

**U.S. House of Representatives
Committee on Oversight and Government Reform
Darrell Issa (CA-49), Ranking Member**



**How the White House Public Relations Campaign on
the Oil Spill is Harming the Actual Clean-up**

Frontline Accounts of Oil Spill Differ from Official Account on Key Points

**Staff Report
U.S. House of Representatives
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Committee on Oversight and Government Reform
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I also want to stress that we are working closely with the Gulf states and local communities to help every American affected by this crisis. Let me be clear: BP is responsible for this leak; BP will be paying the bill. But as President of the United States, I'm going to spare no effort to respond to this crisis for as long as it continues. And we will spare no resource to clean up whatever damage is caused. And while there will be time to fully investigate what happened on that rig and hold responsible parties accountable, our focus now is on a fully coordinated, relentless response effort to stop the leak and prevent more damage to the Gulf.

– President Barack Obama, May 2, 2010.

A View from Ground Zero of the Oil Spill

On April 20, 2010, an explosion rocked the Deepwater Horizon, which was under contract with British Petroleum (BP) to drill an exploratory well at the Macondo site in the Gulf of Mexico. The explosion was swiftly followed by the unrestricted flow of oil and natural gas from the well-head into the waters of the Gulf of Mexico. It has been 71 days since the accident, and a massive volume of oil continues to spill into the Gulf. As of June 30, 2010, the government estimates that between 40.7 million gallons (969,000 barrels) and 117.6 million gallons (2.8m barrels) of oil has been released. BP and the federal government have suffered a series of setbacks as they have attempted to plug the well, and most of the oil remains in the Gulf in various states of decomposition.



Ranking Member Darrell E. Issa and Chairman Edolphus Towns recently visited the Gulf of Mexico to survey the damage caused by the Deepwater Horizon explosion and the resulting oil leak. At the Unified Area Command center in Robert, Louisiana they received formal briefings from BP, Coast Guard, and various federal government representatives assessing the situation on the ground. Committee staff remained in the region and conducted a series of interviews with local officials intimately involved with the response effort.

In so doing, they spoke with leaders from Jefferson Parish, St. Bernard's Parish, and Lafourche Parish. Jefferson Parish is the most populous Parish in the state and was hit hard by Hurricane Katrina. It is also described as "ground zero" in the battle against the oil spill due to tidal patterns. St. Bernard Parish was flooded levee-to-levee in the wake of Katrina. Of its 27,000 homes, only five remained untouched by Katrina's flood waters. Lafourche Parish is home to Port Fourchon, a low lying coastal city at the

intersection of the Bayou Lafourche and the Gulf of Mexico. Eighteen percent of the entire nation's energy supply flows through Port Fourchon, which also serves as headquarters for much of the region's direct efforts to fight the oil spill.

Pursuant to this review, staff has found numerous instances in which the situation on the ground conflicts with official reports. Of enormous concern, the situation in the Gulf is actually more dysfunctional and dire than what has been portrayed through official reports and press accounts based on official information. This blurring of reality is exacerbating problems with the clean-up effort.

Findings

Committee staff has discovered the following based upon witness interviews and documents provided by federal and state entities:

- Officials on the ground dispute key White House assertions about the number and timeliness of assets deployed in the Gulf. Local officials describe White House outreach efforts as more focused on stopping bad press than on addressing the disaster at hand;
- The White House's assurances that there are adequate resources are at odds with the reality on the ground, where those on the frontline of the spill express significant frustration over the lack of assets. Local complaints are supported by the fact that the White House waited until Day 70 of the oil spill to accept critical offers of international assistance. Local workers and boats could have been assisting more with the clean-up if the Federal government had provided them with needed supplies and equipment;
- While the White House has tried to use the delay in finding a visible leak to explain its early silence on the oil spill, Transocean officials and Coast Guard documents from the scene of the oil spill reveal clear and early indications of a substantial oil leak days earlier than White House accounts;
- The failure of Administration officials to quickly waive laws preventing necessary foreign assets from reaching the Gulf and other regulations are hampering efforts to clean-up and limit damage from the oil spill. Local officials feel the federal government is making the perfect the enemy of the good in cleanup efforts;
- Local officials strongly dispute President Obama's insistence that the federal government – and not BP – has been in control since day one. One Coast Guard Admiral told congressional investigators that decisions on the ground are made through a “consensus-based” process with BP. In practice, the Federal Government is not in charge of oil spill response efforts through a command-and-control approach;

- Local officials strongly believe the President’s call for a drilling moratorium will significantly compound the economic damage caused by the oil spill and will actually increase risk associated with future offshore drilling projects.

Background

An investigation by committee staff during a recent fact-finding exercise on the Louisiana coast finds evidence that Administration officials have misrepresented key facts including the number of assets dedicated to cleaning up the spill, the timing of when officials knew about the oil leak, the extent to which the federal government has been in control, and the effectiveness of its command structure. Furthermore, local officials in Louisiana fear and evidence suggests that, in addition to being unprepared for the upcoming hurricane season, policy decisions made by this Administration, including the drilling moratorium and an apparent refusal to waive the union-backed Jones Act, will stifle economic recovery in the region for years to come. In sum, the Committee has uncovered information that disputes the rhetoric the Administration has used to portray its efforts in response to the spill.

White House Timeline

After days of prodding by this Committee¹ and others, the White House furnished an official timeline of events on May 5, 2010. This timeline, which was last updated on May 24, 2010², includes a detailed accounting of the number of assets deployed on-scene, as well as specific information about what officials knew about the oil leak and when they knew it. The White House published this timeline on its blog “in the spirit of transparency so the American people can have a clear understanding of what their government has been and is doing to respond” to the oil spill.³

The White House blog details a number of assets deployed in the region to combat the spill. This includes vessels, boom, and dispersant. The number of assets claimed, however, does not appear to match what is actually in the field. Parish officials maintain that the thousands of vessels cited in the blog are non-existent. One senior official refers to them as “phantom assets.” When asked to elaborate, he explained that when he asks the federal government to provide the location of its assets, it either refuses or cannot do so.⁴ Daily helicopter search grids performed by the Parish sheriff’s department confirm to him that very few of the assets claimed are deployed.

¹ Letter from Ranking Member Darrell Issa to Interior Secretary Ken Salazar, May 3, 2010. *See also* e-mails between Committee staff and Interior Department staff.

² Found at: <http://www.whitehouse.gov/blog/2010/05/05/ongoing-administration-wide-response-deepwater-bp-oil-spill>. Last updated on May 24, 2010.

³ “The Ongoing Administration-Wide Response to the Deepwater BP Oil Spill,” *The White House Blog*, May 5, 2010. Found at: <http://www.whitehouse.gov/blog/2010/05/05/ongoing-administration-wide-response-deepwater-bp-oil-spill>.

⁴ Interview with Deano Bonano, Homeland Security Director, Jefferson Parish, Jefferson Parish, LA (June 15, 2010).

This is corroborated by Plaquemines Parish President Billy Nungesser, who shared a similar story with investigators. BP and Coast Guard provided Mr. Nungesser with a map of the Gulf allegedly pinpointing the exact locations of 140 skimmers cleaning up oil. Sensing that the chart may have been somewhat inaccurate, Mr. Nungesser requested a flyover of the assets for verification. After three cancelled trips, officials admitted to Mr. Nungesser that only 31 of the 140 skimmers were ever deployed. The rest were sitting at the docks. According to Mr. Nungesser, the chart appeared to have been fabricated.

The picture below lends credence to the accounts given by Parish officials. It depicts a massive swath of oil floating toward the coastline. There are no ships, skimmers, or other collection equipment for miles around. Sadly, it is one of many that Chairman Towns, Ranking Member Issa, and committee staff surveyed on June 14, 2010, aboard a Coast Guard aircraft that appear to be completely devoid of clean up efforts.

The lack of equipment at the scene of the spill is shocking, and appears to reflect what some describe as a strategy of cleaning up oil once it comes ashore versus



containing the spill and cleaning it up in the ocean. As a result, significant resources are apparently not being deployed to prevent contamination of vulnerable marshlands. This operational philosophy could help explain why oil was permitted to reach the shores of Queen Bess Island, a sanctuary for the brown pelican and other forms of wildlife. According to Dan Jueano – President, Louisiana Association of Business and

Industry – there was no boom laid to protect this ecological treasure.⁵

The timeline also states that officials became aware of the oil leak on April 24, 2010, four days after the *Deepwater Horizon* exploded and two days after it sank. This, too, conflicts with actual events. A chief Transocean drilling engineer told staff on May 6, 2010, that a leak was inevitable after an explosion of that magnitude. By definition, the explosion emanating from the riser would be evidence of a leak and that the blowout preventer had failed to close. Indeed, Coast Guard logs maintain that on April 21, 2010, attempts were being made to activate the malfunctioning blowout preventer. On April 22, 2010, when the vessel sank with the riser still attached to the rig and a malfunctioning blowout preventer, officials should have known there was a leak.

⁵ Interview with Dan Juneau, President, Louisiana Association of Business and Industry, Baton Rouge, LA, June 16, 2010.

Situation reports also indicate that on April 21, 2010, Coast Guard personnel warned senior officials within their own chain of command, the Department of Homeland Security, and elements of the Defense Department's Joint Staff, of a possible 8,000 barrel-per-day leak. They also described an oil sheen, 2 miles by ½ mile, with 50 percent coverage with color ranging from dark to barely visible." On April 22, 2010, personnel reported to the national response center "what appeared to be a large area of bubbles in the water, possible natural gas leak." On April 23, 2010, a Coast Guard situation report begins referring to the site as an "oil spill area." This evidence casts serious doubt upon the White House's assertion that there was no apparent leak until April 24, 2010.

The doublespeak surrounding the existence of vessels and the availability of boom to clean up oil in the water, as well as a belief that BP and the federal government are disregarding the priorities of local communities, have incensed Parish officials. LaFourche President Charlotte Randolph told committee staff that "we would have liked to have played offense. Would like to have made an effort to collect at the site instead of the shoreline." This belief is echoed by a Jefferson Parish official who, within days of the explosion, warned BP and the Coast Guard that oil was rapidly approaching and requested that they deploy equipment to prevent it from reaching shore. The local official told committee investigators that, "they all said 'don't worry about it.'"⁶

A St. Bernard Parish official, who described the situation as the "slowest and most ineffective response," made an emotional plea to "give us the equipment." There are approximately 700 fishermen in his Parish trained and ready to deploy boom as quickly as the Coast Guard can supply it. Despite multiple requests, however, the supplies are not flowing into the area. As he describes, "it's like giving me a [gun] with no bullets; it's just a paperweight." Accounts such as these not only cast doubt upon the timeline's credibility and the White House accounting of deployed assets, but also call into question the command-and-control structure producing these results.

Command and Control

The Obama Administration has repeatedly asserted that the federal government has been in control since day one and has used military language to describe its efforts. Indeed, the President stated on May 27, 2010, that "the moment this disaster began, the federal government has been in charge of the response effort."⁷ In his address to the nation on June 15, 2010, he referred to the response as a "battle" and his strategy as a "battle plan."⁸ Federal and state officials have shared a different perspective with committee staff.

⁶ Interview with Deano Bonano, Homeland Security Director, Jefferson Parish, LA (June 15, 2010).

⁷ Remarks by the President on the Gulf Oil Spill, May 27, 2010. Found at: <http://www.whitehouse.gov/the-press-office/remarks-president-gulf-oil-spill>.

⁸ Remarks by the President to the Nation on the BP Oil Spill, June 15, 2010. Found at: <http://www.whitehouse.gov/the-press-office/remarks-president-nation-bp-oil-spill>.

Parish officials maintain that the federal government has not been in control since day one. In four separate interviews, senior-ranking Parish officials described how, until the President's visit on May 28, 2010, BP was in charge. According to one official, "until two weeks ago [after the President's May 28, 2010, visit], BP was in charge and the Coast Guard looked to them for direction." Furthermore, "Coast Guard asks BP," not vice-versa. When specifically asked to agree or disagree with the assertion that the federal government had been in control since day one, another official firmly disagreed. Mr. Nungesser told staff that "today, I can't tell you who is in control," and invited committee investigators to visit the command center to see for themselves.

Rear Admiral Jim Watson, the senior-most official at the Unified Area Command in Robert, LA, also gave a different account of events on the ground. In a June 14, 2010, briefing to Chairman Towns, Ranking Member Issa, and staff, Watson stated that his command structure is decidedly different than what has been described by the White House. According to Watson, "It is not a war-fighting command and control structure where the Federal government is sending orders to BP. Rather the process on the ground with BP and others is "consensus-based," where higher-ranking officials inject themselves to resolve differences of opinion. In his view, "The framework probably isn't up to the task."

This assessment coincides with local officials, who have expressed frustration that the system is overly bureaucratic and ineffective. A St. Bernard Parish official criticized the command-and-control as lacking decisiveness. Unlike the military, he says, "There is no sergeant on the battlefield making decisions." This lack of decision-making authority at the lower levels has caused innumerable problems, especially with the acquisition of equipment.

As described by this official, the process is circuitous and irrational. At the Incident Command level, BP and Coast Guard appear to each have veto authority over equipment requests. Under this power-sharing arrangement – in which BP holds the purse strings – if one disagrees, then the request is denied. Parishes must then petition the Governor's office for the equipment. If the Governor endorses the request, then BP and Coast Guard must provide the assets. This process causes massive delay resulting in a dearth of available equipment. It also calls into question the President's assertion that "BP is operating at our direction."⁹

In some instances, it appears that equipment is provided simply to quiet public criticism. Mr. Nungesser, who has frequently appeared on local and national television, was apparently visited by two White House officials at his office on Fathers' Day. According to Mr. Nungesser, the purpose of their visit was to find a way to keep him from calling attention to the lack of equipment. Specifically, they asked him, "What do we have to do to keep you off tv?" He simply replied, "give me what I need."¹⁰

⁹ Remarks by the President on the Gulf Oil Spill, May 27, 2010. Found at: <http://www.whitehouse.gov/the-press-office/remarks-president-gulf-oil-spill>.

¹⁰ Phone Interview with Billy Nungesser, Plaquemines Parish President (June 24, 2010).

On another occasion, Plaquemines Parish officials requested 20 skimmers at a town hall meeting held by the Coast Guard. According to Mr. Nungesser, “They gave us two skimmers to shut us up.” These accounts raise serious questions about whether the Administration is more concerned with fighting a public relations battle than combating the oil spill.

Another challenge posed by the current command structure is a lack of continuity. According to local officials, BP employees rotate out of the area every 30 days, and the Coast Guard cycles its personnel every 60 days. One Jefferson official told committee investigators that “it’s a different person every time.”¹¹ This affects the timeliness of processing requests for equipment and does not allow personnel to gain the necessary expertise regarding local communities and how they operate.

Expressing frustration, David Dysart of St. Bernard Parish proposed that this could be solved with more integration of local officials.¹² While this has been occurring more frequently since the President’s May 28, 2010, visit it has been slow to materialize. This same official told staff that until recently, the Incident Command Center had a physical barrier that prevented Parish employees from comingling with federal government and BP officials. BP employees would also place black paper over its maps so that locals could not see what they were doing. The Parish ultimately had to prove its expertise and abilities through innovative boom deployments that used GPS locators and web-based tracking software. Only then were they considered a valuable asset and integrated into the decision-making process

These bureaucratic breakdowns have forced at least one Parish to take matters into its own hands. One Jefferson official, who said that “the only thing [Coast Guard and BP] understand is threats and embarrassment,” commandeered over fifty vessels sitting idle at docks while oil slicks approached shore. He told committee staff that BP and Coast Guard repeatedly denied his request to deploy the boats because they had no fuel or groceries. Despite Coast Guard’s threat of military force, he exercised his emergency law enforcement powers to seize the equipment. Using Parish funds, he supplied the vessels and sent them out to sea.

Continually frustrated by a lack of federal action, as well as an apparent rejection of local expertise, Jefferson Parish has also constructed its own sand berms and is using barges to help capture oil. As of June 18, 2010, locals had partially sunk 18 barges to funnel oil into one area.¹³ With the oil concentrated into one area, officials hope to more easily capture the oil using skimmers. The final plan, coordinated by Parish Homeland Security Director Deano Bonano, calls for 63 barges strung together, which, if successful,

¹¹ Interview with Deano Bonano, Homeland Security Director, Jefferson Parish, Jefferson Parish, LA (June 15, 2010).

¹² Interview with David Dysart, Director of Homeland Security, St. Bernard Parish, Chalmette, LA (June 16, 2010).

¹³ Nicole Santa Cruz and Louis Sahagun, Louisiana Officials Use Barges to Keep Oil out of Key Bay, LA TIMES, June 20, 2010. Found at: <http://www.latimes.com/news/nationworld/nation/la-na-oil-spill-20100620,0,907234.story>.

could eventually be replaced by rock berms.¹⁴ Given the urgency of the situation, the Parish plans to outlay \$500,000 for engineering and design work and seek reimbursement from BP.

According to Mr. Bonano in an e-mail sent to staff on June 27, 2010:

*The effort from the Coast Guard and BP has improved in the last three weeks, unfortunately it came a little to [sic] late to protect Barataria Bay from heavy oil. More oil is expected to wash ashore tomorrow so we will see if they have obtained a sense of urgency. While we have more resources now in the form of skimmers and boom we still do not have enough. The parish itself is expending about 1.3 million dollars a month on police, fireman [sic], emergency management officials and contractors that we will seek reimbursement from BP for each month.*¹⁵

Examples such as these paint a vastly different picture of the command-and-control approach described by the President. At best, it appears chaotic and minimally effective at the lower levels. At the higher levels, it lacks the decisive coordination necessary to manage a disaster of this magnitude. If not immediately remedied, this illusion of command-and-control will ensure more delay and frustration as Gulf communities struggle to contain and clean up the spill.

Need for Executive Leadership

In three separate interviews, senior-ranking officials described a critical need for executive leadership at the Federal level to address the unique challenges of the 2010 hurricane season and to speed up clean-up efforts by accepting foreign assistance. Based on these interviews, it appears that neither the President nor any members of his Administration have coordinated with local leaders to determine how the federal government should respond to the unique challenges of the 2010 hurricane season. Moreover, the President's failure to grant a broad waiver of the Jones Act has significantly delayed cleanup efforts. Regardless of what the Federal Government and BP are doing, these officials see time as the enemy and every additional day the oil sits in the Gulf it poses an exponentially greater threat to the economies of the Gulf States and to the environment.

2010 Atlantic Hurricane Season

The Atlantic hurricane system began on June 1, 2010, and will extend through November 30. Experts are predicting an active hurricane season, with between 15 and

¹⁴ *Id.*

¹⁵ Email from Deano Bonano, Director of Homeland Security, Jefferson Parish to Oversight and Government Reform Committee staff (June 28, 2010, 23:27 EST).

16 named storms, 6 to 8 hurricanes and 3-5 major hurricanes. Some experts have warned that meteorological conditions mirror 2005, the year of Hurricane Katrina.

Local leaders expressed grave concern that the looming hurricane season will inflict unimaginable destruction and chaos on the region as fierce winds and high tides threaten to fling the oil across Gulf Coast communities. Logistical realities will complicate evacuation efforts as personnel responding to the spill are highly concentrated at Louisiana's Port Fourchon. This port is separated from the mainland and connected by Louisiana Highway 1, the only land-based way to access the coastal port, which runs less than two feet above water under normal conditions. Even before the spill, evacuating this area presented a challenge as it supports more than half of the drilling activity in the Gulf and 90% of all deepwater production. This logistical reality will complicate efforts to evacuate the area as well as workers return after the storm has passed.

In addition to the challenges posed by evacuating workers, Parish officials are worried that a tropical event will massively complicate clean up efforts while oil is still in the Gulf. In addition to environmental damage, these leaders foresee a bureaucratic showdown between BP and the federal government over who is responsible for clean up and removal of oil soaked debris. A NOAA factsheet states, "The high winds may distribute oil over a wider area, but it is difficult to model exactly where the oil may be transported."¹⁶ In a phone interview on June 24, 2010, Plaquemines Parish President Billy Nungesser stated unequivocally that Administration officials had neither spoken with him nor sought his opinion on how responsibilities would be allocated between the Federal Government and BP in the event that oil is brought onshore by a hurricane.

This looming crisis presents the Administration with an opportunity to lead. A response plan clearly setting out how federal agencies are prepared to assist in the event that Gulf Coast communities are besieged by a significant tropical event would alleviate considerable anxiety. Ideally, such a plan would detail exactly how all levels of government are to coordinate with BP to clean up the contamination. Additionally, the Federal government could be working with the state, local parishes, and BP to develop a specific plan to ensure the safety of workers, as well as their immediate redeployment as soon as conditions allow. It is impossible to predict with certainty when a hurricane will strike; accordingly, immediate leadership in this area is critical.

Foreign Assistance and The Jones Act

While the President can do nothing about the occurrence of these storms, every delay in removing the oil from the Gulf unnecessarily increases the destruction these storms can cause. As such, the U.S. needs to act quickly and make use of assets around the globe. On Day 70 of the oil spill, the State Department finally announced the U.S. would be accepting some offers of foreign assistance.¹⁷ Unfortunately, the

¹⁶ Jeremy A. Kaplan, *First Hurricane of Season May Be Growing in Gulf*, FOXNEWS.COM, June 25, 2010, available at <http://www.foxnews.com/scitech/2010/06/25/hurricane-season-building-gulf/>.

¹⁷ *US Accepts International Assistance for Gulf Spill*, AP, June 29, 2010, available at <http://finance.yahoo.com/news/US-accepts-international-apf-4104246595.html?x=0&.v=2>.

Administration's glacier pace has frustrated many local responders and has allowed the oil to invade critical habitats, such as East Grand Terre Island, Queen Bess Island, and Barataria Bay. While the recent announcement is encouraging, the President can and should do more to maximize our assets in the Gulf.

The Merchant Marine Act of 1920 also referred to as the Jones Act imposes restrictions on foreign flagged ships, which generally prohibit them from operating within three miles of U.S. coast. The process to obtain a waiver to the Act is traditionally handled on a case-by-case basis. The process is cumbersome – waivers must be reviewed by the Department of Defense, the Coast Guard, and the Department of Energy *before* U.S. Customs and Border Protection can make a final decision on a request. Such a determination is made only after the Maritime Administration finds there are no U.S. flagged vessels available for operation.¹⁸ In the immediate aftermath of Hurricane Katrina, President George Bush waived the Jones Act temporarily, “For the transportation of petroleum and refined petroleum products.”¹⁹ So far, President Obama has steadfastly refused to waive the application of the Jones Act for foreign ships wishing to aid in the clean up effort.

According to local officials, the decision to not waive the Jones Act has impaired Gulf Coast clean-up efforts. The most likely application of a broad-based Jones Act waiver would be for the operation of boats equipped with skimmers, which is one of the most effective tools to clean up the oil. Rear Admiral Jim Watson conceded in a briefing to Chairman Towns and Ranking Member Issa that the Coast Guard does not currently have access to a sufficient numbers of skimmers. The importance of skimmers is articulated by Deano Bonano, Homeland Security Director of Jefferson Parish: “The enemy is the oil. Lets put a fleet out there and every skimmer we can find and skim off as much as we can before it gets ashore, because here in Louisiana, our marshes are so fragile, once the oil gets there, the battle is over.”²⁰ Accordingly, the President should be taking swift action to facilitate the delivery of every available skimmer into the Gulf, regardless of the flag flown.

While Administration officials have maintained that the Jones Act is not an obstacle and going so far as to claim that “nobody has come forward with a Jones Act Waiver [request],”²¹ the Deputy Administrator of the Maritime Administration confirmed that one foreign flagged skimmer has made a Jones Act request, which was denied ostensibly because American vessels could perform the same functions.²² Moreover, local officials reported that to their great disappointment, Norwegian skimmers en route to the Gulf were turned around. A St. Bernard official bluntly stated that he and other

¹⁸ Chelsea Hackney, *Senators Introduce Bill to Permit Foreign Ships in Gulf*, THE SUN HERALD, June 19, 2010.

¹⁹ Waiver of Compliance with Navigation and Inspection Laws, Dept. of Homeland Sec., Sept. 1, 2005.

²⁰ CNN American Morning Interview Transcript, Interview with David Camardelle, Mayor of Grand Isle; Deano Bonano, Homeland Security Director of Jefferson Parish, May 29, 2010.

²¹ *Rep. Djou's Suggestion To Waive the Jones Act Is Hitting Rough Waters With Coast Guard, Colleagues*, AP, June 17, 2010. (quoting Robert Gibbs)

²² *Foreign Vessel Operations in the U.S. Exclusive Economic Zone Hearing before the Subcomm. On Coastguard and Maritime Transportation*, 111th Cong. (2010).

local responders were “salivating over the prospect of getting this equipment.”²³ These anecdotes call into question the claim made by White House Press Secretary Robert Gibbs that “if somebody down there needed a ship from the Netherlands or somewhere else the President and Admiral Allen would waive the Jones Act in 10 seconds.”²⁴

Other Federal Roadblocks

Additional roadblocks have been placed in front of foreign assistance. On April 30, 2010, the Netherlands offered the use of four oil skimmers, which have the capacity to pick up 146,000 barrels per day of oil. The offer was reportedly refused because the Environmental Protection Agency (EPA) does not authorize the use of equipment that allows water mixed with oil to be pumped back into the ocean, a process referred to as “decanting.”²⁵ The issue is whether the skimming vessel is required to have a National Pollution Discharge Elimination System (NPDES) permit, or waiver from the permit, before it can discharge decanted water.²⁶

After a seven-week delay, the U.S. government finally reconsidered the offer and the Dutch ships have been permitted to operate in the Gulf. This bureaucratic delay prevented the cleanup of more than 7 million barrels of oil at the source, which is more than 100 times the volume that BP reported collecting in the same timeframe. Deploying the Dutch skimmers immediately might have prevented the oil from ever reaching Louisiana’s shores. Similar barriers appear to have delayed the deployment of the *A-Whale*, an oil skimming vessel owned by TMT Offshore Group, which has the capacity to draw in as much 500,000 barrels of oily water per 8-10 hour cycle.²⁷

These two cases present a clear example of the need for executive leadership. In July 2009, the U.S. Coast Guard transmitted the One Gulf Plan to “Gulf Plan Partners” and specifically recognized the importance of decanting oily water at the source. The One Gulf Plan states that:

Decanting is a vital part of the recovery process. The inability to decant water from recovered oil/water mixtures and return the excess water into the recovery area significantly reduces the volume of available temporary storage capacity; thus, reducing the effectiveness of the on-water skimming and recovery operations. The inability to return the excess water containing some amount of oil will

²³ Interview with David Dysart, Director of Homeland Security, St. Bernard Parish, Chalmette, LA (June 16, 2010).

²⁴ Fox News Channel “Fox and Friends” Interview with White House Press Secretary Robert Gibbs, June 16, 2010.

²⁵ *US Reconsiders Dutch Offer to Supply Oil Skimmers*, THE EXAMINER, June 12, 2010.

²⁶ Southeast Louisiana Area Contingency Plan, U.S. Department of Transportation, U.S. Coast Guard, Feb. 6, 2003.

²⁷ Peter Frost, *Giant Oil Skimmer Makes Stop in Norfolk on Way to Gulf Oil Cleanup*, KDVR.com (June 25, 2010), available at <http://www.kdvr.com/news/nationworld/dp-nws-oil-skimmer-20100625,0,456573.story>.

delay recovery operations and possibly lead to a complete cessation of recovery operations until additional temporary storage can be arranged.

It is essential that the return of oil and oily water associated with the mechanical recovery process be clearly authorized so that responders are not placed at legal risk when carrying out recovery operations.²⁸

Despite the Coast Guard's clear recognition of the important role that decanting in the recovery area plays in oil spill response, it appears that bureaucratic red tape is continuing to trump commonsense solutions. This failure to swiftly authorize the use of necessary equipment further demonstrates a failure of executive leadership that needlessly delays cleanup efforts and that leaves vulnerable shores of the Gulf Coast essentially defenseless against the incessant discharge of oil. This inexcusable delay is evidence of either incompetence or a bureaucratic internal power struggle between the competing interests of the Coast Guard and the EPA. Regardless, the President, as the Chief Executive, has an obligation to the residents of the Gulf to expeditiously resolve this matter.

Moratorium on Drilling

President Obama has announced his intention to impose a six-month moratorium on drilling.²⁹ Although court action has now thrown the implementation of the moratorium into question, if imposed, the moratorium would apply to new drilling in water depths greater than 500 feet, and suspends drilling on 33 wells currently under construction.³⁰ The President's action is based on an apparently manipulated recommendation from Secretary Salazar, contained in a May 27, 2010, report on "Increased Safety Measures for Energy Development on the Outer Continental Shelf."³¹

Local officials in Louisiana coastal communities broadly believe a six month moratorium on any drilling is overly broad, imposes acute economic pain on the residents of the Gulf, and fails to contribute significantly to the stated safety goals of the President. In their view, it neither stops the current leak, nor contributes in any way to cleaning up the Gulf; rather, it significantly compounds the economic damage caused by the oil spill.

In four separate interviews, community leaders pointed to the moratorium as a source of great anxiety for them and for their neighbors. According to Dan Juneau, President of the Louisiana Association of Business and Industry, the moratorium would

²⁸ One Gulf Plan, U.S. Department of Homeland Security, U.S. Coast Guard, July 10, 2009 [emphasis added].

²⁹ Remarks by the President to the Nation on the BP Oil Spill, June 15, 2010. Found at: <http://www.whitehouse.gov/the-press-office/remarks-president-nation-bp-oil-spill>.

³⁰ Memorandum from Upstream Insight on Moratorium Halts US Deepwater Drilling For Six Months (June 3, 2010).

³¹ *Increased Safety Measures for Energy Development on the Outer Continental Shelf*, Dept. of Interior, May 27, 2010.

“kill us.”³² Charlotte Randolph, President of Lafourche Parish, expressed her concern that “nine out of her top ten” taxpayers are employed in the oil and gas industry, which will be directly impacted by the moratorium.³³ According to the Gulf Economic Survival Team (GEST), each drilling rig in the Gulf of Mexico employs 180-280 workers, and each drilling rig job supports 4 other jobs in the community. In Louisiana coastal communities such as Houma, Morgan City and Lafayette, 1 out of every 3 jobs is related to the oil and gas industry and \$12.7 billion in total wages are earned by employees working in the Gulf Coast oil and gas industry. Their unemployment would result in decreased tax receipts and additional budget restrictions for a Parish that is already experiencing a very lean year. According to an analysis performed by GEST, Louisiana and its parishes stand to lose from \$150 million to \$700 million in state and local sales tax revenue due to the moratorium, thereby negatively impacting all government services, from police and fire protection to schools and hospitals.

Reflecting these concerns, Terrebonne Parish unanimously passed a resolution asking the President to reconsider the ban because, “The decision to implement a suspension of deepwater offshore drilling will have an effect on the economy and culture of the people in Terrebonne Parish which will be more devastating than any hurricane or the actual spill, as not only will oilfield workers become unemployed, but it will also affect the other thousand of businesses, individuals, and small companies that provide daily services related to the oil production industry.”³⁴

According to a study conducted by the Louisiana Mid-Continent Oil and Gas Association, it appears the fears of local officials are well founded and based on hard economic realities. The President’s policy would force 33 rigs, already permitted to drill, to sit idle. This will impose a daily cost of between \$8 and \$17 million per day for the operator and will eliminate 40,000 jobs, which amounts to a loss of \$165 – \$330 million per month in wages.³⁵ This spike in unemployment would predictably lead to a higher default rate on mortgages, lowering property values and decreasing tax receipts. Moreover, the loss to the region will likely extend past the six-month ban. The newest rigs, with the highest opportunity cost will be the first to leave the Gulf and will not return for years.³⁶ These rigs will relocate off the coast of Brazil, Colombia, and Trinidad and Tobago.³⁷ Already, Cobalt International Energy has declared force majeure on its contracts for the Ocean Monarch rig, and Anadarko has done the same for all but one of its rigs in the Gulf.³⁸ In light of these catastrophic economic consequences, the

³² Interview, Dan Juneau, President, Louisiana Association of Business and Industry, Baton Rouge, LA, June 16, 2010.

³³ Interview with Charlotte Randolph, President, Lafourche Parish, in Thibodaux, LA (June 15, 2010).

³⁴ Resolution No. 10-302, *A Resolution Requesting President Barack Obama to Consider the Immediate Lifting of the Suspension of Deepwater Offshore Oil Drilling in the Gulf of Mexico*, Terrebonne Parish Council (2010), available at http://www.tpcg.org/council/docs/council_minutes/council-minutes-6-9-10.pdf

³⁵ IMPACTS OF PRESIDENT OBAMA’S ORDER HALTING WORK ON 33 EXPLORATORY WELLS IN THE DEEPWATER GULF OF MEXICO, Louisiana Mid-Continent Oil and Gas Association (June 2010).

³⁶ Editorial, *Crude Politics*, WALL ST. J., June 17, 2010.

³⁷ Memorandum from Upstream Insight on Moratorium Halts US Deepwater Drilling For Six Months (June 3, 2010).

³⁸ *Id.*

President's acknowledgment that the moratorium will "create difficulty for the people who work on these rigs," understates the effects of the decision on the region.³⁹

Conclusion

Reliable information about problems is a prerequisite for an effective response to any major crisis. The Gulf oil spill response effort, however, is being hindered by a self-inflicted disinformation campaign directed by the White House.

A clear pattern has emerged of efforts to control and manipulate information about the oil spill and response efforts: key facts about the timeline of the spill itself have been omitted from publicly-released documents designed to describe a specific narrative of competence; resources are described as being in place when they are, in fact, absent and needed; an efficient command-and-control decision making process is publicly described, when in reality a dysfunctional consensus-based system that relies too heavily on BP is in place.

Local officials who are pleading for help and resources are justifiably frustrated when requests for help are rejected by Federal officials who have read news reports and pronouncements from the White House that assets necessary for the clean-up are already in place. Additionally, direct interaction with White House officials have left an impression on officials seeking help that the White House is more concerned about silencing their criticisms than addressing their problems.

A new way forward is urgently needed. The President must use his leadership to cut through environmental and other regulatory hurdles that are hindering commonsense efforts to respond to the spill. While BP and its partners clearly bear full financial responsibility for the effects of this spill, no amount of money can fully compensate for national wildlife treasures facing destruction or replace a way of life for Gulf community residents dependent on a vibrant, maritime-based economy for their livelihood. The non-financial costs of a botched response to the oil spill rest squarely at the feet of Federal officials.

³⁹ Remarks by the President on the Gulf Oil Spill, May 27, 2010. Found at: <http://www.whitehouse.gov/the-press-office/remarks-president-gulf-oil-spill>.

About the Committee

The Committee on Oversight and Government Reform is the main investigative committee in the U.S. House of Representatives. It has authority to investigate the subjects within the Committee's legislative jurisdiction as well as "any matter" within the jurisdiction of the other standing House Committees. The Committee's mandate is to investigate and expose waste, fraud and abuse.

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