (LMRP).

- Requirements for an emergency back-up BOP control system, e.g., autoshear, deadman, emergency disconnect system, and/or an acoustic activation system that is powered by a separate and independent accumulator bank with sufficient capacity to open and close one annular-type preventer and all ram-type preventers, including the blind shear ram.
- Guidelines for arming and disarming the secondary BOP control system.
- Requirements for documentation of BOP maintenance and repair (including any modifications to the BOP stack and control systems).

Recommendation 6 –New ROV Operating Capabilities

The Department will develop requirements for ROV operating capabilities including the following:

- Standardized intervention ports for all subsea BOP stacks to ensure compatibility with any available ROV.
- Visible mechanical indicator or redundant telemetry channel for BOP rams to give positive indication of proper functioning (e.g., a position indicator).
- ROV testing requirements, including subsea function testing with external hydraulic supply.
- An ROV interface with dual valves below the lowest ram on the BOP stack to allow well-killing operations.

C. New Testing Guidelines and Inspection Procedures

Recommendation 7 – Develop New Testing Requirements

The Department will develop surface and subsea testing of ROV and BOP stack capabilities. These will include:

- Surface and subsea function and pressure testing requirements to ensure full operability of all functions (emergency disconnect of the LMRP and loss of communication with the surface control pods (e.g., electric and hydraulic power)).
- Third party verification that blind-shear rams will function and are capable of shearing the drill pipe that is in use on the rig.
- ROV performance standards, including surface and subsea function testing of ROV intervention ports and ROV pumps, to ensure that the ROV can close all shear and pipe rams, close the choke and kill valves, and unlatch the LMRP.

- Protocols for function testing autoshear, deadman, emergency disconnect systems, and acoustic activation systems.
- Mandatory inspection and testing of BOP stack if any components are used in an emergency (e.g., use of pipe or casing shear rams or circulating out a well kick). This testing must involve a full pressure test of the BOP after the situation is fully controlled, with the BOP on the wellhead.

Recommendation 8 – Develop New Inspection Procedures and Reporting Requirements

- The Department will evaluate and revise the manner in which it conducts its drilling inspections. Revised drilling inspections will include the witnessing of actual tests of BOP equipment, including the new requirements and guidance that address the surface and subsea testing of ROV and BOP stack capabilities. The Department will also develop methods to increase transparency and public availability of the results of inspections as well as routine reporting. The Department will work with Congress to obtain the necessary resources to implement these recommendations.
- Within 15 days of the date of this report, all operators of floating drilling equipment will report to the Department the following: (i) BOP and well control system configuration; (ii) BOP and well control system test results, including any anomalies in testing or operation of critical BOP components; (iii) BOP and loss of well control events; and (iv) BOP and well control system downtime for the last three years of drilling operations.
- The electronic log from the BOP control system must be transmitted online to a secure location onshore and made available for inspection by the Department.

II. Procedures to Ensure Adequate Physical Barriers and Well Control Systems are in Place to Prevent Oil and Gas from Escaping into the Environment

Minimizing Risk of Uncontrolled Flow: A well creates a conduit for subsurface formations to potentially flow uncontrolled to the surface. There are multiple methods that can be utilized to minimize the risk of the occurrence of uncontrolled flow. Those methods include the installation of rigid physical barriers such as cement plugs or mechanical plugs, well casing design and securing of the casing, and well control equipment. An appropriate well safety program must account for many factors unique to the drill location and dictates the installation of plugs and casing at strategic points to maintain well control and to enable drilling to the desired depth. Current Department regulations require that well-control equipment be in place at all times during the drilling operation to mitigate against failure of a plug or casing. Other, more specific standards may be appropriate to improve physical barriers and well-control systems. Well-control procedures must be revisited for deepwater operations because of the complexity of the equipment design in deepwater and the location of the BOP stack on the seafloor. Enhanced training for rig personnel will complement new well-control requirements.

A. Well-Control Guidelines and Fluid Displacement Procedures

Recommendation 1 – Establish Deepwater Well-Control Procedure Guidelines

As expeditiously as possible, the Department will establish new requirements for deepwater well-control procedures no later than 120 days of the date of this report.

Recommendation 2 – New Fluid Displacement Procedures

Prior to displacement of kill-weight drilling fluid from the wellbore, the operator must independently verify that:

- The BOPs are closed during displacement to underbalanced fluid columns to prevent gas entry into the riser should a seal failure occur during displacement.
- Two independent barriers, including one mechanical barrier, are in place for each flow path (i.e., casing and annulus), except that a single barrier is allowable between the top of the wellhead housing and the top of the BOP.
- If the shoe track (the cement plug and check valves that remain inside the bottom of casing after cementing) is to be used as one of these barriers, it is negatively pressure tested prior to the setting of the subsequent casing barrier. A negative pressure test must also be performed prior to setting the surface plug.
- Negative pressure tests are made to a differential pressure equal to or greater than the anticipated pressure after displacement. Each casing barrier is positively tested to a pressure that exceeds the highest estimated integrity of the casing shoes below the barrier.
- Displacement of the riser and casing to fluid columns that are underbalanced to the formation pressure in the wellbore is conducted in separate operations. In both cases, BOPs must be closed on the drill string and circulation established through the choke line to isolate the riser, which is not a rated barrier. During displacement, volumes in and out must be accurately monitored.
- Drill pipe components positioned in the shear rams during displacement must be capable of being sheared by the blind-shear rams in the BOP stack.

B. Well Design and Construction

1. Requirements for Both Casing and Cementing

Recommendation 3 – New Casing and Cement Design Requirements: Two Independent Tested Barriers

Before spudding any new floating drilling operation, all well casing and cement designs must be certified by a Professional Engineer, who verifies that there will be at least two independent

tested barriers, including one mechanical barrier, across each flow path during well completion and abandonment activities and that the casing design is appropriate for the purpose for which it is intended under reasonably expected wellbore conditions.

Recommendation 4 – Study Formal Personnel Training Requirements for Casing and Cementing Operations

The Department will immediately establish a technical workgroup to evaluate new training and certification requirements for rig personnel specifically related to casing and cementing operations.

2. Casing Requirements

Recommendation 5 – New Casing Installation Procedures

The Department will ensure the requirement of the following BAST practices:

- Casing hanger latching mechanisms or lock down mechanisms must be engaged at the time the casing is installed in the subsea wellhead.
- For the final casing string, the operator must verify the installation of dual mechanical barriers (e.g., dual floats or one float and a mechanical plug) in addition to cement, to prevent flow in the event of a failure in the cement.

Recommendation 6 – Develop Additional Requirements or Guidelines for Casing Installation

The Department will establish specific requirements for the following procedures and practices:

- Positive and negative test procedures and use of test results for evaluation of casing integrity.
- Use of float valves and other mechanical plugs in the final casing string or liner.

3. Cementing Requirements

Recommendation 7 – Enforce Tighter Primary Cementing Practices

- The Department will institute a rulemaking address previously identified gaps in primary cementing practices).
- The Department, with input from independent experts will determine specific cementing requirements.

Recommendation 8 – Develop Additional Requirements or Guidelines for Evaluation of Cement Integrity

The Department will immediately evaluate whether and under what circumstances the use of cement bond logs is feasible and practical and will increase safety.

Discussion of Recommendations 3-8

Recommendations 3-8 are intended to result in better well control. Requiring a Professional Engineer to review and certify the well design will add another level of review to the current well design requirements. The Department's review new training requirements for casing and cementing operations helps focus industry and rig personnel on the importance of proper casing and cementing operations. Additional operational requirements for casing installation and cementing operations will add new assurances that adequate barriers are in place before continuing on to new drilling activities. Incorporation of the new cementing standard will bring all of industry up to state-of-art cementing practices—this means less chance of a well blowout due to a poor cement job.

C. Wild-Well Intervention

Recommendation 9 – Increase Federal Government Wild-Well Intervention Capabilities

Blown out, or “wild” wells, involve the uncontrolled release of crude oil or natural gas from an oil well where pressure control systems have failed. The Federal Government must develop a plan to increase its capabilities for direct wild-well intervention to be better prepared for future emergencies, particularly in deepwater. Development of the plan should consider existing methods to stop a blowout and handle escaping wellbore fluids, including but not limited to coffer dams, highly-capable ROVs, portable hydraulic line hook-ups, and pressure-reading tools, as well as appropriate sources of funding for such capabilities.

Recommendation 10 – Study Innovative Wild-Well Intervention, Response Techniques, and Response Planning

The Department will investigate new methods to stop a blowout and handle escaping wellbore fluids. A technical workgroup will take a fresh look at how to deal with a deepwater blowout. In particular, the workgroup will evaluate new, faster ways of stopping blowouts in deepwater. The technical workgroup will also address operators' responsibility, on a regional or industry-wide basis, to develop and procure a response package for deepwater events, to include diagnostic and measurement equipment, pre-fabricated systems for deepwater oil capture, logistical and communications support, and plans and concepts of operations that can be deployed in the event of an unanticipated blowout, as well as assess and certify potential options (e.g., deepwater dispersant injection).

III. Organizational and Safety Management

A. Increased Enforcement of Existing Safety Regulations and Procedures

Enforcing Existing Regulations: Immediately following the BP Oil Spill, the MMS and the U.S. Coast Guard issued a joint Safety Alert to compel operators and drilling contractors to inspect their drilling equipment (both surface and subsea), review their procedures to ensure the safety of personnel and protection of the environment, and review all emergency shutdown and dynamic positioning procedures. Inspections began immediately to verify that all active deepwater drilling activities complied with these recommendations and all other regulations. Following the completion of the drilling inspections, inspections of all deepwater production facilities began immediately to ensure compliance by those facilities with the regulations. Reconfirmation of adherence to this Safety Alert and all existing regulations will heighten safety awareness.

Recommendation 1 – Compliance Verification for Existing Regulations and April 30, 2010, National Safety Alert

Within 30 days of the date of this report, the Department, in conjunction with the Department of Homeland Security, verify compliance by operators with existing regulations and National Safety Alert (issued April 30, 2010), which issued the following safety recommendations to operators and drilling contractors:

- Examine all well-control equipment (both surface and subsea) currently being used to ensure that it has been properly maintained and is capable of shutting in the well during emergency operations. Ensure that the ROV hot-stabs are function-tested and are capable of actuating the BOP.
- Review all rig drilling/casing/completion practices to ensure that well-control contingencies are not compromised at any point while the BOP is installed on the wellhead.
- Review all emergency shutdown and dynamic positioning procedures that interface with emergency well control operations.
- Inspect lifesaving and firefighting equipment for compliance with Federal requirements.
- Ensure that all crew members are familiar with emergency/firefighting equipment, as well as participate in an abandon ship drill. Operators are reminded that the review of emergency equipment and drills must be conducted after each crew change out.
- Exercise emergency power equipment to ensure proper operation.
- Ensure that all personnel involved in well operations are properly trained and capable of performing their tasks under both normal drilling and emergency well-control operations.

After the 30-day compliance period, the Department will provide a public report on operator verification, including any cases of non-compliance.

B. Organizational Management

Organizational Safety Case Documentation: A safety case is a comprehensive and structured set of safety documentation to ensure the safety of a specific vessel or equipment. This documentation is essentially a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given environment. In response to the 1988 Piper Alpha disaster in the UK, the Lord Cullen investigation and report advanced the safety case concept for offshore oil and gas operations.

The use of a formal safety case for drilling operations is an important component in regulating drilling activities in many countries. The International Association of Drilling Contractors (IADC) has developed guidelines that can be applied to any drilling unit regardless of geographic location. The use of these guidelines can assist both the operator and regulatory authorities when evaluating a drilling contractor's safety management program by providing them assurance that the program encompasses a series of best industry practices designed to minimize operating risks. The Department will undertake an evaluation of requiring the application of all or part of these guidelines to OCS oil and gas operations.

Recommendation 2 – The Department Will Adopt Safety Case Requirements for Floating Drilling Operations on the OCS

The Department will assure the adoption of appropriate safety case requirements based on IADC Health, Safety and Environmental Case Guidelines for Mobile Offshore Drilling Units (2009), which will include well construction safety assessment prior to approval of APD. This safety case must establish risk assessment and mitigation processes to manage a drilling contractor's controls related to the health, safety, and environmental aspects of their operations. In addition to the safety case, a separate bridging document will be required to connect the safety case to existing well design and construction documents. Such a proposed Well Construction Interfacing Document will include all of the elements in a conventional bridging document plus alignment of the drilling contractor's management of change (MOC) and risk assessment to the lease operator's MOC and well execution risk assessments. The use of the IADC's Health, Safety, and Environmental Case Guidelines for Mobile Offshore Drilling Units will help operators and drilling contractors demonstrate their ability to operate safely and handle the risks associated with drilling on the OCS.

C. Personnel Accountability Procedures for Operational Safety (Risk, Injury, and Spill Prevention)

Recommendation 3 – Finalize a Rule that Would Require Operators to Develop a Robust Safety and Environmental Management System for Offshore Drilling Operations

Department investigation findings and reports indicate that unsafe offshore drilling operations often result from human error. The Department is proceeding with the rulemaking process to finalize a regulation to require operators on the OCS to adopt a comprehensive, systems-based approach to safety and environmental management that incorporates best practices from around the globe. The Department believes that requiring operators to implement robust and comprehensive safety and environmental management plans could reduce the risk and number of injuries and spills during OCS activities. The Department will finalize a rule that is informed by current operational conditions in the Gulf and the events and related investigation surrounding the BP Oil Spill.

Recommendation 4 – Study Additional Safety Training and Certification Requirements

The Department will immediately establish a workgroup to investigate safety training requirements for floating drilling rig personnel and possible requirements for independent or more frequent certification and testing of personnel and safety systems.

- Establish an oil production safety program or institute similar to U.S. Nuclear Regulatory Commission (NRC) reactor safety program.
- Establish a formalized analytical methodology to assess performance of safety systems in the event of multiple component failure or excursions outside normal environmental ranges.
- Strengthen technical support to the Department and other regulatory authorities, including the resources necessary to obtain independent technical review of regulations and standards.
- Charter a longer-term technical review of BOP equipment and emergency backup system reliability.
- Review and adopt as appropriate best practices from other agencies with similar responsibility for safety regulation of technically complex systems (e.g., Federal Aviation Administration, NRC, Chemical Safety Board, and National Transportation Safety Board).

VII. CONCLUSION

The Department developed these recommendations with input and suggestions from experts from across the field and reviewed by members of the National Academy of Engineering. The

Department has presented new requirements for well design, construction and operation and for the quality and sufficient redundancy of fail-safes, so as to promote better well control and ensure the efficacy of the BOPs. The Secretary of the Interior has directed the Department to develop measures to increase the frequency, thoroughness, and transparency of inspections, such as for testing of BOPs and associated back-up systems. The Secretary has also directed the Department to look at innovative ways of promoting a greater culture of safety through a new rule that would require all rig operators to develop enhanced operational, safety, and environmental management plans, which would include more extensive worker training to enable them to adapt and respond effectively to events when something unexpected happens on a drilling rig.

The Department's approach to implementing these recommendations will follow a continuum from near-term prescriptive regulations, which are required to increase immediately the margin of safety in offshore oil and gas development, to longer-term actions designed to facilitate an environment where the absolute highest standard of performance is demanded of industry. This approach puts the onus on industry to perform safely, with the Government focusing on aggressive verification and enforcement. The majority of the specific recommendations contained in this report fall within the category of near-term prescriptive actions necessary to increase offshore energy production safety immediately.

At the same time, the Secretary has directed a fundamental restructuring of the MMS to bring greater clarity to the roles and responsibilities of the Department while strengthening oversight of the companies that develop energy in our Nation's waters. This restructuring, the latest in a series of reforms to the MMS that the Secretary began in January 2009, will establish:

- Bureau of Ocean Energy Management: A new bureau under the supervision of the Assistant Secretary for Land and Minerals Management that will be responsible for the sustainable development of OCS conventional and renewable energy resources, including resource evaluation, planning, and other activities related to leasing.
- Bureau of Safety and Environmental Enforcement: A bureau under the supervision of the Assistant Secretary for Land and Minerals Management that will be responsible for ensuring comprehensive oversight, safety, and environmental protection in all offshore energy activities.
- Office of Natural Resources Revenue: An office under the supervision of the Assistant Secretary for Policy, Management and Budget that will be responsible for the royalty and revenue management function including the collection and distribution of revenue, auditing and compliance, and asset management.

Another critical part of the ongoing effort to reform the MMS began in September 2009 when the Secretary asked the National Marine Board, an arm of the highly respected National Academy of Sciences, to direct an independent review of MMS's inspection program for offshore facilities. That review is on-going.

The Secretary is committed to implementing the changes recommended in this report at the same time this and other reviews are ongoing and at the same time that the Department undertakes

fundamental change in its OCS oversight. The Secretary established by Secretarial Order 3298 the OCS Safety Oversight Board. The OCS Safety Oversight Board is a high-level team, led by the Assistant Secretary for Land and Minerals Management, the Assistant Secretary for Policy, Management and Budget, and the Inspector General, that reviews and oversees OCS operations to support reasoned and fact-based recommendations for potential improvements.

The success of the Department's longer-term objective of creating a more dynamic and effective regulatory environment for offshore energy production overall is very much the focus of the efforts to restructure the MMS. Specifically, the persons responsible for designing the new Bureau of Safety and Environmental Enforcement have been tasked to create a structure, operational processes, and culture that supports both the longer-term recommendations contained in this report, as well as a continuously evolving set of additional policies and practices that provide the highest assurance of safety in offshore energy operations.

As the Presidential Commission completes its review and as the Department and the U.S. Coast Guard finish the root cause investigation, the Department will know more and will respond accordingly. The measures contained in this report will increase the safety in offshore oil and gas development, but represent only the beginning of the Department's work.

Appendix 1: Expert Consultations

The Department consulted with a wide range of experts in state and Federal governments, academic institutions, and industry and advocacy organizations. In addition, draft recommendations were peer reviewed by seven experts identified by the National Academy of Engineering.

Expert Reviewers of the National Academy of Engineering

- **Bea, Robert** holds a Bachelor of Science in Civil Engineering and a Master of Science in Engineering both from the University of Florida. Dr. Bea has done post-graduate studies at Tulane University, Rice University, Texas A&M University, Bakersfield College, University of Houston, and the Technical and Scientific University of Norway. Dr. Bea received a PhD from the University of Western Australia. He is a registered Professional Civil Engineer (retired) in Louisiana, Texas, Florida, Alaska, Washington, Oregon and California. He is a registered Professional Geotechnical Engineer (retired) in California. He is a member of the American Society of Civil Engineers, the American Society of Mechanical Engineers, and the National Academy of Engineering. Dr. Bea has 55 years of experience in engineering and management of design, construction, maintenance, operation and decommissioning engineered systems, including offshore platforms, pipelines and floating facilities. Dr. Bea has worked for the U.S. Army Corp of Engineers, Shell Oil Company, the Ocean Services Division of Woodward-Clyde Consultants, PMB Engineering – Bechtel Inc., and the University of California at Berkeley where he is currently a professor. In 2009, he was honored by the Offshore Technology Hall of Fame.
- **Brett, Ford** holds a Bachelor of Science in mechanical engineering and physics from Duke University as well as a Master of Science in Engineering from Stanford University and a Masters of Business Administration from Oklahoma State University. Mr. Brett is recognized as a leader in the area of Petroleum Project Management. He has consulted more than 25 countries in the area of petroleum project and process management. Formerly, Mr. Brett worked with Amoco Production Company where he specialized in drilling projects in the Bering Sea, North Slope of Alaska, Gulf of Mexico, offshore Trinidad and Wyoming. In 1996, Mr. Brett was nominated for the National Medal of Technology, the U.S. Government’s highest technology award. Mr. Brett has been granted over 25 U.S. patents.
- **Baugh, Benton** holds a Bachelor of Science in Mechanical Engineering from the University of Houston; a Master of Science in Mechanical Engineering and PhD in Mechanical Engineering from Kennedy Western University. Additionally, Dr. Baugh graduated from the Army Machinist School. Dr. Baugh has been employed by Bowen, Camco, Cameron, Vetco, Brown Oil Tools, and Baugh Consulting Engineers. Dr. Baugh is the owner and President of Radoil, Inc., which designs and manufactures oilfield and subsea products. Dr. Baugh has received over 100 U.S. patents for his tool and solution designs, consulting and management. Dr. Baugh has over 50 years of oilfield machine design, manufacturing, management, consulting, and expert witness experience.

- **Chenevert, Martin** holds a Bachelor of Science in Petroleum Engineering from Louisiana State University as well as a Master of Science in Petroleum Engineering and a Doctor of Philosophy in Petroleum Engineering, both from the University of Texas at Austin. Dr. Chenevert has over ten years of industrial experience with Exxon Production Research and Exxon USA and over 30 years of teaching experience from Oklahoma State University, the University of Houston, and the University of Texas. Dr. Chenevert has published over 120 articles on well control, wellbore stability, rock mechanics, drilling fluids, and cementing.
- **Holand, Per** graduated from Norwegian University of Science and Technology in 1982 with a Master of Science in Mechanical Engineering. He has 18 years experience from safety and reliability engineering at SINTEF, prior to joining ExproSoft on May 1, 2001. His main work focus in SINTEF and ExproSoft has been on the reliability of drilling equipment, offshore blowout experience, subsea and well reliability analyses. Dr. Holand carried out numerous subsea BOP reliability studies on behalf of clients in Norway, Brazil, the United States, and Italy. Since 1990 he has been responsible for maintaining the SINTEF Offshore Blowout Database, which serves as the key information in connection with blowout risk analyses in the North Sea area. Dr. Holand holds a PhD (1996) in safety and reliability engineering from the Norwegian University of Science and Technology in Trondheim, Norway. His PhD was later reworked and published as a book at the Gulf Publishing Company in 1997 (Title: Offshore Blowouts, Causes and Control).
- **Juvkam-Wold, Hans** holds a Bachelor of Science, Master of Science, and a Doctor of Science in Mechanical Engineering from the Massachusetts Institute of Technology. His area of expertise is buckling of tubular in horizontal drilling, well control, Arctic and offshore drilling, and dual-gradient drilling in ultra-deep water. Dr. Juvkam-Wold is a Registered Professional Engineer in Texas. Prior to his 24 years of teaching drilling experience at the University of Texas A&M, Dr. Juvkam-Wold has 20 additional years of oil industry experience: Juvkam-Wold has served as a Consultant for the National Institute of Standards & Technology; Frontier and Offshore Technology Co.; Western Irrigation Supply House; Oil & Gas Consultants Inc.; Ocean Drilling Program; Unocal E&P. He has served as the Gulf Mineral Resources Company's Representative on the industry's advisory committee on mine shaft drilling as well as manager of technical services and section supervisor of production engineering. Dr. Juvkam-Wold joined Texas A&M in 1985 with his main area of teaching and research in drilling; he is now a Professor Emeritus of Petroleum Engineering. Dr. Juvkam-Wold holds seven drill-related U.S. patents.
- **Stancell, Arnold** holds a Doctor of Science in Chemical Engineering from the Massachusetts Institute of Technology. Dr. Stancell is the retired Vice president of Mobil Oil, Exploration and Production, and Professor Emeritus, Chemical Engineering, Georgia Tech. Dr. Stancell was awarded nine U.S. patents and was inducted into the National Academy of Engineering and received the AIChE's National Award in Chemical

Engineering Practice. He is a licensed Professional Engineer in New York and Connecticut.

Other Experts Consultations

- **Arnold, Ken** holds a Bachelor of Science in Civil Engineering from Cornell University and a Master of Science in Civil Engineering from Tulane University. Mr. Arnold is currently a registered Professional Engineer in the State of Texas, is a member of the Marine Board of the National Research Council, Society of Petroleum Engineers, the Texas Society of Professional Engineers, was elected to the National Academy of Engineers in 2005 due to his work on offshore safety and is a member of the Academy of Medicine, Engineering and Science of Texas.
- **Danenberger, Elmer “Bud”** holds a Bachelor of Science degree in Petroleum and Natural Gas Engineering and a Master’s degree in Environmental Pollution Control, both from Pennsylvania State University. After a 38-year career, Mr. Danenberger retired from the Department of the Interior’s offshore oil and gas program in January 2010. During his career, Mr. Danenberger served as a staff engineer in the Gulf of Mexico regional office, Chief of the Technical Advisory Section at the headquarters office of the U.S. Geological Survey, District Supervisor for several MMS offices, and Chief of the Engineering and Operations Division at MMS Headquarters. For the last five years of his tenure at the Department, he served as Chief, Offshore Regulating Programs with responsibilities for safety and pollution prevention research, investigations, regulations and standards, and inspection and enforcement programs.
- **Epstein, Lois** holds a Bachelor of Science in Mechanical Engineering from Massachusetts Institute of Technology and a Master of Science in Mechanical Engineering from Stanford University. Ms. Epstein is currently a licensed engineer in Maryland. Ms. Epstein is a former Senior Engineer, Cook Inlet Keeper. Ms. Epstein is the President of LNE Engineering and Policy, which provides technical and policy consultant to non-profit organizations on oil/gas issues. Ms. Epstein was a public member of the Office of Pipeline Safety Federal Advisory Committee on Hazardous Liquid Pipelines from 1995 through 2007.
- **O’Reilly, David J.** is the retired Chairman and Chief Executive Officer of Chevron Corporation. Mr. O’Reilly is a native of Dublin, Ireland, where he earned his Bachelor’s degree in Chemical Engineering from the University College, Dublin. Mr. O’Reilly started as a process engineer with Chevron Research Co in 1968 and after several decades and earning positions of increasing responsibility he was elected Senior Vice President and Chief Operating Officer of Chevron Chemical Company in 1989. Mr. O’Reilly was named Chairman and Chief Executive Office of Chevron Corporation on January 1, 2000, and he held that position until his retirement on December 31, 2009. Mr. O’Reilly is the Vice Chairman of the National Petroleum Council. He is a director of Bechtel Group, Inc., a member of The Business Council, the World Economic Forum’s International Business Council, and the American Society of Corporate Executives. He also serves on the San Francisco Symphony Board of Governors.

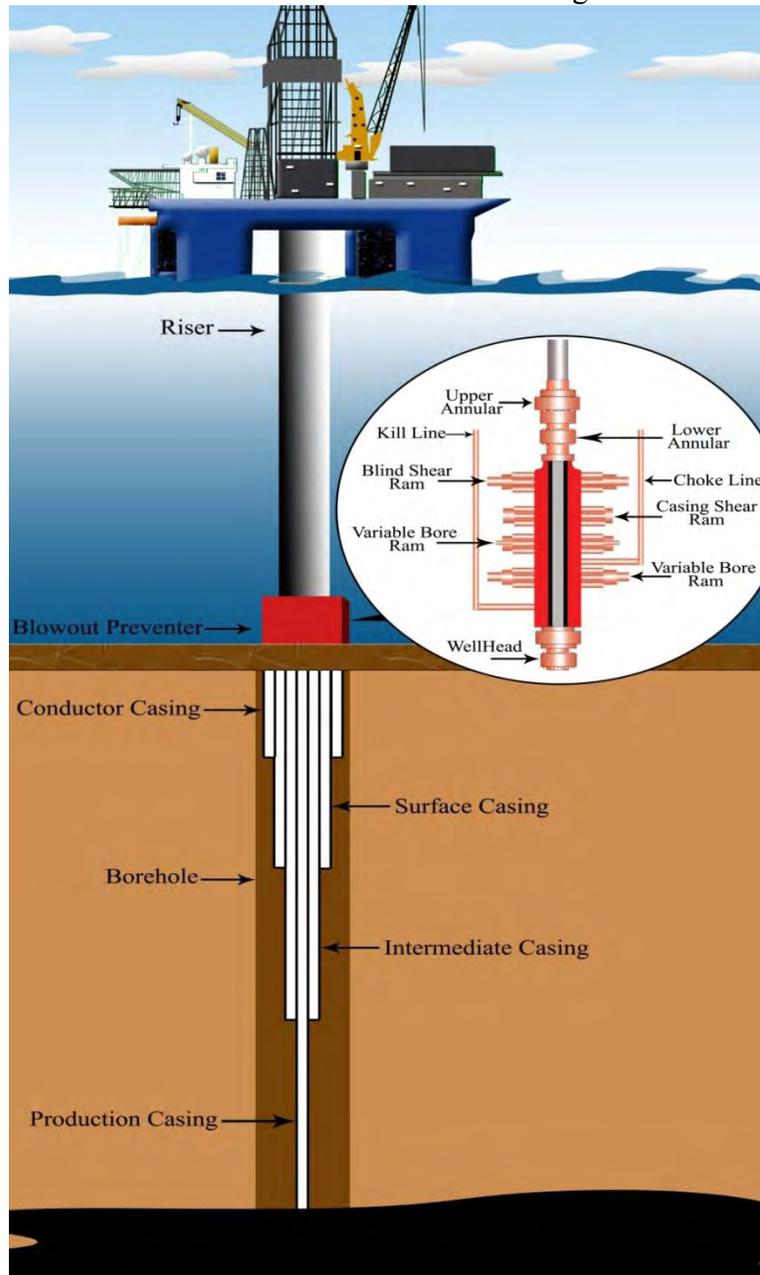
- **Regg, Jim** holds a Bachelor of Science in Petroleum and Natural Gas Engineering from Pennsylvania State University as well as a Bachelor of Art in Math/Science from Edinboro State University. Mr. Regg worked for the Minerals Management Service Field Operations for almost 20 years where his primary focus was technology assessment. Currently Mr. Regg is a Senior Petroleum Engineer for the Alaska Oil & Gas Conservation Commission where he is responsible for managing the compliance inspection program (including investigations and enforcement); well integrity and regulation development.
- **Ward, E.G. “Skip”** holds a Bachelor of Science in Mechanical Engineering from Lamar University and a Master’s and Doctorate in Mechanical Engineering from the University of Houston. Dr. Ward spent 30 years with Shell Oil Co. beginning in Shell Development’s E&P Research Division in 1968 as a researcher. From 1981 to 1985, he supervised the Oceanographic Engineering section. From 1985 through 1994, he managed the Offshore Engineering Research Department. In 1994, Dr. Ward became the technology manager of Shell Offshore Inc’s Deepwater Division where he was responsible for a group that designed deepwater structures and developed new structural concepts and components for deepwater production systems. Dr. Ward has been a member of the American Petroleum Institute since 1976 and received API’s 30+ Years of Service Recognition Award in 2006. Dr. Ward served on the Marine Board of the National Academies for nine years. Dr. Ward is currently the Associate Director of the Texas Engineering Experiment Station’s Offshore Technology Research Center.
- **West, Robin** is the current Chairman, Founder, and Chief Executive Officer of PFC Energy where he advises chief executives of leading international oil and gas companies and national oil companies on corporate strategy, portfolio management, acquisitions, divestitures, and investor relations. Before founding PFC Energy in 1984, Mr. West was the Assistant Secretary of Policy, Management and Budget at the Department of the Interior from 1981 through 1983. While there, he conceived of and implemented the Outer Continental Shelf Leasing Schedule and managed the \$14 billion per year OCS budget policy. Mr. West also served as the Deputy Assistant Secretary of Defense for International Economic Affairs during the Ford Administration. Mr. West has served on several boards and commissions including a Presidential appointment to the National Advisory Committee on Oceans and Atmosphere in 1977. Mr. West is also a member of the National Petroleum Council; Director of the Magellan Petroleum Corporation; Director of Key Energy Services, Inc and Director of Cheniere Energy. He earned his Bachelor of Arts from the University of North Carolina at Chapel Hill and a Juris Doctorate from Temple University.
- **Williams, Tom** has been in the energy business for over 28 years. He is currently the Managing Director of Nautilus International LLC. Mr. Williams served as President of Maurer Technology Inc, a leading drilling research and development and engineering technology company. From 1993 through 2000, he was Business Director at Westport Technology Center, a leading upstream oil and gas research company. Mr. Williams held senior executive positions at the Departments of the Interior and Energy during the Bush

Administration from 1989 through 1993. He owned and operated an oil and gas exploration, production and consulting company prior to joining the Department of Energy. Mr. Williams is currently on the Board of Directors of Far East Energy Corporation, a public oil and gas company with operations in China; Board of Directors of Petris Technology, Inc, TerraPlatforms LLC; The Research Partnership to Restore Energy for America; The Contributor Committee Co-Chair of DeepStar Consortium; The Society of Petroleum Engineers; The Independent Petroleum Association of America; The International Association of Drilling Contractors; the American Association of Drilling Engineers. Mr. Williams' Environmentally Friendly Drilling Project was awarded the Environmental Stewardship Award by the Interstate Oil and Gas Compact Commission in May of 2010.

Appendix 2: Brief Primer on Offshore Drilling Technology and Systems

The process for an offshore oil and gas exploratory well begins by positioning a drill rig above the intended leasing tract for exploration (see Figure A1).

Figure A1
Schematic of Offshore Drilling



Source: Minerals Management Service Database, 2010.

The rig lowers drill pipe (also known as a drill string) with a drill bit attached to its end to the seafloor where it commences to drill. The borehole created by the drill is then set with casing. At the seafloor, conductor casing is normally set to stabilize the soft sediments at the top of the borehole to ensure that continued drilling does not precipitate a borehole collapse. Once the conductor is in place, the drill rig lowers to the seafloor a marine riser (a large pipe that surrounds the drill pipe) that connects the conductor casing to the drill rig. As drilling proceeds, a blowout preventer (BOP) is lowered to the seafloor and sits atop the wellhead.

As drilling progresses with depth, additional casings (sections of pipe) that are slightly narrower in diameter than the hole created by the drill bit are inserted into the borehole and bonded into place by cement. This process ensures that the borehole does not collapse on itself, and it isolates the borehole from any pockets of gas or water in the strata that the borehole passes through. A series of casings of equal diameter that are connected together and run down the borehole is a "string" and a string may be hundreds to thousands of feet long with a threaded connector between each 30-foot segment of casing. Deeper into the borehole, narrower casings are inserted one into the other resulting in strings of casing that are enclosed and cemented into the previous, slightly wider-diameter string of casing. The outermost casing can be up to four feet in diameter with the innermost string of casing less than six inches in diameter in some cases. The initial and final casing diameters, the types of casing, and type of cement used are determined by the profile (depth, temperature, pressure, etc.) of the well being drilled. Once the well is in production, the hydrocarbons will come to the surface through the production casing that is run down through the middle of the narrowest casing string.

During the process of drilling, drill fluid, referred to as "mud," is pumped down the drill pipe through drill bit nozzles. The mud's primary function is maintaining "well control," but it also cools the drill bit and carries the drill cuttings away from the bottom of the borehole and returns to the surface through the space (the annulus) between the drill pipe and the walls of the casing strings. To maintain well control, the pressure created by the weight of the mud in the drill pipe and annulus must be maintained equal to or greater than the pressures encountered in the borehole. Various indicators of well pressure measures allow the mud engineer on the rig to maintain the well bore fluid pressure equal to or slightly greater than the pressures from the deepest formation. This type of pressure balance is called overbalanced.

The pockets of oil, gas, or water that are encountered in porous layers during the drilling process can suddenly push the mud through the annulus with considerable pressure—what is referred to as a "kick." When a kick occurs there are various bypass mechanisms, such as diverters and BOPs, to shunt the pressure away from the well bore (diverter) or prevent the pressure from rising to the ocean surface (BOP), thereby maintaining well control. If a kick overwhelms the control mechanisms, a blowout can occur.

A BOP consists of a series of ram and annular preventers that sits atop the wellhead and connects to one of the outermost casing strings, allowing the narrower casing strings and drill pipe to be lowered down the borehole through the center of the BOP. In the event of significant loss of well control, one or more of the preventers can be activated from the drill rig. The annular preventer is typically the first to be utilized when an influx from a formation is experienced, but is not usually used with pressures above 3,500 pounds per square inch (psi). The pipe (variable

bore) rams are utilized for pressures above 3,500 psi. A pipe ram and/or annular preventer will be closed around the drill pipe shutting off the upward movement of mud and pressure through the annulus between the drill pipe and the casing string. A blind-shear ram can be used to cut through the entire drill pipe and seal the borehole. In the event that activation from the drill rig fails, BOPs may have one or more back-up means for activating the rams. Remote operated vehicles (ROVs) can trigger closure of the rams working at the BOP. Other redundant control systems include "acoustic switch" technology which can activate the BOP with an acoustic signal from the rig through the water. Another device called a "deadman" switch automatically closes rams if the BOP loses connection electronic or hydraulic communication with the drill rig for any reason.

The BOPs are a hydraulically activated device. The hydraulics are supplied by the accumulator system located on the rig through lines that run down the riser and connect to the BOP. The BOP contains control devices called pods which are blue and yellow. The hydraulic fluid is distributed by the pod to the desired components of the BOP. The communication system to the pod may either be a pilot hydraulic system or an electro-hydraulic system. The pilot hydraulic system uses hydraulic pressure to function the pod and the electro-hydraulic system uses electrical signals to communicate with the pod. All commands for the system are sent from the control panel on the rig. The subsea BOP also contains pre-charged bottles that provide hydraulic fluid to activate the BOP's auto shear or deadman devices in the event of disconnects. The BOP is also equipped with an ROV "hot stab" panel that allows the hydraulic line(s) from the accumulator system to be isolated in order for the ROV to "stab" in a separate control line and directly pump into the BOP to function the rams via a pump mounted on the ROV. The panel for the ROV to "stab" into may be capable of activating all rams or only designated ram(s).

Cwcej o gpv4

From: [Mary Kendall](#)
To: [Keith Kuczka](#); [Jeffrey Carlson](#)
Cc: [Jack Rohmer](#); [Loralee Bennett](#); [Stephen Hardgrove](#); [John Dupuy](#); [Kimberly Elmore](#)
Subject: Fw: 30 Day Letter
Date: 05/28/2010 11:14 AM
Attachments: [Interim Measures Report 100527_FINAL_version 2_CLEAN.pdf](#)
[30day report transmittal letter.pdf](#)

All - Attached is the 30-Day Letter to the President on immediate safety measures that can be taken relative to offshore drilling. It was made public late yesterday.

Please share with whomever you deem appropriate on the team(s). Whatever our efforts, we do not want to duplicate those that have already been taken. Steve, Jack and Kim scrubbed our to-do list based on the draft 30-Day Letter. The content of the final Letter should not have changed much substantively, but please continue to bear in mind that we do not want to duplicate effort.

Thanks. Mary

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

----- Forwarded by Mary Kendall/WDC/OIG/DOI on 05/28/2010 11:06 AM -----

"Black, Steve"
<steve_black@ios.doi.gov> To "Kendall, Mary" <Mary_Kendall@doioig.gov>
cc
05/28/2010 10:17 AM Subject RE: 30 Day Letter

Yes, of course. And thanks for your kind words, Mary, and for your participation in so many of the meetings and interviews leading up to this report.

I have attached the final 30-day report and the transmittal letter that went to the White House yesterday. Please don't hesitate to call me if you have any questions.

Steve

-----Original Message-----

From: Mary_Kendall@doioig.gov [mailto:Mary_Kendall@doioig.gov]
Sent: Friday, May 28, 2010 9:36 AM
To: Black, Steve
Subject: 30 Day Letter

Steve - When it goes public, can I get a copy of the 30 Day Letter to the President? We are launching teams next week to respond to the Secretary's request that we determine whether specific deficiencies in MMS policies or practices exist that need to be addressed to ensure that operations on the OCS are conducted in a safe manner protective

of
human life, health, and the environment. We do not, however, want to
duplicate
effort that you have already made (your effort has been enormously
impressive,
by the way!). Thanks. Mary

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745



Interim Measures Report_100527_FINAL_version 2_CLEAN.pdf 30day report transmittal letter.pdf



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

JUN 27 2012

The Honorable Doc Hastings
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter of May 22, 2012 in which you request documents “[i]n order to better understand [my] role in developing the Drilling Moratorium Report, [my] service on the Outer Continental Shelf Safety Oversight Board, and [my] previous Congressional testimony” of June 17, 2012.

Notwithstanding the suggestion in your May 22 letter, I had no role in drafting the report entitled “Increased Safety Measures for Energy Development on the Outer Continental Shelf”, more commonly referred to as the “30-Day Report,” nor did I have a role in drafting the Executive Summary to the 30-Day Report, only the latter of which was the subject of an OIG investigation.

The 30-Day Report was requested of Secretary Salazar by the President, to recommend short term actions to improve industry practices and standards for deepwater oil drilling. Steve Black, Counselor to Secretary Salazar, was placed in charge of a team responsible for producing that report. I was not a member of that team.

The OCS Safety Oversight Board was established by Secretarial Order to 1) provide oversight, support and resources to the then-Minerals Management Service regarding its responsibilities in the Joint Investigation into the *Deepwater Horizon* disaster; 2) provide the Secretary with periodic progress reports regarding the Joint Investigation; 3) make recommendations on measures that may enhance OCS safety; and 4) make recommendations to improve and strengthen the Department’s overall management, regulation and oversight of OCS operations. This defined my role as a member of the OCS Safety Oversight Board, and was in keeping with my role as Acting Inspector General.

In order to fulfill my role on the Board, I needed to gain a basic understanding of deepwater drilling. Therefore, I attended a number of information-gathering meetings, organized by Steve Black, with representatives from industry, government, and the engineering and scientific community. I viewed these meetings as both educational, in terms of learning about myriad aspects of deepwater drilling, and instructive, in terms of navigating the role of the OCS Safety Oversight Board. In **none** of these information-gathering meetings that I attended was the substance of the 30-Day Report discussed.

On May 25, 2010, two days before the 30-Day Report was issued, I was invited, as a member of the Board, to attend a conference call intended to provide the National Academy of

Engineers Peer Reviewers an opportunity to comment on the draft 30-Day Report. I was invited to this conference call for informational purposes. A copy of the already-written draft 30-Day Report was attached to the email invitation. Neither the Board nor I commented on the 30-Day Report.

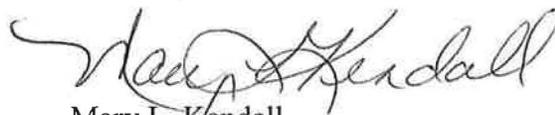
My role on the OCS Safety Oversight Board involved providing oversight and support to the Joint Investigation and providing the Secretary and Deputy Secretary with recommendations to improve and strengthen the Department's overall management, regulation and oversight of OCS operations. Furthermore, on May 14, 2010, the Secretary asked the Office of Inspector General (OIG) to determine, among other things, if there were deficiencies in MMS policies and practices that needed to be addressed in order to ensure that operations on the OCS are being conducted in a same manner, protective of human life, health, and the environment. This request essentially duplicated the Secretary's mandate to the Board and would require the same data collection.

Therefore, in order to be responsive to the Secretary's request to the OIG and for the Board to make recommendations to improve safety and the Department's overall management, regulation and oversight of OCS operations, I instructed my staff to conduct a comprehensive evaluation of OCS operations, and provide its findings to the Board. This evaluation required an unprecedented amount of collaboration within our office from a 64-person interdisciplinary team. In just over 90 days, this team issued findings and some 65 recommendations for improvements in the areas that had been identified by the Board – permitting, inspections, enforcement, environment, accident investigation, and safety related to OCS drilling operations. This evaluation served as the basis for the OCS Safety Oversight Board Report of September 1, 2010. The OIG continued its analysis on several other issues the team had identified, and in December 2010, the OIG issued its own report.

I hope that this, as well as the enclosed documents responsive to your May 22, 2012 request, resolve any "questions about the IG's independence and impartiality in conducting the investigation of the Drilling Moratorium Report [30-Day Report]," as stated in your letter, although I believe it is also important to reiterate that the OIG did not investigate the 30-Day Report, but rather, the Executive Summary to the 30-Day Report in which the moratorium recommendation was made. This information should also make clear that my testimony on June 17, 2010 was accurate. Finally, this should demonstrate that both I and the OIG have conducted ourselves with independence, objectivity, and impartiality throughout the difficult days that followed the *Deepwater Horizon* disaster and we have continued to do so to date.

If you have any questions, you may contact Kris Kolesnik, Associate Inspector General for External Affairs at 202-208-5745.

Sincerely



Mary L. Kendall
Acting Inspector General

Enclosures

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Congress of the United States

Washington, DC 20510

June 16, 2010

The Honorable Mary L. Kendall
Acting Inspector General
Department of the Interior
1849 C St., NW
Washington, DC 20240

VIA ELECTRONIC MAIL AND FACSIMILE
IMMEDIATE ATTENTION REQUESTED

Dear Inspector General Kendall:

It has come to our attention that inappropriate activity may have occurred as it relates to a 30-day review the Department of the Interior utilized in justifying the current moratorium in the Gulf of Mexico. Recent press releases have stated that "the team of engineers reviewed, approved and signed off on a version of the 30-day review that was presented to them by the Administration. However, after they signed their names to this document, a significant change was made – a change that led to the 6-month suspension of deepwater exploratory drilling."

In justifying its broad moratorium on deepwater drilling, senior officials emphasized that the measure was recommended by a DOI report prepared in consultation with scientists and industry experts. Unfortunately, it appears that the team of scientists assembled by the National Academy of Engineering strongly refutes this claim.

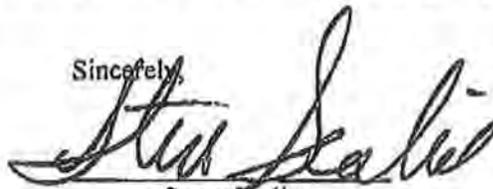
Section 515 of the Information Quality Act (IQA) directs federal agencies to maximize "the quality, objectivity, utility, and integrity" of information they prepare and disseminate and it requires agencies to adopt and follow implementing guidelines. The OMB guidelines note the IQA applies to the "creation, collection, maintenance, and disseminating of information." The basic standard of care is that information must be "accurate, clear, complete, and unbiased." Stricter and even more rigorous quality standards apply when the information is "influential," meaning it will "have a clear and substantial impact on important public policies..."

In light of the allegations of inappropriate tampering with a scientific review with significant public policy implications, we ask you to identify when and how the modifications to the report occurred, and if there was any violation of law as it relates to the Information Quality Act or otherwise.



David Vitter
U.S. Senate

Sincerely,



Steve Scalise
U.S. House of Representatives

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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 20, 2010

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TODD YOUNG
REPUBLICAN CHIEF OF STAFF

Ms. Mary Kendall
Acting Inspector General
U.S. Department of the Interior
Office of Inspector General
1849 C Street NW - Mail Stop 4428
Washington, D.C. 20240

Dear Inspector General Kendall,

In testimony before the House Committee on Natural Resources, Secretary Salazar agreed to cooperate with any Inspector General investigation into the changes made to the Interior Department's 30-Day Safety Report¹ after it had been peer-reviewed. As you know, this report, which included a recommendation for a six-month deepwater drilling moratorium on the Outer Continental Shelf, was presented to the President and the American people as having been peer-reviewed by a group of prominent engineers. Specifically, the language of the report states that "the recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering."² Following the release of the report it was discovered that this statement was patently false. The engineers have come forward to declare that the report was edited by political appointees after their review but prior to presentation to the President.

There are important questions about this incident that must be answered. Who in the Administration ignored the recommendation of scientists and made these changes? Were any laws broken? Who made the decision to misrepresent the views of the scientists? Were the changes influenced by the White House? Were the changes recommended by outside groups? Recent media reports suggest the Administration is acting on advice and recommendations made by the *Center for American Progress* including the recommendation for a moratorium on the OCS.

When testifying before the Committee, you initially asserted that the Inspector General office may not be able to investigate because the issue of the moratorium is subject to an ongoing court case. However, you later indicated that it would be possible to open an investigation. To be clear, we are not asking you to investigate the moratorium. We are asking you to investigate the changes made to the 30-Day Safety Report by political appointees that were presented to the public as a peer-reviewed scientific paper.

¹ Also known as the "Increased Safety Measures for Energy Development on the Outer Continental Shelf, May 27, 2010

² 30-Day Safety Report, Page 4

The Hon. Mary Kendall
July 20, 2010
Page 2

The decision to alter the report after the peer-review process severely undermines trust in the Department of the Interior and the federal government. In one of his early speeches, Secretary Salazar said, "I pledge to you that we will ensure the Interior Department's decisions are based on sound science and the public interest, and not on the special interests."³ Clearly, the decision to establish a six-month moratorium was not based on sound science. The outside experts who cosigned the report have raised serious concerns that the imposition of the moratorium would exacerbate any safety issues associated with deepwater drilling.

Finally, during the previous Administration, the Inspector General's office had a record of aggressively investigating exactly these types of actions. In fact, you personally testified on July 31, 2007 before the Natural Resources Committee at a hearing on "The Political Influence of the Bush Administration on Agency Science and Decision-Making." During that testimony you discussed a report that when issued stated "In the end, the cloud of MacDonald's overreaching, and the actions of those who enabled and assisted her, have caused the unnecessary expenditure of hundreds of thousands of dollars to re-issue decisions and litigation costs to defend decisions that, in at least two instances, the courts found to be arbitrary and capricious."⁴

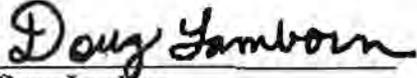
We expect you to hold the Obama Administration to this same standard. We strongly believe the altering of this 30-Day Safety Report is an egregious example of disregarding science and merits equal examination. This overreaching by political appointees in either the Department or the White House have caused the unnecessary expenditure of significant Department funds to re-issue decisions, has adversely impacted tens of thousands of citizens through lost wages and jobs, cost business hundreds of thousands of dollars, and incurred litigation costs to defend the moratorium that the court has found to be arbitrary and capricious.

We strongly encourage you to open an investigation into the allegations and the decisions made associated with this 30-Day Safety Report. Since the Secretary has publicly pledged his full cooperation, there is little doubt that the Inspector General's office could quickly investigate the influences and actions that resulted in the changes to the engineering safety report that was presented to the President.

We look forward to hearing from you promptly regarding your decision on this matter.

Sincerely,

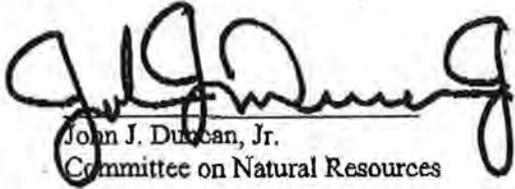

Doc Hastings
Ranking Member
Committee on Natural Resources


Doug Lamborn
Ranking Member
Subcommittee on Energy and Minerals

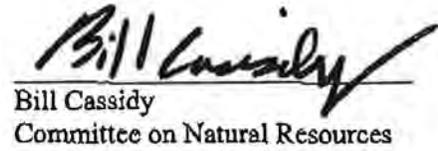
³ Secretary of the Interior Salazar Pledges Accountability & Change In Employee Listening Session, January 22, 2009

⁴ Report of Investigation: The Endangered Species Act and the Conflict between Science and Policy, December 15, 2008

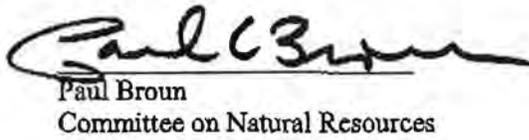
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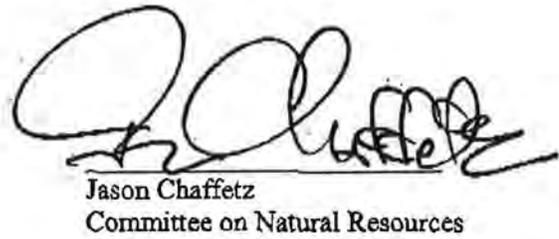
John J. Duncan, Jr.
Committee on Natural Resources



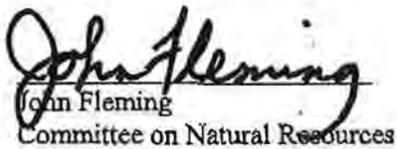
Bill Cassidy
Committee on Natural Resources



Paul Broun
Committee on Natural Resources



Jason Chaffetz
Committee on Natural Resources



John Fleming
Committee on Natural Resources



Investigative Report

Federal Moratorium on Deepwater Drilling

Report Date: November 8, 2010
Date Posted to Web: November 10, 2010

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

SYNOPSIS

On June 16, 2010, the U.S. Department of the Interior (DOI) Office of Inspector General (OIG) received a request from Senator David Vitter and Congressman Steve Scalise requesting that the OIG conduct an investigation into the allegation that DOI senior officials, in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts.

We also received an additional request on July 20, 2010, for an investigation into the same matter by seven members of the U.S. House of Representatives' Committee on Natural Resources, including Doc Hastings (R-WA), Doug Lamborn (R-CO), John J. Duncan, Jr. (R-TN), Bill Cassidy (R-LA), Paul Broun (R-GA), Jason Chaffetz (R-UT), and John Fleming (R-LA).

The scientists and industry experts expressed concern that the Executive Summary to the 30-Day Report – which contained a policy decision by the Secretary of the Interior to recommend a 6-month moratorium on deepwater exploratory drilling – was worded in a manner that implied that the experts peer reviewed and supported this policy decision, when in fact they had neither reviewed nor supported such a policy decision and had never been asked to do so.

All DOI officials interviewed stated that it was never their intention to imply the moratorium was peer reviewed by the experts, but rather rushed editing of the Executive Summary by DOI and the White House resulted in this implication. After reviewing different drafts of the Executive Summary that were exchanged between DOI and the White House prior to its final issuance, the OIG determined that the White House edit of the original DOI draft Executive Summary led to the implication that the moratorium recommendation had been peer reviewed by the experts.

BACKGROUND

On April 20, 2010, the Deepwater Horizon deepwater drilling rig exploded in the Gulf of Mexico and caused a massive oil leak in a deepwater well being drilled by BP. In response to the explosion, the U.S. Department of the Interior (DOI) declared a moratorium on deepwater drilling, which it extended for 6 months on May 27, 2010, in conjunction with a 30-Day Report issued by DOI, titled Increased Safety Measures for Energy Development on the Outer Continental Shelf (Report).

DETAILS OF INVESTIGATION

Steve Black is the Counselor to Secretary of the Interior Ken Salazar. Black provided background information concerning the creation of the 30-Day Report. He said that in late April 2010, President Obama directed DOI Secretary Salazar to prepare a report that would review current industry practices and standards for deepwater oil drilling and make recommendations as to how those practices and standards could be improved. Black said that Secretary Salazar placed him in charge of a team responsible for producing the Report.

Black said the Report was prepared with the help of scientists and engineers from DOI and the Department of Energy. He said that he also collaborated closely with the White House in preparing the Report, specifically the staff of Carol Browner, Assistant to the President for Energy and Climate Change.

According to Black, the President asked the National Academy of Sciences (NAS) and the National Academy of Engineering (NAE), a subdivision of NAS, to conduct a separate, distinct study to determine the root causes of the accident. When meeting with NAS and NAE, Black said that he asked them to recommend several experts in offshore drilling to peer review the recommendations that would be made in the Report he was tasked to prepare. A member of NAE subsequently provided a list of seven names. Black contacted all seven experts and asked them for their voluntary assistance, which they agreed to provide. In addition to the seven NAE experts, Black said that DOI also sought peer reviewers from industry and academia to assist in the effort to produce the recommendations in the Report, including a professional engineer.

According to Black, a member of NAE facilitated the interactions of the peer reviewers, meetings with whom were held via teleconference. Black said that the peer reviewers did not draft any portions of the Report or the recommendations themselves, but rather they reviewed the recommendations and provided valuable oral and written feedback.

Black said that he held a final conference call with the peer reviewers on Tuesday, May 24, 2010, in which they discussed a draft of the Report, not the final Report. According to Black, the peer reviewers knew that it was only a draft Report and they knew that they were not being consulted concerning “policy decisions.” Black then explained that the decision to invoke the moratorium on current deepwater drilling projects was a policy decision made by Secretary Salazar and President Obama. Black further stated that there were some discussions about various parameters of a potential moratorium with the peer reviewers; the moratorium recommendation, however, as ultimately issued by DOI, was never peer reviewed by the experts.

According to Black, Secretary Salazar sent a Decision Memorandum to President Obama outlining the findings in the Report and his recommendation for a 6-month moratorium on current deepwater offshore drilling prior to meeting with the President on the evening of Wednesday, May 25, 2010. Black said that he was not a part of that meeting, but that after the meeting Secretary Salazar told him that the President wanted to “sleep on [the idea of the moratorium]” overnight before making a final decision. Accordingly, Black said that Secretary Salazar instructed him to draft two different Executive Summaries to the Report; one including the decision to invoke the moratorium and a second not including the moratorium. Black said that the next morning Secretary Salazar directed him to begin working closely with a member of Carol Browner’s staff at the White House to draft the Executive Summary to include the moratorium.

According to Black, there was “a little disconnect” about the definitions used in the Report and the final parameters of the moratorium that was ultimately issued (e.g., the Report defined deepwater drilling as 1,000 feet while the moratorium defined deepwater drilling as 500 feet).

Black said that he initially drafted the Executive Summary, which included, at the behest of

Salazar, the mention that the recommendations contained in the Report were peer reviewed by experts outside of the Government. Black said that Salazar felt it was very important to have the recommendations undergo the peer review process and he wanted this stressed in the Executive Summary.

After he drafted the Executive Summary, Black sent it to a member of Browner's staff at the White House. According to Black, Browner was concerned that the Executive Summary did not summarize the recommendations and the associated timetables well enough; therefore, Browner's staff drafted some of the text to be included in the Executive Summary themselves. After several iterations between him and Browner's staff, Black said that he received a final version of the Executive Summary from the White House "around 2 or 3am" the morning it was ultimately finalized. After receiving the final product from the White House, Black said that he reviewed the final draft; he did not have any issues with the text added by the White House.

A registered Professional Engineer was elected to the National Academy of Engineering in 2005 due to his work on offshore safety; the engineer was asked to participate in a peer review of the Report's recommendations. Following issuance of the final Report and the concomitant Executive Summary, the engineer sent a letter to Louisiana Governor Bobby Jindal and U.S. Senators Mary Landrieu and David Vitter, expressing concern that his name, along with other peer reviewers, was used by Secretary Salazar to justify the 6-month deepwater drilling moratorium. The letter was co-signed by several other peer reviewers.

In the letter he faxed to Landrieu, Vitter, and Jindal, the engineer stated:

A group of those named in the Secretary of Interior's Report, "**INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF**" dated May 27, 2010 are concerned that our names are connected with the [deepwater drilling] moratorium as proposed in the executive summary of the report. There is an implication that we have somehow agreed to or "**peer reviewed**" the main recommendation of that report. **This is not the case.** (emphasis included in original)

The material paragraphs in the Executive Summary that the engineer and the other peer-reviewers were concerned about are the following:

The Secretary further recommends an immediate halt to drilling operations on the 33 permitted wells, not including the relief wells currently being drilled by BP, that are currently being drilled using floating rigs in the Gulf of Mexico. Drilling operations should cease as soon as safely practicable for a 6-month period.

The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering. Those experts, who volunteered their time and expertise, are identified in Appendix 1. The government also consulted with a wide range of experts from government, academia and industry.

Black stated that it was no one's intention to imply that the peer reviewers reviewed the 6-month moratorium on deepwater drilling policy decision. He explained that the "recommendations" the Executive Summary was referring to were the formal recommendations contained in the body of the Report, not the moratorium. When asked if an objective reader of the Executive Summary might conclude that the peer reviewers reviewed the moratorium recommendation, due to the organization of the text, Black stated again that it was not the intention of DOI or the White House to imply this was the case. He explained that due to the rush to complete the Report and the Executive Summary, time did not allow for careful editing and review of the Executive Summary. He then said that the Report itself and the draft Executive Summary did undergo the surnaming process, but the final Executive Summary did not.

Following release of the Report and the Executive Summary, Black said he received a telephone call from the engineer. He said that the engineer told him the peer reviewers were concerned that the Executive Summary misrepresented that the peer reviewers had reviewed and supported the moratorium recommendation made by Secretary Salazar to the President. The engineer also told him at that time that the peer reviewers were in the process of drafting a letter to various members of Congress explaining their concerns. Black said that until the engineer told him about these concerns, Black had never considered the possibility that an objective reader of the Executive Summary may believe that the peer reviewers had reviewed the 6-month moratorium policy decision.

Black said that he informed the Secretary about the peer reviewers' concerns immediately after speaking with the engineer, even though the Secretary was very busy at that time with travel due to the oil spill crisis in the Gulf of Mexico. During this time frame, according to Black, the letter drafted by the peer reviewers had been sent to Congressional members and was subsequently released to the media.

Black stated that Secretary Salazar directed him to draft and issue a formal letter to the concerned peer reviewers apologizing for the misunderstanding and stating that the peer reviewers did not in fact peer review and support the moratorium ultimately decided upon by DOI and the White House. Specifically, the letter issued by DOI to the concerned peer reviewers on June 3, 2010, stated:

By listing you as a member of the NAE panel that peer-reviewed the 22 safety recommendations contained in the Report, we did not mean to imply that you also agreed with the decision to impose a moratorium on all new deepwater drilling. We acknowledge that you were not asked to review or comment on the proposed moratorium. The recommendation and decision were based on the Report's safety recommendations, in particular the need for new blowout preventer and other safety equipment on subsea BOP stacks used on floating drilling rigs and the need for better wild-well intervention techniques in the event of future emergencies like the BP oil spill, particularly in deepwater. We regret any misunderstanding or confusion related to the inclusion of the recommendation to impose a 6-month moratorium on all new deepwater wells in the executive summary of the final report.

Black said that sometime in mid-June, Secretary Salazar held a teleconference call with the concerned peer reviewers and apologized for any misunderstanding resulting from the text of the Executive Summary. Secretary Salazar then had a personal meeting with the concerned peer reviewers in Washington, DC, the following week and apologized once again to them for the misunderstanding. Black said that he was not present at this personal meeting between Secretary Salazar and the peer reviewers, although a member of his staff was present during both the conference call and personal meeting Secretary Salazar had with the concerned peer reviewers.

According to Black's staff member, after Secretary Salazar was tasked by the President to prepare the Report, he assisted Black in preparing the Report by helping collect and compile the background information related to deepwater offshore drilling. Black's staff member said that he did not assist in drafting any of the recommendations in the Report because he is not an engineer, and they were too technical.

Black's staff member stated that he participated in the conference calls with the peer reviewers when they were asked to peer review the recommendations, including the final conference call on Tuesday, May 24, 2010. He said that he emailed the draft Report, including the draft recommendations to the peer reviewers that morning, and that was the first time the peer reviewers had seen the entire Report. He echoed Black by stating that the peer reviewers understood that the Report was still only a draft and there was no discussion about the 6-month moratorium.

Black's staff member said that he was tasked to assist Black in editing the Executive Summary to the Report that discussed the moratorium. According to him, he and Black eventually sent a draft of the Executive Summary to the White House for edits, specifically to a member of Browner's staff. He confirmed Black's statement that the White House made several edits and eventually returned the Executive Summary back to DOI sometime "after 3 am" on the morning of May 27, 2010.

Black's staff member noted that he did review the final Executive Summary after it was returned by the White House, but it never occurred to him that, based on the final text, an objective reader may believe that the peer reviewers had reviewed and supported the 6-month moratorium rather than only reviewing the formal recommendations contained in the body of the Report. He said that he first learned of the peer reviewers' concerns, after he returned from a short vacation, when he read the letter the NAE engineer sent to Governor Jindal and Senators Landrieu and Vitter. Upon reading the letter, Black's staff member said that he was "jarred" by the tone of the letter because he believed that DOI had formed an excellent relationship with the peer reviewers during the Report writing process.

Black's staff member said that he never participated in any discussion with other DOI staff or White House staff about trying to draft the Executive Summary in a manner that would imply that the peer reviewers had reviewed the 6-month moratorium.

The NAE engineer acknowledged that after he sent the letter to the Governor and Senators, DOI issued formal letters to each of the peer reviewers of the Report apologizing for any misunderstanding or confusion. He also confirmed that Secretary Salazar conducted a

teleconference with those who reviewed the Report in order to apologize for any misunderstanding surrounding the representations made in the Executive Summary for the Report. According to the NAE engineer, Secretary Salazar stated that the Executive Summary was not meant to imply that the decision to invoke a 6-month moratorium on deepwater drilling was peer reviewed by the engineer and others, but rather the moratorium was an independent decision of Secretary Salazar and the White House.

Based upon the teleconference that Secretary Salazar conducted regarding the matter, along with the letters DOI issued to the peer reviewers, the NAE engineer said that he has accepted Secretary Salazar's explanation that the language in the Executive Summary was a mistake rather than an intentional attempt to use the peer-reviewers' names to justify a political decision. As a result, he said that he considers the matter a "non-issue" and he is focusing on trying to assist DOI in instituting a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

A principal for Petroskills, a petroleum training alliance, and was also a peer reviewer of the Report. He co-signed the letter that the NAE engineer sent to Louisiana Governor Jindal and Senators Landrieu and Vitter, expressing concern that their names were being used by Secretary Salazar to justify a deepwater drilling moratorium.

The Petroskills principal, similar to the NAE engineer, confirmed that he received the formal letter from DOI apologizing for the misunderstanding and that Secretary Salazar held both a conference call and personal meeting to do the same. Based upon these actions by Secretary Salazar, he said that he also believed that the misrepresentation was an editing "mistake" and not intentional. He said, however, that he was still concerned about the "process" the Government was following in pursuing the moratorium. He explained that he believes DOI should not make such a blanket decision without first seeking expert peer review, but rather DOI should seek such peer review and then make a moratorium decision based on that review.

Another peer reviewer, from the Center for Catastrophic Risk Management at the University of California, stated that he first heard of the moratorium recommended by DOI in the Executive Summary of the May 27, 2010 Report when Senator Landrieu asked him about it on May 29, 2010. He said the proposed moratorium had not been discussed with the peer reviewers prior to issuance of the Report.

Similar to both the NAE engineer and the Petroskills principal, this peer reviewer confirmed that DOI issued a formal letter of apology and that Secretary Salazar held a conference call and personal meeting with the concerned peer reviewers to tell them it was never the intention of DOI and the White House to imply that the peer reviewers reviewed and approved the moratorium. Following these actions by Secretary Salazar, he also said that he believes that the misrepresentation was a "mistake" and not intentional because he always tries to believe people mean well and tell the truth, unless proven otherwise. He explained that he simply does not know whether it was a mistake or intentional, but he was not interested in speculating one way or the other because he was focused on trying to persuade DOI to institute a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

This peer reviewer also expressed concern that DOI is proposing the moratorium without any input from expert peer reviewers. He questioned why DOI would not peer review such an important, far-reaching decision in light of the fact that DOI had all of the safety recommendations listed in the Report undergo peer review.

S. Elizabeth Birnbaum is the former Director of the Minerals Management Service (MMS). Birnbaum said that she did not personally work on preparing the Executive Summary containing the moratorium recommendation. According to Birnbaum, Black was the principal person responsible for preparing the 30-Day Report on deepwater drilling safety and that her participation was limited to surnaming the Report.

Birnbaum said that there were general discussions about extending a moratorium on deepwater drilling and its associated parameters, although she had no knowledge that Secretary Salazar planned on recommending the moratorium in the Executive Summary of the 30-Day Report to the President. She stated that she learned of the recommendation only when MMS Deputy Director Mary Katherine Ishee told her about it as she delivered the Report and Executive Summary to Birnbaum for surnaming. According to Birnbaum, she asked Ishee why the moratorium recommendation had been inserted in the Executive Summary; Ishee told her that Black had inserted the moratorium recommendation based upon an agreement with the White House to do so.

Birnbaum said that she has no knowledge whether the implication that the moratorium had been peer reviewed was intentional or not. Birnbaum opined that the implication was probably a product of editing and a review of the email trail related to the creation of the Executive Summary would be the best way to identify who may have edited the document that resulted in the implication.

Birnbaum also stated that she does not believe that Secretary Salazar's request for her resignation was in any way related to the issuance of the 6-month moratorium on deepwater drilling, regardless of the fact that both events occurred on May 27, 2010.

The OIG reviewed the final email exchanges regarding the Executive Summary between the DOI and the White House. The Department has claimed privilege for these documents.

The language in the Executive Summary to which the experts objected was this:

The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering. Those experts, who volunteered their time and expertise, are identified in Appendix 1. The Department also consulted with a wide range of experts from government, academia and industry.

A review of the emails that Black sent to the White House at 11:38 p.m. on May 26, 2010, reflects that in DOI's draft of the Executive Summary the moratorium was discussed on the first page of the Executive Summary, while the peer review language was on the second page of the Executive Summary, immediately following a summary list of the safety recommendations contained in the body of the 30-Day Report, which had been peer reviewed.

At 2:13 a.m. on May 27, 2010, Browner's staff member sent an email back to Black that contained two edited versions of the Executive Summary. Both versions sent by the staff member contained significant edits to DOI's draft Executive Summary but were very similar to each other. Both versions, however, revised and re-ordered the Executive Summary, placing the peer review language immediately following the moratorium recommendation causing the distinction between the Secretary's moratorium recommendation – which had not been peer reviewed – and the recommendations contained in the 30-Day Report – which had been peer reviewed – to become effectively lost. Although the Executive Summary underwent some additional minor editing, it was ultimately published on May 27, 2010, with the peer review language immediately following the moratorium recommendation.

Cwcej o gpv9

From: [Richard Larrabee](#)
To: [Mary Kendall](#)
Subject: Re: 30-Day Report/Peer Review Investigation
Date: 10/14/2010 01:28 PM
Attachments: [Draft Exec Summary Revisions - KLaden 10.14.10.doc](#)

Mary,

Thank you for your comments on the ROI and investigation.

Your email language was far simpler than my own, yet I believe it still clearly captured our finding that DOI's draft Executive Summary had made the distinction between the safety recommendations that were peer reviewed by the experts, and the 6-month moratorium recommendation, whereas that distinction was lost in the Executive Summary as a result of the edits made by the White House.

Obviously, whether that loss of distinction was intentional on the part of an over-zealous White House staffer/editor, or simply an honest oversight, the jury will always remain out. The reader of the ROI will have to make their own speculations on that topic.

Richard J. Larrabee
Senior Special Agent
Energy Investigations Unit
U.S. Department of the Interior
Office of Inspector General
617.918.2320

▼ [Mary Kendall/WDC/OIG/DOI](#)

**Mary
Kendall/WDC/OIG/DOI**

To: Richard Larrabee/WDC/OIG/DOI@OIG
cc

10/14/2010 12:30 PM

Subject: Re: 30-Day Report/Peer Review Investigation 

Other than a few editing tweaks and trying to simplify the discussion about the e-mails, I thought it very well done, thorough, and to the point.

Did you have any problems with the e-mail language?

Thanks for your efforts on this, Richard!

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

▼ [Richard Larrabee/WDC/OIG/DOI](#)

**Richard
Larrabee/WDC/OIG/DOI**

To Mary Kendall/WDC/OIG/DOI@OIG
cc

10/14/2010 11:21 AM

Subject Re: 30-Day Report/Peer Review Investigation 

No problem. Hope the overall ROI/Investigation was up to par.

Richard J. Larrabee
Senior Special Agent
Energy Investigations Unit
U.S. Department of the Interior
Office of Inspector General
617.918.2320

▼ [Mary Kendall/WDC/OIG/DOI](#)

**Mary
Kendall/WDC/OIG/DOI**

To Richard Larrabee/WDC/OIG/DOI@OIG
cc

10/14/2010 11:14 AM

Subject Re: 30-Day Report/Peer Review Investigation 

Appreciate your thoughts, Richard. Thanks.

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

▼ [Richard Larrabee/WDC/OIG/DOI](#)

**Richard
Larrabee/WDC/OIG/DOI**

To Mary Kendall/WDC/OIG/DOI@OIG
cc Bruce Delaplaine/WDC/OIG/DOI@OIG, Harry
Humbert/WDC/OIG/DOI@OIG, John
Dupuy/WDC/OIG/DOI@OIG, Kevin
Laden/WDC/OIG/DOI@OIG, Scott
Culver/WDC/OIG/DOI@OIG

10/14/2010 11:12 AM

Subject Re: 30-Day Report/Peer Review Investigation 

Mary,

I have no personal issues with including it in the body of the ROI - as always with Kevin's work, it is carefully worded, logical and persuasive.

The discussion, however, is clearly a legal interpretation/opinion of how the IQA applies (or does not apply) to the facts and circumstances identified in the investigation, and without reference to where it came from (e.g. a "legal opinion" from our OGC or some other legal scholar), the discussion would be attributed to me, the author of the ROI. Although I would have no issues for taking credit for Kevin's legal work on the matter, a reader of the report might question the credentials of the Special Agent/author to render such an opinion (not knowing of course that I do actually play an attorney on TV and in the State of Oregon - or stayed in a Holiday Inn last night). For this reason, I believe the discussion of the (non) applicability of the IQA should be either included in a slap on or, as I originally drafted, simply be referenced as an OGC legal opinion that was researched and drafted by an OIG attorney.

Just my two cents.

Richard J. Larrabee
Senior Special Agent
Energy Investigations Unit
U.S. Department of the Interior
Office of Inspector General
617.918.2320

▼ [Mary Kendall/WDC/OIG/DOI](#)

**Mary
Kendall/WDC/OIG/DOI**

10/14/2010 10:43 AM

To Kevin Laden/WDC/OIG/DOI@OIG
cc Bruce Delaplaine/WDC/OIG/DOI@OIG, Harry
Humbert/WDC/OIG/DOI@OIG, John
Dupuy/WDC/OIG/DOI@OIG, Richard
Larrabee/WDC/OIG/DOI@OIG, Scott
Culver/WDC/OIG/DOI@OIG

Subject Re: 30-Day Report/Peer Review Investigation 

Kevin - Thanks for the careful clarification. Much improved.

Richard - Are you comfortable including this language in the Report, or should we put it in the slap on?

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

▼ Kevin Laden/WDC/OIG/DOI

**Kevin
Laden/WDC/OIG/DOI**

10/14/2010 10:27 AM

To Mary Kendall/WDC/OIG/DOI@OIG
cc Bruce Delaplaine/WDC/OIG/DOI@OIG, Harry
Humbert/WDC/OIG/DOI@OIG, John
Dupuy/WDC/OIG/DOI@OIG, Richard
Larrabee/WDC/OIG/DOI@OIG, Scott
Culver/WDC/OIG/DOI@OIG
Subject Re: 30-Day Report/Peer Review Investigation 

Mary - I have reviewed and edited the paragraphs in the "Information Quality Act" portion of the narrative. My revision is probably easiest to read in the "final" view. Please let me know if I've raised any further questions or concerns and thank you for the chance to offer my input.

Kevin



Draft Exec Summary Revisions - KLaden 10.14.10.doc

Kevin M. Laden
Associate General Counsel
Office of Inspector General
Department of the Interior
1849 C Street, N.W., MS 4428
Washington, D.C. 20240
Office: 202.208.6466
Cell: 202.480.5800

▼ Mary Kendall/WDC/OIG/DOI

**Mary
Kendall/WDC/OIG/DOI**

10/13/2010 02:11 PM

To Harry Humbert/WDC/OIG/DOI@OIG, Richard
Larrabee/WDC/OIG/DOI@OIG, Kevin
Laden/WDC/OIG/DOI@OIG
cc John Dupuy/WDC/OIG/DOI@OIG, Scott
Culver/WDC/OIG/DOI@OIG, Bruce
Delaplaine/WDC/OIG/DOI@OIG
Subject 30-Day Report/Peer Review Investigation

All - I am attaching language that I propose to replace the narrative on pp. 8-9 of the draft report. I hope it simplifies the comparison of the draft Executive Summary that was sent by DOI against the drafts that came back from the White House, but if I have somehow changed the meaning of anything, please let me know.

I also tried to condense, and hedge, the IQA issue, so that we wouldn't have to reference the OGC opinion in the report. I am not confident that I have captured the essence, however, so please feel free to push back with clarification, if needed.

Please provide me your thoughts about this proposed language as soon as practicable.

I will get my other edits to Harry, momentarily.

Thanks. Mary

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

Cwcej o gpv10

From: [Richard Larrabee](#)
To: [Kolesnik](#)
Subject: Fw: News Article - Interior Dept. Responds to IG Investigation into its Oil Spill Report
Date: 11/10/2010 12:41 PM

Salazar's statement that our ROI concludes it was a mistake and unintentional is a clear attempt to spin our report - I truly believe the editing WAS intentional - by an overzealous staffer at the WH. And, if asked, I - as the Case Agent - would be happy to state that opinion to anyone interested. We simply were not allowed to pursue the matter to the WH. But of course, that was not mentioned in our report.

Richard J. Larrabee
Senior Special Agent
Energy Investigations Unit
U.S. Department of the Interior
Office of Inspector General
617.918.2320

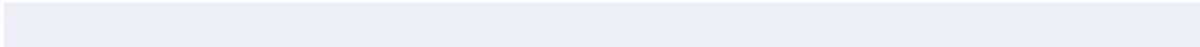
This message was sent from a wireless device.

▼ [Edward Woo](#)

----- Original Message -----

From: Edward Woo
Sent: 11/10/2010 12:02 PM EST
To: All Investigations Employees; Kris Kolesnik; Bruce Delaplaine; Lori Vassar; Sandra Evans; Kimberly Elmore; Heather Dieguez; Stephen Hardgrove; Laurie Larson-Jackson; William McMullen; Gillian Sharpley; Kimberly Pernice; Cristopolis Dieguez; alan.boehm@ratb.gov; Melanie Sorenson
Subject: News Article - Interior Dept. Responds to IG Investigation into its Oil Spill Report

-



[Interior Department responds to IG investigation into its oil ...](#)
[The Washington Independent](#)

Interior Secretary Ken Salazar sent a letter yesterday to Interior Department Inspector General **Mary Kendall** arguing that her investigation into the ...

Cwcej o gpv11

From: [Mary Kendall](#)
To: [Harry Humbert](#)
Subject: Re: Fw: Federal Moratorium on Deepwater Drilling
Date: 10/29/2010 03:02 PM

We should have an answer early next week -- Monday, hopefully. That's what David Hayes' office promised. M.

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

▼ [Harry Humbert/WDC/OIG/DOI](#)

Harry Humbert/WDC/OIG/DOI To: Mary Kendall/WDC/OIG/DOI
cc
10/29/2010 12:52 PM Subject: Fw: Federal Moratorium on Deepwater Drilling

Mary-
I have asked all to stand by on the report. Has there been any movement on a possible interview with Aldy (White House)?
Harry
This message was sent from a wireless device.

▼ [Harry Humbert](#)

----- Original Message -----

From: Harry Humbert
Sent: 10/29/2010 10:50 AM MDT
To: Sandra Evans; Scott Swanson
Cc: Richard Larrabee; Bruce Delaplaine
Subject: Re: Federal Moratorium on Deepwater Drilling

All-
There has been a possible new development. Please stand by. DO NOT- REPEAT DO NOT release the report or prepare it for distrobution until you hear from me.
Harry

This message was sent from a wireless device.

▼ [Sandra Evans](#)

----- Original Message -----

From: Sandra Evans
Sent: 10/29/2010 12:27 PM EDT
To: Scott Swanson
Cc: Harry Humbert; Richard Larrabee; Bruce Delaplaine
Subject: Federal Moratorium on Deepwater Drilling

Attached is the track changes version of the redacted report and the name listing. Mary has completed her review and I am forwarding it

on to you.

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

[attachment "Federal Moratorium on Deepwater Drilling Name Listing.doc" deleted by Harry Humbert/WDC/OIG/DOI]

[attachment "Federal Moratorium on Deepwater Drilling.redacted.doc" deleted by Harry Humbert/WDC/OIG/DOI]

Sandra Evans
Freedom of Information and Privacy Act Officer
Office of Inspector General
703-487-5436 (Telephone)
703-487-5406 (Facsimile)

Cwcej o gpv12

From: [Mary Kendall](#)
To: [Harry Humbert](#)
Subject: Re: Fw: Federal Moratorium on Deepwater Drilling
Date: 10/29/2010 01:30 PM

None that I have heard. I will follow up this afternoon. M.

Mary L. Kendall
Acting Inspector General
Office of Inspector General
Department of the Interior
(202) 208-5745

▼ [Harry Humbert/WDC/OIG/DOI](#)

Harry Humbert/WDC/OIG/DOI To: Mary Kendall/WDC/OIG/DOI
cc
10/29/2010 12:52 PM Subject: Fw: Federal Moratorium on Deepwater Drilling

Mary-
I have asked all to stand by on the report. Has there been any movement on a possible interview with Aldy (White House)?

Harry

This message was sent from a wireless device.

▼ [Harry Humbert](#)

----- Original Message -----

From: Harry Humbert
Sent: 10/29/2010 10:50 AM MDT
To: Sandra Evans; Scott Swanson
Cc: Richard Larrabee; Bruce Delaplaine
Subject: Re: Federal Moratorium on Deepwater Drilling

All-

There has been a possible new development. Please stand by. DO NOT- REPEAT DO NOT release the report or prepare it for distrobution until you hear from me.

Harry

This message was sent from a wireless device.

▼ [Sandra Evans](#)

----- Original Message -----

From: Sandra Evans
Sent: 10/29/2010 12:27 PM EDT
To: Scott Swanson
Cc: Harry Humbert; Richard Larrabee; Bruce Delaplaine
Subject: Federal Moratorium on Deepwater Drilling

Attached is the track changes version of the redacted report and the name listing. Mary has completed her review and I am forwarding it on to you.

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

[attachment "Federal Moratorium on Deepwater Drilling Name Listing.doc" deleted by Harry Humbert/WDC/OIG/DOI]

[attachment "Federal Moratorium on Deepwater Drilling.redacted.doc" deleted by Harry Humbert/WDC/OIG/DOI]

Sandra Evans
Freedom of Information and Privacy Act Officer
Office of Inspector General
703-487-5436 (Telephone)
703-487-5406 (Facsimile)



OFFICE OF INSPECTOR GENERAL U.S. DEPARTMENT OF THE INTERIOR

Whose word is "misrepresentation"?

REPORT OF INVESTIGATION

Table with Case Title, Case Number, Reporting Office, Report Date, and Report Subject.

SYNOPSIS

On June 16, 2010 the Department of the Interior (DOI) Office of Inspector General (OIG) received a request from Senator David Vitter and Congressman Steve Scalise requesting that OIG conduct an investigation into the allegation that DOI senior officials, in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts (Attachment 1). Their letter also requested OIG to assess whether this misrepresentation resulted in a violation of law as it relates to the Information Quality Act (IQA).

we received another request from X, Y, Z

The experts expressed concern the Executive Summary to the 30-day report - that contained a policy decision by the Secretary of the Interior to recommend a 6-month moratorium on deepwater exploratory drilling - was worded in a manner that implied that the experts peer reviewed and supported this policy decision, whereas they had not reviewed nor supported such a policy decision.

Not which when, in fact

had never asked to do so?

All DOI officials interviewed stated that it was never their intention to imply the moratorium was peer reviewed by the experts, but rather rushed editing of the Executive Summary by DOI and the White House must have resulted in this impression. After reviewing different drafts of the Executive Summary that were exchanged between DOI and the White House prior to its final issuance, OIG determined that the White House edited the original DOI draft Executive Summary in a manner that led to the allegation of misrepresentation of the peer review/experts.

implication is Arnold's word

implication that the moratorium recommendation had been

Finally, OIG's Office of General Counsel reviewed the facts and circumstances identified in the investigation and determined that the IQA and related policies do not directly apply to the Department's recommendation for a moratorium.

we could not definitively determine whether or not the recommendation for a moratorium combined w/ the peer review language constitutes "information" under the IQA. If it did, however, the Department may have

Table with Reporting Official/Title, Signature, Approving Official/Title, Signature, and Authentication Number.

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BACKGROUND

On April 20, 2010 the Deepwater Horizon deepwater drilling rig exploded in the Gulf of Mexico and caused a massive oil leak in a deepwater well being drilled by BP. In response to the explosion, the federal government declared a moratorium on deepwater drilling, which it extended for six months on May 27, 2010 in conjunction with a 30-Day Report issued by the US Department of the Interior (DOI),^{Department of the Interior (DOI)} entitled Increased Safety Measures for Energy Development on the Outer Continental Shelf (Report) (Attachment 2). The Report was completed by DOI at the behest of President Barack Obama.²

DETAILS OF INVESTIGATION

Steve Black is the Counselor to Secretary of the Interior Ken Salazar (Attachment 3). Black provided background information concerning the creation of the Report.^{30 Day} He said that in late April 2010 President Obama directed DOI Secretary Salazar to prepare a report that would review current industry practices and standards for deepwater oil drilling and make recommendations as to how those practices and standards could be improved. Black said that Secretary Salazar placed him in charge of a team responsible for producing the Report.

Black said the Report was prepared with the help of scientists and engineers from DOI and the Department of Energy. He said that he also collaborated closely with the White House in preparing the report, specifically the staff of Carol Browner, Assistant to the President for Energy and Climate Change.

According to Black, the President asked the National Academy of Sciences (NAS) and the National Academy of Engineers (NAE), a subdivision of NAS, to conduct a separate, distinct study to determine the root causes of the accident. When meeting with NAS and NAE, Black said that he asked them to recommend several experts in offshore drilling to peer review the recommendations that would be made in the Report he was tasked to prepare. Peter Blair of NAE subsequently provided a list of seven names, and DOI contacted all seven experts and asked them for their voluntary assistance, which they all-accepted. In addition to the seven NAE experts, Black said that DOI also sought peer reviewers from industry and academia to also assist in the effort to produce the recommendations in the Report, including Ken Arnold, _____ (who is...?)^{agreed to provide}

According to Black, Peter Blair of NAE facilitated the interactions of the peer reviewers, and the meetings were held via teleconference, with the peer reviewers.^{with whom} Black said that the peer reviewers did not draft any portions of the Report or the recommendations themselves, but rather they reviewed the recommendations and provided valuable oral and written feedback.

Black said that he held a final conference call with the peer reviewers on Tuesday, May 24, 2010 in which wherein they discussed a draft of the Report, not the final Report. According to Black, the peer reviewers knew that it was only a draft Report and they knew that they were not being consulted concerning "policy decisions." Black then explained that the decision to invoke the moratorium on current deepwater drilling projects was a policy decision made by Secretary Salazar and President Obama. Black further stated that there were some discussions about various parameters of a potential moratorium with the peer reviewers; however, the moratorium, as ultimately issued by DOI, was never peer reviewed by the peer reviewers.^{recommendation, however}

According to Black, Secretary Salazar sent a Decision Memorandum to President Obama outlining the findings in the Report and his recommendation for a 6-month moratorium on current deepwater offshore drilling prior to meeting with the President on the evening of Wednesday, May 25, 2010. Black said that he was not a part of that meeting, and after the meeting Secretary Salazar said that the but that told him

President wanted to “sleep on [the idea of the moratorium]” overnight before making a final decision. Accordingly, Black said that Secretary Salazar instructed him and Black’s special assistant Neil Kemkar to draft two different Executive Summaries to the Report; one including the decision to invoke the moratorium and a second not including the moratorium. Black said that the next morning Secretary Salazar directed him to begin working closely with Joseph Aldy of Carol Browner’s staff at the White House to draft the Executive Summary to include the moratorium.

According to Black, there was “a little disconnect” about the definitions used in the Report and the final parameters of the moratorium that was ultimately issued (e.g. the Report defined deepwater drilling as 1,000 feet versus the moratorium defining it as 500 feet). ~~Black pointed out that neither he nor Aldy were present during the meeting between Salazar and the President.~~ *Black pointed out that neither he nor Aldy were present during the meeting between Salazar and the President. This phrase doesn't fit here.*

Black said that he initially drafted the Executive Summary, which included, at the behest of Salazar, the mention that the recommendations contained in the report were peer reviewed by experts outside of the government. Black said that Salazar felt it was very important to have the recommendations undergo the peer review process and he wanted this stressed in the Executive Summary.

After he drafted the Executive Summary, Black sent it to Aldy ^{or?} and Browner’s staff at the White House. According to Black, Browner was concerned that the Executive Summary did not summarize the recommendations and the associated timetables well enough; therefore, Browner’s staff drafted some of the text to be included in the Executive Summary themselves. After several iterations between him and Browner’s staff, Black said that he received a final version of the Executive Summary from the White House “around 2 or 3am” the morning it was ultimately finalized. After receiving the final product from the White House, Black said that he reviewed the final draft; ^{and} he did not have any issues with the text added by the White House.

Kenneth Arnold is a professional engineer who was asked to participate in a peer review of the Report’s recommendations (**Attachment 4**). Following issuance of the ^{final} Report and the concomitant Executive Summary, Arnold sent a letter to Louisiana Governor Bobby Jindal and Senators Mary Landrieu and David Vitter, expressing concern that his name, along with other peer reviewers, was used by Secretary Salazar to justify the 6-month deepwater drilling moratorium (**Attachment 5**). The letter was co-signed by several other peer reviewers.

In the letter he faxed to Landrieu, Vitter and Jindal, Arnold stated:

A group of those named in the Secretary of Interior’s Report, “**INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF**” dated May 27, 2010 are concerned that our names are connected with the [deepwater drilling] moratorium as proposed in the executive summary of the report. There is an implication that we have somehow agreed to or “**peer reviewed**” the main recommendation of that report. **This is not the case.** (emphasis included in original)

The material paragraphs in the Executive Summary, ^{that} Arnold and the other peer-reviewers were concerned about are the following:

The Secretary further recommends an immediate halt to drilling operations on the 33 permitted wells, not including the relief wells currently being drilled by BP, that are currently being drilled using floating rigs in the Gulf of Mexico. Drilling operations

should cease as soon as safely practicable for a 6-month period.

The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering. Those experts, who volunteered their time and expertise, are identified in Appendix 1. The government also consulted with a wide range of experts from government, academia and industry.

~~Regarding the peer reviewers' complaint that the Executive Summary misrepresented that they peer reviewed – and support and approved of – the 6-month moratorium on deepwater drilling,~~ Black stated that it was no one's intention to imply that the peer reviewers reviewed ~~that particular~~ policy decision (See Attachment 2). He explained that the "recommendations" the Executive Summary ^{was} referring to when it claimed peer review were the formal recommendations contained in the body of the Report, not the moratorium. When asked about how an objective reader of the Executive Summary ~~may readily~~ ^{might} conclude that the peer reviewers reviewed the moratorium recommendation, due to the organization of the text, Black stated again that it was not the intention of DOI or the White House to imply this was the case. He then offered the explanation that due to the rush to complete the Report and the Executive Summary, time did not allow for careful editing and review of the Executive Summary. He then said that the Report itself and the draft Executive Summary did undergo the surnaming process, ~~yet the final Executive Summary did not do so.~~ ^{but}

Following release of the Report and the Executive Summary, Black said he received a telephone call from Arnold. He said that Arnold told him the peer reviewers were concerned that the Executive Summary misrepresented that the peer reviewers had reviewed and supported the moratorium recommendation made by Secretary Salazar to the President. Arnold also told him at that time that the peer reviewers were in the process of drafting a letter to various members of Congress explaining their concerns (See Attachment 5). Black said that until Arnold told him about these concerns, Black had never considered the possibility that an objective reader of the Executive Summary may believe that the peer reviewers had reviewed the 6-moratorium policy decision.

Black said that he informed the Secretary about the peer reviewers concerns immediately after speaking with Arnold, ^{even though} yet the Secretary was very busy at that time with travel due to the oil spill crisis in the Gulf of Mexico. During this time frame, according to Black, the letter drafted by the peer reviewers had been sent to Congressional members and subsequently ^{was} ~~leaked~~ ^{released} to the media.

Black stated that Secretary Salazar directed him to draft and issue a formal letter to the concerned peer reviewers apologizing for the misunderstanding and stating that the peer reviewers did not in fact peer review and support the moratorium ultimately decided upon by DOI and the White House (**Attachment 6**). Specifically, the letter issued by DOI to the concerned peer reviewers on June 3, 2010 stated:

By listing you as a member of the NAE panel that peer-reviewed the 22 safety recommendations contained in the Report, we did not mean to imply that you also agreed with the decision to impose a moratorium on all new deepwater drilling. We acknowledge that you were not asked to review or comment on the proposed moratorium. The recommendation and decision were based on the Report's safety recommendations, in particular the need for new blowout preventer and other safety equipment on subsea BOP stacks used on floating drilling rigs and the need for better wild-well intervention techniques in the event of future emergencies like the BP oil spill, particularly in deepwater. We regret any misunderstanding or confusion related to

the inclusion of the recommendation to impose a 6-month moratorium on all new deepwater wells in the executive summary of the final report.

Black said that sometime in mid-June, Secretary Salazar held a teleconference call with the concerned peer reviewers and apologized for any misunderstanding resulting from the text of the Executive Summary. Secretary Salazar then had a personal meeting with the concerned peer reviewers in Washington DC the following week and apologized once again to them for the misunderstanding. Black said that he was not present at this personal meeting between Secretary Salazar and the peer reviewers, ^{although} whereas his Special Assistant, Neal Kemkar was present during both the conference call and personal meeting Secretary Salazar had with the concerned peer reviewers.

According to Kemkar, after Secretary Salazar was tasked by the President to prepare the Report, he ^{Kemkar} assisted his supervisor, Black, in preparing the Report by helping collect and compile the background information related to deepwater offshore drilling (**Attachment 7**). Kemkar said that he did not assist in drafting any of the recommendations in the Report because he is not an engineer and they were too technical.

Kemkar stated that he participated in the conference calls with the peer reviewers when they were asked to peer review the recommendations, including the final conference call on Tuesday, May 24, 2010. Kemkar said that he emailed the draft Report, including the draft recommendations to the peer reviewers that morning and that was the first time the peer reviewers had seen the entire Report. Kemkar echoed Black by stating that the peer reviewers understood that the Report was still only a draft and there was no discussion about the 6-month moratorium.

Kemkar said that he was tasked to assist Black in editing the Executive Summary to the Report that discussed the moratorium. According to Kemkar, he and Black eventually sent a draft of the Executive Summary to the White House for their edits, specifically to Aldy of Browner's staff. Kemkar confirmed Black's statement that the White House made several edits and eventually returned the Executive Summary back to DOI sometime "after 3 am" on the morning of May 27, 2010.

Kemkar noted that he did review the final Executive Summary after it was returned by the White House, ^{but} and it never occurred to him that, based on the final text, an objective reader may believe that the peer reviewers had reviewed and supported the 6-month moratorium rather than only reviewing the formal recommendations contained in the body of the Report. Kemkar said that he first learned of the peer reviewers' concerns about this alleged misrepresentation after he returned from a short vacation, when he read the letter Arnold had been sent to Governor Jindal and Senators Landrieu and Vitter. Upon reading the letter, Kemkar said that he was "jarred" by the tone of the letter ^{because} inasmuch as he had believed that DOI had formed an excellent relationship with the peer reviewers during the Report writing process.

Kemkar said that he was not a part of any discussion with other DOI staff or White House staff that involved trying to imply in the Executive Summary that the peer reviewers had reviewed the 6-month moratorium. ^{This is awkward. Do we have his exact words?}

Arnold acknowledged that after he sent the letter to the Governor and Senators, DOI issued formal letters to each of the peer reviewers of the report apologizing for the ^{part} misunderstanding (See ^{of confusion.} Attachment 4). He also confirmed that Secretary Salazar conducted a teleconference with those who reviewed the report in order to apologize for any misunderstanding surrounding the representations made in the Executive Summary for the report. According to Arnold, Secretary Salazar stated that the

Executive Summary was not meant to imply that the decision to invoke a 6-month moratorium on deepwater drilling was peer reviewed by Arnold and others, but rather the moratorium was an independent decision of Secretary Salazar and the White House.

Based upon the teleconference ^{that} Secretary Salazar conducted regarding the matter, along with the letters DOI issued to the peer reviewers, Arnold said that he has accepted Secretary Salazar's explanation that the ~~misrepresentations~~ ^{language} in the Executive Summary ^{was} were a mistake rather than an intentional attempt to use the peer-reviewers' names to justify a political decision. As a result, Arnold said that he presently considers the matter a "non-issue" and he is now focusing on trying to assist DOI in instituting a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

Ford Brett is the Managing Director for Petroskills, a petroleum training alliance, and was also a peer reviewer utilized by DOI in completing the Report (**Attachment 8**). Brett co-signed the letter that Arnold sent to Louisiana Governor Jindal and Senators Landrieu and Vitter, expressing concern that their names were being inappropriately used by Secretary Salazar justify a deepwater drilling moratorium.

Brett, similar to Arnold, confirmed that he received the formal letter from DOI apologizing for the misunderstanding and that Secretary Salazar held both a conference call and personal meeting to do the same. Based upon these actions by Secretary Salazar, Brett said that he ~~has~~ ^{was} also prepared to believe that the misrepresentation was an editing "mistake" and not intentional. Brett, ^{however,} ^{said} that he was still concerned about the "process" the government was following in pursuing the moratorium. He explained that he believes DOI should not make such a blanket decision without first seeking expert peer review, but rather DOI should seek such peer review and then make a moratorium decision based on that review. Did he say "prepared to"?

^{another peer reviewer,} Robert Bea, is the Associate Director for the Center for Catastrophic Risk Management at the University of California, and ~~he was also a peer reviewer recommended by NAS to assist DOI in preparing the Report (Attachment 9)~~. Bea stated that he first heard of the moratorium recommended by DOI in the Executive Summary of the May 27, 2010 report when Senator Landrieu asked him about it on May 29, 2010. He said the proposed moratorium had not been discussed with the peer reviewers prior to issuance of the Report.

Similar to both Arnold and Brett, Bea confirmed that DOI issued a formal letter of apology and Secretary Salazar held a conference call and personal meeting with the concerned peer reviewers to tell them it was never the intention of DOI and the White House to imply that the peer reviewers reviewed and approved the moratorium. Following these actions by Secretary Salazar, Bea also said that he ~~has~~ ^{was prepared to} believe that the misrepresentation was a "mistake" and not intentional because he always tries to believe people mean well and tell the truth, unless proven otherwise. He explained that he simply does not know whether it was a mistake or intentional, but he was not interested in speculating one way or the other because he was now focused on trying to persuade DOI to institute a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

^{also} Bea then expressed concern that DOI is ~~not approaching the moratorium issue the correct way~~ ^{inasmuch as DOI is} proposing the moratorium without any input from expert peer reviewers. He ^{questioned} ~~expressed~~ why DOI would not peer review such an important, far-reaching decision in light of the fact that DOI had all of the other safety recommendations listed in the report undergo peer review.

S. Elizabeth Birnbaum is the former Director of the Minerals Management Service (MMS)

(Attachment 10). After Birnbaum read the Congressional Request submitted to OIG asking for an investigation into whether there was intentional misrepresentation on the part of DOI related to their recommendation of a 6-month deepwater drilling moratorium, Birnbaum said that she personally did not work on preparing the Executive Summary containing the moratorium recommendation. According to Birnbaum, Black was the principle person responsible for heading up the department's effort to issue the 30-Day Report on deepwater drilling safety and Birnbaum's participation was limited to surnaming the report, and its recommendations.

Birnbaum said that there were general discussions about extending a moratorium on deepwater drilling and its associated parameters, however, she had no knowledge that Secretary Salazar planned on recommending to the President of the United States in the Executive Summary of the 30-Day Report for a 6-month extension of the deepwater drilling moratorium. She stated that she learned of the recommendation only when MMS Deputy Director Mary Katherine Ishee told her about it as she was delivering the report and Executive Summary to Birnbaum for surnaming. According to Birnbaum, she asked Ishee why the moratorium recommendation had been inserted in the Executive Summary, and Ishee told her that Black had inserted the moratorium recommendation based upon an agreement with the White House to do so.

Regarding whether the Executive Summary was intentionally drafted in a manner to misrepresent that the peer-review team of engineers and scientists that reviewed the safety recommendations in the 30-Day Report had also reviewed and supported the recommendation for a 6-month moratorium, Birnbaum said that she has no knowledge that the misrepresentation was intentional. Birnbaum opined that the misrepresentation was probably a product of editing and a review of the email trail related to the creation of the Executive Summary would be the best way to identify who may have edited the document that resulted in the misrepresentation.

Birnbaum also stated that she does not believe that Secretary Salazar's request for her resignation was in any way related to the issuance of the 6-month moratorium on deepwater drilling, regardless of the fact that both events occurred on the same day, May 27, 2010.

Regarding the email exchanges between DOI and the White House in an effort to complete the Executive Summary and the 30-Day Report, Black stressed that he believes that the communications between DOI and the White House should be "privileged" because it was the product of a conversation between the President and a member of his Cabinet (See Attachment 2). Upon request, however, Black provided to OIG the emails and associated drafts of the Executive Summary that he exchanged with the White House during May 26, 2010 and the early hours of May 27, 2010. OIG did not independently validate that the emails provided by Black in response to OIG's request were complete and unedited.

The emails were provided to OIG in response to a formal OIG request following Black's interview **(Attachment 11)**: The request was made by OIG Program Integrity Director Harry Humbert to Black and stated the following:

During your interview, you informed us that you initially drafted the Executive Summary to the 30-Day Review on Offshore Drilling on May 26, 2010 (which was ultimately released on May 27, 2010) and thereafter exchanged drafts of the Executive Summary with the White House, which they edited, through the early morning hours of May 27, 2010.

[wrt] Accordingly, I respectfully request that you provide all of the emails you sent externally which contained the draft Executive Summaries as well as the last and final revision. *reflect that*

A review of the emails identified that Black (DOI) sent a draft Executive Summary to Joseph Aldy at the White House at 11:38 PM on May 26, 2010 (**Attachments 12 & 13**). Almost three hours later, at 2:13 AM on May 27, 2010, Aldy (White House) sent an email back to DOI that contained two edited versions of the Executive Summary (**Attachments 14, 15 & 16**).

Both versions sent by the White House contained significant edits to DOI's draft Executive Summary ^{but} and were very similar. The only difference between the two versions sent by the White House was the length of time being recommended for the moratorium on the current deepwater drilling of 33 exploratory wells in the Gulf of Mexico. One version recommended a moratorium on current deepwater drilling operations "until additional safety testing can be conducted on the well barriers and on the blowout preventers, as detailed in this report," and the second version recommended that drilling operations cease outright for "6-months" (See Attachments 15 & 16).

Both versions of the Executive Summary ^{sent} edited by the White House, however, were identical in how they altered DOI's draft Executive Summary in a manner that led to the allegation of misrepresentation made by NAS peer review experts. A comparison of the draft Executive Summary DOI sent to the White House with the edited version returned to DOI by the White House shows that large portions of the original text provided in DOI's draft were altered, removed and shifted throughout the document. *changed*

Specifically, DOI's draft Executive Summary includes a 'Recommendations' section immediately following an introductory 'Overview' section. The first paragraph of the 'Recommendation' section contains discussion about the immediate measures the Secretary recommends to improve safety of offshore drilling operations, based on the findings of the 30-Day Report. This first paragraph then states that the Secretary recommends a "6-month moratorium on permits for new exploratory wells with a depth of 1,000 feet or greater to allow time for implementation of the measures outlined in this report." The first paragraph concludes by stating "Finally, the Secretary recommends an immediate halt to drilling operations on the 33 existing permitted exploratory wells currently being drilled to water depth of 1,000 feet or greater in the Gulf of Mexico for a sufficient length of time to perform additional safety testing on the well barriers and on the blowout preventers, as detailed in this report."

Following the first paragraph of the 'Recommendation' section, DOI's draft Executive Summary then contains a chart of specific "key" recommendations contained in the body of the 30-Day Report itself. Immediately following the chart of specific recommendations listed in the 30-Day Report, DOI's draft Executive Summary then concludes with the following paragraph:

The recommendations contained in this report have been peer reviewed by seven experts identified by the National Academy of Engineering [NAS]. Those experts, who volunteered their time and expertise, are identified in Appendix 2. The Department also consulted with a wide range of experts from government, academia and industry.

The edited version sent back to DOI, following White House emendations, removed from the 'Recommendation' section's first paragraph the Secretary's 6-month moratorium recommendation concerning permits for new exploratory deepwater wells, and his moratorium recommendation concerning deepwater wells currently being drilled.

These moratorium recommendations of the Secretary, that were policy decisions distinct from the

specific recommendations of the 30-Day Report, were then reinserted into the Executive Summary following a summary of the 30-Day Report's key recommendations, *immediately before* the paragraph stating that "[T]he recommendations contained in this report have been peer reviewed by seven experts identified by the National Academy of Engineering."

In sum, the DOI draft Executive Summary had first listed the Secretary's policy moratorium recommendations in its initial paragraph of its 'Recommendation' section. The DOI draft then contained a separate discussion identifying specific key recommendations contained in the 30-Day Report in a chart format, and immediately following the chart stated that the recommendations contained in the report had been peer reviewed by experts from NAS.

In contrast, the White House edited the Executive Summary by removing the policy moratorium recommendations from the initial paragraph of the 'Recommendation' section and reinserted those policy recommendations into the Executive Summary immediately before the paragraph that stated that the "recommendations" had been peer reviewed by the NAS experts. Accordingly, the White House's edits to DOI's draft Executive Summary resulted in the distinction between the Secretary's policy moratorium recommendations and the 30-Day Report's specific recommendations – which had indeed been peer reviewed by NAS experts – to become effectively lost.

OIG's Office of General Counsel reviewed and analyzed the facts and circumstances identified in this investigation and determined that the Information Quality Act and related policies do not directly apply to the Department's recommendation for a moratorium (**Attachment 17**).

SUBJECT(S)

DISPOSITION

ATTACHMENTS

1. Senator Vitter and Congressman Scalise letter to OIG, dated June 16, 2010.
2. Increased Safety Measures for Energy Development on the Outer Continental Shelf report, issued by the United States Department of the Interior, dated May 27, 2010.
3. Investigative Activity Report, Interview of Black, conducted on July 14, 2010.
4. Investigative Activity Report, Interview of Arnold, conducted on July 2, 2010.
5. Letter to Louisiana Governor Bobby Jindal and Senators Mary Landrieu and David Vitter, undated.
6. Letter issued by DOI to several peer reviewers, dated June 3, 2010.
7. Investigative Activity Report, Interview of Kemkar, conducted on July 15, 2010.
8. Investigative Activity Report, Interview of Brett, conducted on July 6, 2010.
9. Investigative Activity Report, Interview of Bea, conducted on July 6, 2010.
10. Investigative Activity Report, Interview of Birnbaum, conducted on September 15, 2010.
11. Investigative Activity Report, Black-Kemkar Email Review, conducted on September 27, 2010.
12. Black email to Aldy, dated 11:38 PM on May 26, 2010.
13. DOI draft Executive Summary attached to Attachment 12.
14. Aldy email to Black, dated 2:13 AM on May 27, 2010.
15. White House edited Executive Summary, version 1, attached to Attachment 14.
16. White House edited Executive Summary, version 2, attached to Attachment 14.
17. OIG Office of General Counsel legal opinion in re IQA, dated July 26, 2010.

Recommended insert to replace narrative on pp. 8 – 9:

The language in the Executive Summary to which the experts objected was this:

The recommendations contained in this report have been peer reviewed by seven experts identified by the National Academy of Engineering [NAS]. Those experts, who volunteered their time and expertise, are identified in Appendix 2. The Department also consulted with a wide range of experts from government, academia and industry. (Peer Review Language.)

A review of the emails that Black sent to Joseph Aldy at the White House at 11:38 PM on May 26, 2010 (Attachments 12 & 13) reflects that the moratorium was discussed on the first page of the Executive Summary, while the peer review language was on the second page of the Executive Summary, immediately following a summary list of the safety recommendations contained in the body of the 30-Day Report, which had been peer reviewed.

At 2:13 AM on May 27, 2010, Aldy sent an email back to Black that contained two edited versions of the Executive Summary (Attachments 14, 15, & 16). Both versions sent by Aldy contained significant edits to DOI's draft Executive Summary, but were very similar to each other -- the only difference being the length of time recommended for the moratorium. Both versions, however, revised and re-ordered the Executive Summary, placing the peer review language immediately following the moratorium recommendation causing the distinction between the Secretary's moratorium recommendation -- which had not been peer reviewed -- and the recommendations contained in the 30-Day Report -- which had been peer reviewed -- to become effectively lost. Although the Executive Summary underwent some additional minor editing, it was ultimately published on May 27, 2010 with the peer review language immediately following the moratorium recommendation.

The Information Quality Act

The Information Quality Act (IQA) directs the Office of Management and Budget (OMB) to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." "Information" under the IQA guidelines means "any communication or representation of knowledge such as facts or data."

OMB IQA guidelines also require agencies to create a process for "affected persons" to obtain the correction of "disseminated information" that does not comply with IQA guidelines.

The website for the Department's IQA program indicates that the Department has received no formal challenges to the 30-Day Report under the IQA.

We could not definitively determine whether or not the recommendation for a moratorium combined with the peer review language constitutes "information" under the IQA. Upon hearing

the experts' concerns, however, the Department communicated by letter, telephone and a personal meeting to apologize and clarify that it did not intend to imply that the moratorium recommendation had been peer reviewed. Since no IQA challenge has been received by the Department, the Department has no formal obligation under the IQA. Had the Department received a formal challenge, however, the Department may have adequately remedied the challenge by offering a formal apology, clarifying its position, and communicating directly with the experts.



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title Federal Moratorium on Deepwater Drilling	Case Number PI-PI-10-0562-I
Reporting Office Program Integrity	Report Date October 14, 2010
Report Subject Closing Report of Investigation	

SYNOPSIS

On June 16, 2010 the Department of the Interior (DOI) Office of Inspector General (OIG) received a request from Senator David Vitter and Congressman Steve Scalise requesting that OIG conduct an investigation into the allegation that DOI senior officials, in an effort to help justify their decision to impose a 6-month moratorium on deepwater drilling in the Gulf of Mexico, misrepresented that the moratorium was reviewed and supported by a group of scientists and industry experts (**Attachment 1**). Their letter also requested OIG to assess whether this alleged misrepresentation resulted in a violation of law as it relates to the Information Quality Act (IQA).

We also received an additional request on July 20, 2010 for an investigation into the same matter by seven republican member of the U.S. House of Representatives' Committee on Natural Resources, including Doc Hastings, Doug Lamborn, John J. Duncan, Jr., Bill Cassidy, Paul Broun, Jason Chaffetz, and John Fleming (**Attachment 2**). *Insert their states behind their names, eg. (R-IA) affiliation +*

The scientists and industry experts expressed concern that the Executive Summary to the 30-day report – which contained a policy decision by the Secretary of the Interior to recommend a 6-month moratorium on deepwater exploratory drilling – was worded in a manner that implied that the experts peer reviewed and supported this policy decision, when in fact they had neither reviewed nor supported such a policy decision and had never been asked to do so.

All DOI officials interviewed stated that it was never their intention to imply the moratorium was peer reviewed by the experts, but rather rushed editing of the Executive Summary by DOI and the White House resulted in this implication. After reviewing different drafts of the Executive Summary that were exchanged between DOI and the White House prior to its final issuance, OIG determined that the White House edited the original DOI draft Executive Summary in a manner that led to the implication that the moratorium recommendation had been peer reviewed by the experts.

Reporting Official/Title Senior Special Agent Richard J. Larrabee	Signature
Approving Official/Title Program Integrity Director Harry Humbert	Signature

Authentication Number: 00000000000000000000000000000000

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Finally, we could not definitively determine whether or not the recommendation for a moratorium combined with the peer review language constitutes "information" under the IQA. If it did, however, DOI may have adequately addressed the issue by offering a formal apology, clarifying its position, and communicating directly with the experts.

BACKGROUND

On April 20, 2010 the Deepwater Horizon deepwater drilling rig exploded in the Gulf of Mexico and caused a massive oil leak in a deepwater well being drilled by BP. In response to the explosion, the U.S. Department of the Interior (DOI) declared a moratorium on deepwater drilling, which it extended for six months on May 27, 2010 in conjunction with a 30-Day Report issued by DOI, entitled Increased Safety Measures for Energy Development on the Outer Continental Shelf (Report) (**Attachment 3**).

DETAILS OF INVESTIGATION

Steve Black is the Counselor to Secretary of the Interior Ken Salazar (**Attachment 4**). Black provided background information concerning the creation of the 30-Day Report. He said that in late April 2010 President Obama directed DOI Secretary Salazar to prepare a report that would review current industry practices and standards for deepwater oil drilling and make recommendations as to how those practices and standards could be improved. Black said that Secretary Salazar placed him in charge of a team responsible for producing the Report.

Black said the Report was prepared with the help of scientists and engineers from DOI and the Department of Energy. He said that he also collaborated closely with the White House in preparing the report, specifically the staff of Carol Browner, Assistant to the President for Energy and Climate Change.

According to Black, the President asked the National Academy of Sciences (NAS) and the National Academy of Engineers (NAE), a subdivision of NAS, to conduct a separate, distinct study to determine the root causes of the accident. When meeting with NAS and NAE, Black said that he asked them to recommend several experts in offshore drilling to peer review the recommendations that would be made in the Report he was tasked to prepare. Peter Blair of NAE subsequently provided a list of seven names, and Black contacted all seven experts and asked them for their voluntary assistance, which they agreed to provide. In addition to the seven NAE experts, Black said that DOI also sought peer reviewers from industry and academia to assist in the effort to produce the recommendations in the Report, including Ken Arnold, a professional engineer.

According to Black, Peter Blair of NAE facilitated the interactions of the peer reviewers, meetings with whom were held via teleconference. Black said that the peer reviewers did not draft any portions of the Report or the recommendations themselves, but rather they reviewed the recommendations and provided valuable oral and written feedback.

Black said that he held a final conference call with the peer reviewers on Tuesday, May 24, 2010 in which they discussed a draft of the Report, not the final Report. According to Black, the peer reviewers knew that it was only a draft Report and they knew that they were not being consulted concerning "policy decisions." Black then explained that the decision to invoke the moratorium on current deepwater drilling projects was a policy decision made by Secretary Salazar and President Obama. Black further stated that there were some discussions about various parameters of a potential moratorium with the peer reviewers; the moratorium recommendation, however, as ultimately issued

by DOI, was never peer reviewed by the ^{experts} peer reviewers.

According to Black, Secretary Salazar sent a Decision Memorandum to President Obama outlining the findings in the Report and his recommendation for a 6-month moratorium on current deepwater offshore drilling prior to meeting with the President on the evening of Wednesday, May 25, 2010. Black said that he was not a part of that meeting, but that after the meeting Secretary Salazar told him that the President wanted to "sleep on [the idea of the moratorium]" overnight before making a final decision. Accordingly, Black said that Secretary Salazar instructed him and Black's special assistant Neil Kemkar to draft two different Executive Summaries to the Report; one including the decision to invoke the moratorium and a second not including the moratorium. Black said that the next morning Secretary Salazar directed him to begin working closely with Joseph Aldy of Carol Browner's staff at the White House to draft the Executive Summary to include the moratorium.

According to Black, there was "a little disconnect" about the definitions used in the Report and the final parameters of the moratorium that was ultimately issued (e.g. the Report defined deepwater drilling as 1,000 feet versus the moratorium defining it as 500 feet).

Black said that he initially drafted the Executive Summary, which included, at the behest of Salazar, the mention that the recommendations contained in the report were peer reviewed by experts outside of the government. Black said that Salazar felt it was very important to have the recommendations undergo the peer review process and he wanted this stressed in the Executive Summary.

After he drafted the Executive Summary, Black sent it to Aldy of Browner's staff at the White House. According to Black, Browner was concerned that the Executive Summary did not summarize the recommendations and the associated timetables well enough; therefore, Browner's staff drafted some of the text to be included in the Executive Summary themselves. After several iterations between him and Browner's staff, Black said that he received a final version of the Executive Summary from the White House "around 2 or 3am" the morning it was ultimately finalized. After receiving the final product from the White House, Black said that he reviewed the final draft; he did not have any issues with the text added by the White House.

Kenneth Arnold is a professional engineer who was asked to participate in a peer review of the Report's recommendations (**Attachment 5**). Following issuance of the final Report and the concomitant Executive Summary, Arnold sent a letter to Louisiana Governor Bobby Jindal and Senators Mary Landrieu and David Vitter, expressing concern that his name, along with other peer reviewers, was used by Secretary Salazar to justify the 6-month deepwater drilling moratorium (**Attachment 6**). The letter was co-signed by several other peer reviewers.

In the letter he faxed to Landrieu, Vitter and Jindal, Arnold stated:

A group of those named in the Secretary of Interior's Report, "**INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF**" dated May 27, 2010 are concerned that our names are connected with the [deepwater drilling] moratorium as proposed in the executive summary of the report. There is an implication that we have somehow agreed to or "**peer reviewed**" the main recommendation of that report. **This is not the case.** (emphasis included in original)

The material paragraphs in the Executive Summary that Arnold and the other peer-reviewers were

concerned about are the following:

The Secretary further recommends an immediate halt to drilling operations on the 33 permitted wells, not including the relief wells currently being drilled by BP, that are currently being drilled using floating rigs in the Gulf of Mexico. Drilling operations should cease as soon as safely practicable for a 6-month period.

The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering. Those experts, who volunteered their time and expertise, are identified in Appendix 1. The government also consulted with a wide range of experts from government, academia and industry.

Black stated that it was no one's intention to imply that the peer reviewers reviewed the 6-month moratorium on deepwater drilling policy decision (See Attachment 4). He explained that the "recommendations" the Executive Summary was referring to were the formal recommendations contained in the body of the Report, not the moratorium. When asked if an objective reader of the Executive Summary might conclude that the peer reviewers reviewed the moratorium recommendation, due to the organization of the text, Black stated again that it was not the intention of DOI or the White House to imply this was the case. He ~~then offered the explanation~~^{explained} that due to the rush to complete the Report and the Executive Summary, time did not allow for careful editing and review of the Executive Summary. He then said that the Report itself and the draft Executive Summary did undergo the surnaming process, but the final Executive Summary did not.

Following release of the Report and the Executive Summary, Black said he received a telephone call from Arnold. He said that Arnold told him the peer reviewers were concerned that the Executive Summary misrepresented that the peer reviewers had reviewed and supported the moratorium recommendation made by Secretary Salazar to the President. Arnold also told him at that time that the peer reviewers were in the process of drafting a letter to various members of Congress explaining their concerns (See Attachment 6). Black said that until Arnold told him about these concerns, Black had never considered the possibility that an objective reader of the Executive Summary may believe that the peer reviewers had reviewed the 6-moratorium policy decision.

Black said that he informed the Secretary about the peer reviewers' concerns immediately after speaking with Arnold, even though the Secretary was very busy ^{at that time} with travel due to the oil spill crisis in the Gulf of Mexico. During this time frame, according to Black, the letter drafted by the peer reviewers had been sent to Congressional members and was subsequently released to the media.

Black stated that Secretary Salazar directed him to draft and issue a formal letter to the concerned peer reviewers apologizing for the misunderstanding and stating that the peer reviewers did not in fact peer review and support the moratorium ultimately decided upon by DOI and the White House (**Attachment 7**). Specifically, the letter issued by DOI to the concerned peer reviewers on June 3, 2010 stated:

By listing you as a member of the NAE panel that peer-reviewed the 22 safety recommendations contained in the Report, we did not mean to imply that you also agreed with the decision to impose a moratorium on all new deepwater drilling. We acknowledge that you were not asked to review or comment on the proposed moratorium. The recommendation and decision were based on the Report's safety recommendations, in particular the need for new blowout preventer and other safety

equipment on subsea BOP stacks used on floating drilling rigs and the need for better wild-well intervention techniques in the event of future emergencies like the BP oil spill, particularly in deepwater. We regret any misunderstanding or confusion related to the inclusion of the recommendation to impose a 6-month moratorium on all new deepwater wells in the executive summary of the final report.

Black said that sometime in mid-June, Secretary Salazar held a teleconference call with the concerned peer reviewers and apologized for any misunderstanding resulting from the text of the Executive Summary. Secretary Salazar then had a personal meeting with the concerned peer reviewers in Washington DC the following week and apologized once again to them for the misunderstanding. Black said that he was not present at this personal meeting between Secretary Salazar and the peer reviewers, although his Special Assistant, Neal Kemkar was present during both the conference call and personal meeting Secretary Salazar had with the concerned peer reviewers.

According to Kemkar, after Secretary Salazar was tasked by the President to prepare the Report, Kemkar assisted Black in preparing the Report by helping collect and compile the background information related to deepwater offshore drilling (**Attachment 8**). Kemkar said that he did not assist in drafting any of the recommendations in the Report because he is not an engineer and they were too technical.

Kemkar stated that he participated in the conference calls with the peer reviewers when they were asked to peer review the recommendations, including the final conference call on Tuesday, May 24, 2010. Kemkar said that he emailed the draft Report, including the draft recommendations to the peer reviewers that morning and that was the first time the peer reviewers had seen the entire Report. Kemkar echoed Black by stating that the peer reviewers understood that the Report was still only a draft and there was no discussion about the 6-month moratorium.

Kemkar said that he was tasked to assist Black in editing the Executive Summary to the Report that discussed the moratorium. According to Kemkar, he and Black eventually sent a draft of the Executive Summary to the White House for edits, specifically to Aldy of Browner's staff. Kemkar confirmed Black's statement that the White House made several edits and eventually returned the Executive Summary back to DOI sometime "after 3 am" on the morning of May 27, 2010.

Kemkar noted that he did review the final Executive Summary after it was returned by the White House, but it never occurred to him that, based on the final text, an objective reader may believe that the peer reviewers had reviewed and supported the 6-month moratorium rather than only reviewing the formal recommendations contained in the body of the Report. Kemkar said that he first learned of the peer reviewers' concerns after he returned from a short vacation, when he read the letter Arnold had sent to Governor Jindal and Senators Landrieu and Vitter. Upon reading the letter, Kemkar said that he was "jarred" by the tone of the letter because he believed that DOI had formed an excellent relationship with the peer reviewers during the Report writing process.

Kemkar said that he never participated in any discussion with other DOI staff or White House staff about trying to draft the Executive Summary in a manner that would imply that the peer reviewers had reviewed the 6-month moratorium.

Arnold acknowledged that after he sent the letter to the Governor and Senators, DOI issued formal letters to each of the peer reviewers of the report apologizing for any misunderstanding or confusion (See Attachment 5). He also confirmed that Secretary Salazar conducted a teleconference with those

who reviewed the report in order to apologize for any misunderstanding surrounding the representations made in the Executive Summary for the report. According to Arnold, Secretary Salazar stated that the Executive Summary was not meant to imply that the decision to invoke a 6-month moratorium on deepwater drilling was peer reviewed by Arnold and others, but rather the moratorium was an independent decision of Secretary Salazar and the White House.

Based upon the teleconference that Secretary Salazar conducted regarding the matter, along with the letters DOI issued to the peer reviewers, Arnold said that he has accepted Secretary Salazar's explanation that the language in the Executive Summary was a mistake rather than an intentional attempt to use the peer-reviewers' names to justify a political decision. As a result, Arnold said that he presently considers the matter a "non-issue" and he is now focusing on trying to assist DOI in instituting a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

since the moratorium has been lifted, take "presently" and "now" out before a bit -

Ford Brett is the Managing Director for Petroskills, a petroleum training alliance, and was also a peer reviewer utilized by DOI in completing the Report (**Attachment 9**). Brett co-signed the letter that Arnold sent to Louisiana Governor Jindal and Senators Landrieu and Vitter, expressing concern that their names were being used by Secretary Salazar justify a deepwater drilling moratorium.

Brett, similar to Arnold, confirmed that he received the formal letter from DOI apologizing for the misunderstanding and that Secretary Salazar held both a conference call and personal meeting to do the same. Based upon these actions by Secretary Salazar, Brett said that he also believed that the misrepresentation was an editing "mistake" and not intentional. Brett said, however, that he was still concerned about the "process" the government was following in pursuing the moratorium. He explained that he believes DOI should not make such a blanket decision without first seeking expert peer review, but rather DOI should seek such peer review and then make a moratorium decision based on that review.

Robert Bea, another peer reviewer, is the Associate Director for the Center for Catastrophic Risk Management at the University of California (**Attachment 10**). Bea stated that he first heard of the moratorium recommended by DOI in the Executive Summary of the May 27, 2010 report when Senator Landrieu asked him about it on May 29, 2010. He said the proposed moratorium had not been discussed with the peer reviewers prior to issuance of the Report.

Similar to both Arnold and Brett, Bea confirmed that DOI issued a formal letter of apology and Secretary Salazar held a conference call and personal meeting with the concerned peer reviewers to tell them it was never the intention of DOI and the White House to imply that the peer reviewers reviewed and approved the moratorium. Following these actions by Secretary Salazar, Bea also said that he believes that the misrepresentation was a "mistake" and not intentional because he always tries to believe people mean well and tell the truth, unless proven otherwise. He explained that he simply does not know whether it was a mistake or intentional, but he was not interested in speculating one way or the other because he was now focused on trying to persuade DOI to institute a moratorium that is supported by sound science and engineering, rather than a blanket moratorium.

Bea also expressed concern that DOI is proposing the moratorium without any input from expert peer reviewers. He questioned why DOI would not peer review such an important, far-reaching decision in light of the fact that DOI had all of the safety recommendations listed in the report undergo peer review.

S. Elizabeth Birnbaum is the former Director of the Minerals Management Service (MMS) (**Attachment 11**). Birnbaum said that she did not personally work on preparing the Executive Summary containing the moratorium recommendation. According to Birnbaum, Black was the principle person responsible for preparing the 30-Day Report on deepwater drilling safety and that her participation was limited to surnaming the Report.

Birnbaum said that there were general discussions about extending a moratorium on deepwater drilling and its associated parameters, although she had no knowledge that Secretary Salazar planned on recommending the moratorium in the Executive Summary of the 30-Day Report to the President. She stated that she learned of the recommendation only when MMS Deputy Director Mary Katherine Ishee told her about it as she delivered the Report and Executive Summary to Birnbaum for surnaming. According to Birnbaum, she asked Ishee why the moratorium recommendation had been inserted in the Executive Summary; Ishee told her that Black had inserted the moratorium recommendation based upon an agreement with the White House to do so.

Birnbaum said that she has no knowledge whether the implication that the moratorium had been peer reviewed was intentional or not. Birnbaum opined that the implication was probably a product of editing and a review of the email trail related to the creation of the Executive Summary would be the best way to identify who may have edited the document that resulted in the implication.

Birnbaum also stated that she does not believe that Secretary Salazar's request for her resignation was in any way related to the issuance of the 6-month moratorium on deepwater drilling, regardless of the fact that both events occurred on May 27, 2010.

When the OIG requested the email exchanges between DOI and the White House in an effort to complete the Executive Summary and the 30-Day Report, Black stressed that he believes that the communications between DOI and the White House should be "privileged" because they were the product of a conversation between the President and a member of his Cabinet (See Attachment 4).

The language in the Executive Summary to which the experts objected was this:

The recommendations contained in this report have been peer reviewed by seven experts identified by the National Academy of Engineering [NAS]. Those experts, who volunteered their time and expertise, are identified in Appendix 2. The Department also consulted with a wide range of experts from government, academia and industry.

A review of the emails that Black sent to Joseph Aldy at the White House at 11:38 PM on May 26, 2010 (**Attachments 12, 13 & 14**) reflects that in DOI's draft of the Executive Summary the moratorium was discussed on the first page of the Executive Summary, while the peer review language was on the second page of the Executive Summary, immediately following a summary list of the safety recommendations contained in the body of the 30-Day Report, which had been peer reviewed.

At 2:13 AM on May 27, 2010, Aldy sent an email back to Black that contained two edited versions of the Executive Summary (**Attachments 15, 16, & 17**). Both versions sent by Aldy contained significant edits to DOI's draft Executive Summary, but were very similar to each other -- the only difference being the length of time recommended for the moratorium. Both versions, however, revised and re-ordered the Executive Summary, placing the peer review language immediately following the moratorium recommendation causing the distinction between the Secretary's moratorium recommendation -- which had not been peer reviewed -- and the recommendations contained in the 30-

should be like this

Day Report – which had been peer reviewed – to become effectively lost. Although the Executive Summary underwent some additional minor editing, it was ultimately published on May 27, 2010 with the peer review language immediately following the moratorium recommendation.

SUBJECT(S)

DISPOSITION

ATTACHMENTS

1. Senator Vitter and Congressman Scalise letter to OIG, dated June 16, 2010.
2. U.S. House of Representatives' Committee on Natural Resources letter to OIG, dated July 20, 2010.
3. Report – Increased Safety Measures for Energy Development on the Outer Continental Shelf, issued by the United States Department of the Interior, dated May 27, 2010.
4. Investigative Activity Report, Interview of Black, conducted on July 14, 2010.
5. Investigative Activity Report, Interview of Arnold, conducted on July 2, 2010.
6. Letter to Louisiana Governor Bobby Jindal and Senators Mary Landrieu and David Vitter, undated.
7. Letter issued by DOI to several peer reviewers, dated June 3, 2010.
8. Investigative Activity Report, Interview of Kemkar, conducted on July 15, 2010.
9. Investigative Activity Report, Interview of Brett, conducted on July 6, 2010.
10. Investigative Activity Report, Interview of Bea, conducted on July 6, 2010.
11. Investigative Activity Report, Interview of Birnbaum, conducted on September 15, 2010.
12. Investigative Activity Report, Black-Kemkar Email Review, conducted on September 27, 2010.
13. Black email to Aldy, dated 11:38 PM on May 26, 2010.
14. DOI draft 30-Day Report attached to Attachment 12.
15. Aldy email to Black, dated 2:13 AM on May 27, 2010.
16. White House edited 30-Day Report, version 1, attached to Attachment 14.
17. White House edited 30-Day Report, version 2, attached to Attachment 14.

Attachment 15



THE SECRETARY OF THE INTERIOR
WASHINGTON

APR 20 2010

Memorandum

To: Deputy Secretary
Solicitor
Assistant Secretaries
Deputy Assistant Secretaries
Heads of Bureaus and Offices

From: Secretary *Van Salazar*

Subject: Cooperation with the Office of Inspector General

As public servants, we must cooperate with the Office of Inspector General as that office fulfills its responsibilities as provided in the Inspector General Act. The Inspector General is a vital part of the senior leadership team here at the Department, pursuing economy, efficiency, and effectiveness in Department programs and operations, as well as preventing and detecting fraud and abuse.

The Inspector General Act (Act) provides the Inspector General access to information within the Department. The Act states, "the Inspector General is authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations (Section 6(a)(1))." Information that the Inspector General has access to may include information that may be privileged, confidential, or otherwise exempt from disclosure under law such as the Freedom of Information Act or the Privacy Act. In providing privileged or confidential information to the Inspector General's office, Department employees should identify and clearly mark such information. The Office of Inspector General will treat such information in accordance with applicable statutes and regulations. Providing such information to the Office of Inspector General will not constitute a waiver of any privileges that may attach to the information. In addition to the Act, the Department Manual 110 DM 4 provides for the responsibilities for the Office of Inspector General and its relationship with Department bureaus and offices.

If you have any questions about your obligations to cooperate with requests by authorized representatives of the Office of Inspector General, you may contact your supervisors or the Office of the Solicitor. Please advise your senior managers of the contents of this memo.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To MARY KENDALL, ACTING INSPECTOR GENERAL, DEPT OF THE INTERIOR

You are hereby commanded to be and appear before the Committee on Natural Resources

of the House of Representatives of the United States at the place, date and time specified below.

to testify touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony:

Date:

Time:

to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 1324 LONGWORTH HOUSE OFFICE BUILDING

Date: APRIL 18, 2012

Time: 5 PM

To US MARSHALS SERVICE OR ANY STAFF MEMBER OF THE COMMITTEE ON NATURAL RESOURCES to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 30 day of MARCH, 2012.

Attest:

Handwritten signature of Karen P. Haas

Clerk

Handwritten signature of Chairman or Authorized Member

Chairman or Authorized Member

PROOF OF SERVICE

Subpoena for

MARY KENDALL, ACTING INSPECTOR GENERAL

Address

DEPARTMENT OF THE INTERIOR, 1849 C STREET NW

WASHINGTON, DC 20240

before the Committee on Natural Resources

*U.S. House of Representatives
112th Congress*

Served by (print name) BYRON BROWN

Title SR. COUNSEL

Manner of service By FAX (202) 208-6062

ATTN: JOANN GAUSZA, RECORDS CUSTODIAN

Date 4/12/12 1:30 PM

Signature of Server By R. Brown

Address 1324 HOUSE LONGWORTH OFFICE BUILDING

SCHEDULE OF DOCUMENTS

Unredacted and complete copies of:

1. All documents identified on the enclosure (Bates number 00032227 SOL-WDC-B01-00001-000001) to the Department of the Interior's October 13, 2011 letter to the Committee relating to the May 27, 2010 Department report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf".

SCHEDULE INSTRUCTIONS

1. In complying with this subpoena, you shall produce all responsive documents that are in your possession, custody, or control.
2. Documents responsive to the subpoena shall not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization or individual denoted in the subpoena has been, or is currently, known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
4. Each document produced shall be produced in a form that renders the document capable of being copied.
5. When you produce documents, you shall identify the paragraph or clause of the Schedule of Documents in the Committee's subpoena to which the documents respond.
6. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they shall be organized into separate folders by subject matter prior to production.
7. Each folder and box shall be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the Schedule of Documents in the Committee's subpoena to which the documents are responsive, shall be provided in an accompanying index.
8. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a nonidentical or identical copy of the same document.

9. If any of the subpoenaed information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), you shall consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format shall be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above. Documents produced in an electronic format shall also be produced in a searchable format.
10. In the event that a document is withheld on any basis, you shall provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, you shall identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, you shall produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This subpoena is continuing in nature and applies to any newly-discovered document. Any document not produced because it has not been located or discovered by the return date shall be produced immediately upon location or discovery subsequent thereto.
14. All documents shall be bates-stamped sequentially and produced sequentially.
15. Two sets of documents shall be delivered to the Committee office in Room 1324 of the Longworth House Office Building. You shall consult with designated Committee staff regarding the method of delivery prior to sending any material.
16. Upon completion of the document production, you shall submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

Definitions for Schedule

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, whether classified or unclassified, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meeting or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “Committee” means the Committee on Natural Resources of the U.S. House of Representatives.
3. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
4. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.

5. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
6. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
7. The terms “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

APR 18 2012

The Honorable Doc Hastings
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On April 11, 2012, the Office of Inspector General (OIG) received a subpoena from the House Committee on Natural Resources (Committee) commanding production of:

Unredacted and complete copies of:

1. All documents identified on the enclosure (Bates number 00032227 SOL-WDC-B01-00001-000001) to the Department of the Interior's October 13, 2011 letter to the Committee relating to the May 27, 2010 Department report entitled, "Increased Safety Measures for Energy Development on the Outer Continental Shelf."

These documents were created or obtained by the Department of the Interior (DOI or Department) relative to the May 27, 2010 report and Executive Summary to the report. In the Executive Summary, the Secretary of the Interior recommended a six-month moratorium in the Gulf of Mexico, following the *Deepwater Horizon* disaster. Despite requests by the Committee, followed by a subpoena, the Department has declined to provide these documents to the Committee, saying that they "implicate important Executive Branch confidentially interest."

For the reasons we have conveyed to Committee staff multiple times, and describe in detail below, I respectfully refer the Committee back to the Department for production of the subject documents.

I want to clarify at the outset, however, that neither DOI political appointees nor any other DOI employees interfered with the OIG investigation at issue or ordered the OIG to withhold the subject documents. Rather, the OIG followed long-standing protocol in the handling and disposition of the documents at issue, a process that ensures the integrity of the access authority granted to Inspectors General in the Inspector General Act of 1978, as amended (IG Act).

The IG Act envisions a unique and carefully calibrated role for each OIG. While organizationally situated within the Executive Branch and DOI, this OIG also maintains a high degree of independence from DOI, in order to provide effective oversight of its programs and operations without interference from the Secretary or other departmental officials. Among other powers and responsibilities, an important tool enabling our unimpeded oversight is our authority

under the IG Act to have unfettered “access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations.” 5 U.S.C. App. 3 Section 6(a)(1). The IG Act does not authorize Inspectors General to waive privileges asserted by a department or agency of the Executive Branch.

Although this language is quite clear in its intent, our access to Department documents has been enhanced by the force of the DOI Secretary’s commitment to cooperating with the OIG, as memorialized most recently in an April 20, 2010 directive (copy enclosed). This commitment to provide the OIG unfettered access to all manner of documents and information is something we have secured from each of the last three Secretaries, including Secretary Gale Norton, Secretary Dirk Kempthorne, and Secretary Ken Salazar.

The Secretary’s directive notes that OIG access extends to “information that may be privileged, confidential, or otherwise exempt from disclosure under law.” The directive and the DOI Manual reflect an important understanding between the OIG and the rest of the Department that disclosure of privileged information by the Department to the OIG does not constitute a waiver of the privilege. This understanding, and the protocol that arises from it, promotes the free flow of information to the OIG and allows us to execute our oversight responsibilities to the fullest extent possible under the IG Act. One result of this arrangement is that oversight committees such as yours have the benefit of truly probing OIG reports that are based on examination of all relevant Department information, even information that may be subject to a cognizable claim of privilege.

The information access protocol we employ is not unique to this OIG. Rather, it is a long-standing practice in the Inspector General community that source documents belonging to an agency or department, obtained pursuant to OIG statutory authority, not be released by the OIG, as they are not the OIG’s documents. Furthermore, if privilege attaches to Department documents, the privilege is not the OIG’s to waive.

Were the OIG to release documents that “implicate important Executive Branch confidentially interest,” as articulated by the Department in its October 13, 2011 letter to you, we believe that we would compromise our own ability to obtain information from the Department that is essential for conducting robust oversight. Such a release of documents could have the same negative impact on the entire Inspector General community.

I do not take lightly my decision to decline to provide the documents requested, yet I hope the Committee can appreciate the important principle that I have described here. Our unfettered access to information and documents created and held by the Department is of paramount importance to our success in performing our oversight role. I look forward to future opportunities to assist your Committee in exercising its oversight role.

Sincerely,



Mary L. Kendall
Acting Inspector General

Enclosure



THE SECRETARY OF THE INTERIOR
WASHINGTON

APR 20 2010

Memorandum

To: Deputy Secretary
Solicitor
Assistant Secretaries
Deputy Assistant Secretaries
Heads of Bureaus and Offices

From: Secretary *Van Salazar*

Subject: Cooperation with the Office of Inspector General

As public servants, we must cooperate with the Office of Inspector General as that office fulfills its responsibilities as provided in the Inspector General Act. The Inspector General is a vital part of the senior leadership team here at the Department, pursuing economy, efficiency, and effectiveness in Department programs and operations, as well as preventing and detecting fraud and abuse.

The Inspector General Act (Act) provides the Inspector General access to information within the Department. The Act states, "the Inspector General is authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations (Section 6(a)(1))." Information that the Inspector General has access to may include information that may be privileged, confidential, or otherwise exempt from disclosure under law such as the Freedom of Information Act or the Privacy Act. In providing privileged or confidential information to the Inspector General's office, Department employees should identify and clearly mark such information. The Office of Inspector General will treat such information in accordance with applicable statutes and regulations. Providing such information to the Office of Inspector General will not constitute a waiver of any privileges that may attach to the information. In addition to the Act, the Department Manual 110 DM 4 provides for the responsibilities for the Office of Inspector General and its relationship with Department bureaus and offices.

If you have any questions about your obligations to cooperate with requests by authorized representatives of the Office of Inspector General, you may contact your supervisors or the Office of the Solicitor. Please advise your senior managers of the contents of this memo.