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***"North American Offshore Energy: Mexico and Canada Boundary Treaties
and New Drilling by Cuba and Bahamas"***

United States House of Representatives
Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
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Thank you Mr. Chairman and members of the subcommittee, it is an honor to join you in a discussion of the potential environmental implications of new offshore energy development and what measures can be taken to protect marine ecosystems, coastal communities, and livelihoods against future oil spills in ocean waters we share with Cuba, Mexico and the Bahamas.

My name is Daniel Whittle and I work for the Oceans Program at Environmental Defense Fund (EDF) where I am the director of the Cuba Program. EDF is a national environmental organization that searches for solutions that maximize economic incentives for solving environmental problems.

EDF has been working in the Gulf of Mexico for 35 years to protect and restore coastal ecosystems and to rebuild troubled multi-billion dollar fisheries. EDF is working now to address the economic and environmental devastation of the BP oil disaster and to ensure that Congress sends money where it is needed most: projects to repair Gulf Coast communities, wildlife and the environment, including the restoration of the delta of the Mississippi River. We support passage of The Resources and Ecosystems Sustainability, Tourist Opportunity, and Revived Economies of the Gulf States Act of 2011 (RESTORE Act) that would to ensure that 80 percent of the Clean Water Act (CWA) penalties to be paid by BP and other responsible parties will be used to restore the communities, economies and ecosystems of the Gulf region directly.

For the past 11 years, under a specific license from the US Department of Treasury, EDF has worked with marine biologists and other scientists in Cuba to protect coral reefs and other important ocean and coastal ecosystems, and to identify strategies for restoring declining fish populations. Cuba's coral reefs remain of high quality and are vital habitats for many fish species of importance to the United States. The particular emphasis of our Cuba Program has been on waters of the Atlantic Ocean, the Caribbean Sea and the Gulf of Mexico that the United States shares with and Cuba. Therefore, over the last several years we have closely monitored Cuba's plans to develop offshore oil and gas resources in the Gulf of Mexico; since 2009 we have been particularly focused on promoting bi-lateral and/or multi-lateral dialogue and cooperation to ensure that any oil exploration and production that does take place, proceeds in an environmentally sound and safe manner.

Finally, my colleagues and I are also closely following Cuba's progress in implementing country-wide energy efficiency programs and in its investment into renewable energy, including wind, solar, biomass, and clean ocean energy.

Current US Policy on Cuba Impedes Cooperation on Environmental Protection

Current US policy on Cuba permits EDF and other scientific, academic, and conservation organizations to conduct on-the-ground research and conservation projects with Cuban partners and institutions. Scientific and professional exchange is generally limited, however, to non-governmental groups and academic institutions. Most private companies are prohibited from doing business in Cuba because of the embargo. There is a narrow exception for some private entities, such as oil services companies, but they must first apply for specific approval from the US Treasury and Commerce Departments to provide services and export equipment to Cuba. This process is complicated and time-consuming and apparently few companies in the oil services sector have asked for or received specific licenses so far. In the event of an oil spill in Cuban waters, this licensing process would cost precious time.

US government agencies such as the Coast Guard, the Department of Interior, the National Oceanic and Atmospheric Administration (NOAA), and the Environmental Protection Agency (EPA) are extremely limited in their ability to communicate or coordinate with their Cuban government counterparts on environmental protection or natural resources management. This compromises each country's ability to ensure that shared waters and natural resources are properly managed and adequately protected.

This lack of dialogue, cooperation, and joint planning between government agencies leaves the United States especially vulnerable to future oil spills in Cuban waters. Florida and other states along the east coast as far as North Carolina would be threatened by a major oil spill in Cuba. Therefore, as outlined below, the Administration should take immediate steps to initiate negotiations with the Cuban government to ensure that sufficient environmental and safety safeguards are in place before drilling begins later this year. In addition, the Administration should pre-approve categories of private companies to send personnel and equipment to Cuba in the event of an oil spill that threatens US waters.

Shared Ecosystems and Shared Resources

Because of the prevailing currents and Cuba's close proximity to the United States, Mexico and the Bahamas, marine and terrestrial ecosystems in all countries are tightly linked. For example, Cuba provides important spawning grounds for snappers, groupers and other reef fishes that are crucial to commercial and recreational fisheries along the southeast United States and in the Gulf of Mexico. Cuba, the Bahamas, and the United States also share a recently discovered deepwater coral ecosystem that covers more than 25,000 square miles and extends as far north as North Carolina. Cuba provides essential habitats that sustain an amazing array of birds and the area around Havana is a major launching point for most of the familiar songbirds that nest along the east coast of the United States.

The health of the Gulf of Mexico ecosystem is inordinately important to the ecological systems of the Gulf and the people who depend upon it for their livelihoods and culture, but also to the ecosystems and fishing communities of the broader western Atlantic. The coastal wetlands and beaches of the Gulf provide essential habitats for the vast preponderance of economically important species harvested in the Gulf, one of America's great fishing grounds. The coral reefs, eelgrass beds and mangrove swamps of the southern and eastern Gulf are key habitats for a wide array of marine organisms, and are especially vulnerable to oil pollution.

The northern Gulf also functions as a key spawning and nursery ground for many highly migratory species from tunas to billfishes to sharks. In fact, whale sharks from a large portion of the North Atlantic congregate in the Gulf to feed. A large population of sperm whales lives in the northern Gulf, feeding on abundant mid-water biota. In addition, the Gulf plays a key role for passage of larvae from up-current spawning grounds in the western Caribbean to and through the Florida Straits into the broader Atlantic beyond.

Oil pollution in the Gulf threatens a wide array of essential habitats and important fishery species, and many protected species.

Offshore Oil and Gas Development Demands Region-wide Planning and Cooperation

As evidenced by the BP oil disaster in 2010 and the Ixtoc spill in the Bay of Campeche, Mexico in 1979, deepwater drilling in the Gulf of Mexico is inherently risky and can result in severe and long lasting impacts to marine life, coastal ecosystems, and communities. These disasters underscore that oil spills do not observe political boundaries and that cross-border cooperation on spill prevention and response is in the best interests of each country.

In 1980—prompted by the Ixtoc spill --Mexico and the United States entered into an agreement (known as the MEXUS agreement) for planning and responding to future spills that might threaten the waters of both countries. MEXUS includes a number of mandatory provisions designed to ensure the two countries have the readiness and capacity to prepare for and respond to trans-boundary oil spills. Among other things, the agreement provides for rapid incident notification, a joint response team, on-site coordinators, communication protocols, and expedited customs and immigration procedures to ensure that equipment and personnel can be deployed efficiently and in a timely manner.

In its report earlier this year, President Obama's *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling* recommended that cooperation be extended to include Cuba as well.

“It is in our country’s national interest to negotiate now with these near neighbors [Cuba and Mexico] to agree on a common, rigorous set of standards, a system for regulatory oversight, and the same operator adherence to the effective safety culture called for in this report, along with protocols to cooperate on containment and response strategies and preparedness in case of a spill.”

In his testimony before the Senate Energy Committee on October 18, 2011, Michael Bromwich, the Director of the Department of Interior’s Bureau of Safety and Environmental Enforcement, indicated that United States-Mexico cooperation “has increased substantially in the aftermath of Deepwater Horizon and after the creation of the National Hydrocarbons Commission (CNH), the Mexican agency responsible for regulating offshore drilling safety on Mexico’s continental shelf.” To their credit, Director Bromwich and Department of Interior Secretary Ken Salazar have held a series of meetings with Mexican officials to discuss the need for common safety and environmental standards for future offshore oil and gas development in the Gulf of Mexico.

In contrast, the US government’s engagement with Cuba on this issue has been, for the most part, limited to the exchange of information after Cuban officials raised concerns that Cuban

waters were threatened by the BP blowout. At that time, the two governments (through the US State Department and the Cuban Ministry of Foreign Affairs) opened up limited lines of communication, and US officials shared information and data with Cuba on the movement and transport of the oil, potential environmental impacts, and on response efforts being carried out in US waters. The US government also sought and received permission from Cuba to send a NOAA research vessel into Cuban waters to test for oil.

In the absence of meaningful government-to-government dialogue, the Administration has taken some positive steps to enable private companies and non-governmental organizations to interact with Cuban agencies directly on this issue. For example, in the wake of BP, the US Treasury Department authorized the International Association of Drilling Contractors (IADC) to meet with Cuban energy officials to discuss safety and environmental issues associated with offshore oil and gas production in Cuban waters. The Treasury and Commerce Departments have also signaled that they are prepared to issue more specific licenses to private companies in the US with the capacity to respond to, contain, and clean up oil spills. At least one US company, Clean Caribbean and Americas, already has Treasury and Commerce approvals to provide oil spill response services in Cuba.

The Department of Interior has also reportedly had productive discussions with the Spanish company Repsol over its future drilling in Cuban waters and has apparently secured the company's pledge to adhere to US environmental and safety standards.

These positive steps, however, fall far short of those needed and pale in comparison to those the Administration taken to strengthen and expand cooperation with Mexico. As a result, the United States remains unprepared to effectively assist in the prevention, containment, or clean-up of a major oil spill in Cuban waters.

EDF Fact Finding Delegation to Cuba in September 2011

In September 2011, EDF organized and led a fact finding delegation to Cuba on the government's plans to develop oil and gas resources in the Gulf of Mexico. Our delegation of nine experts included William Reilly, former Administrator of the US Environmental Protection Agency and the co-chair of the President's *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling*, Richard Sears, chief scientist of the commission, and Lee Hunt, President of the International Association of Drilling Contractors, who partnered with EDF in planning and carrying out the delegation's activities in Cuba.

Our delegation met with a wide-range of Cuban officials and experts involved in the operation and regulation of offshore oil and gas exploration and development. Our goal was to get a better understanding of Cuba's plans for offshore drilling, their approach to regulation and oversight of offshore operations, and of their readiness and capacity to conduct offshore activities in a safe and environmentally sound manner. We also came prepared to make suggestions to Cuban officials on how lessons learned from the BP oil spill should be incorporated into their laws, regulations, oversight, and response planning.

The Cuban government made clear its determination to begin exploratory activities this year. Cuban energy officials indicated to us that, in partnership with Repsol and other foreign oil companies, they expect to drill up to six exploratory wells between 2011 and 2013. In such a short period of time, it was not possible for us to conduct a comprehensive assessment of Cuba's oil drilling plans or of the strength of its regulatory framework and capacity, and many questions remain. Nonetheless, we had frank and open discussions and Cuban officials acknowledged the challenges associated with building an offshore oil and gas industry from scratch. They repeated their pledge to follow the highest international environmental and safety standards and expressed a strong willingness to cooperate with the United States and other countries in the region on all aspects of environmental protection and safety matters.

After all, adopting all possible measures to minimize the likelihood of an oil spill is very much in the interest of Cuba, not just the United States, because of the importance of its coastal-oriented economy.

The Administration Should Take Specific Actions Now to Negotiate with Cuba and Other Countries in the Region

First and foremost, the Administration should take steps now to ensure that US-based companies are pre-authorized to assist in preventing and containing major oil spills in Cuban waters. Specifically, the US Department of Treasury should adopt a new general license that provides authority to any qualified oil services company in the United States to send personnel to Cuba in response to a request from Cuba, Repsol or any other oil company conducting operations in Cuban waters; likewise, the US Department of Commerce should pre-approve the export of vessels, equipment, and supplies needed for containment and response. This would allow Repsol and other foreign oil companies to contract with US oil service companies in advance of drilling. This is particularly important because of the proximity to Cuba of US firms with the requisite deep water drilling and advanced response, technical, and planning

capabilities, in contrast to the distance between Cuba and other countries, such as the UK, Norway or Brazil, with state-of-the-art deep water oil development experience.

Second, it is in our national interest to negotiate now with Cuba, Mexico and the Bahamas to ensure that any future drilling in waters of the Gulf of Mexico, Atlantic, or Caribbean is conducted according to the highest possible environmental and safety standards. In addition, the Administration should develop a joint contingency plan with Cuba that ensures the full participation of key US government agencies in oil spill response, including the US Coast Guard, the Department of Interior, NOAA and others. The MEXUS agreement discussed above can serve as a potential model for a US-Cuba agreement or for a region-wide agreement that includes the United States, Cuba, Mexico and the Bahamas. We urge action on this score as soon as possible.

But the MEXUS agreement, with its emphasis on oil spill response, should only be a first step. A comprehensive solution requires that negotiations between the countries go beyond spill response and include how the countries can work together on prevention and on improving baseline scientific knowledge of shared waters and resources. Ultimately, our two countries must collaborate on protecting resources, such as coral reefs and coastal wetland systems that ecologically we share, and on advancing deep water oil and gas production and spill-prevention technologies that advance our common interests in the Gulf of Mexico, Atlantic, and northern Caribbean ecosystems.

In conclusion, because of our shared interests in protection of Gulf of Mexico resources, the importance of coastal resources to the health of our citizens and visitors, and physical processes that can disperse spilled oil far and wide, we urge the United States to engage Cuba, as it has Mexico, to strengthen standards and areas of cooperation that will minimize the likelihood of significant damage from any deep water oil and gas operations.

As Cuba progresses toward extraction of oil and gas from deep water sites, EDF looks forward to a continuing dialogue with members of Congress as to how the marine environment of the Gulf, Atlantic and Caribbean may be best protected in that process.

Thank you.