

**Gulf Coast Catastrophe: Assessing the Nation's Response
to the Deepwater Horizon Oil Spill**
Homeland Security and Governmental Affairs Committee
Chairman Lieberman
May 17, 2010

AS PREPARED FOR DELIVERY

We convene today to assess the private and public sector response to what is rapidly and ominously becoming the worst oil spill in America's history. We do so as part of this Committee's responsibility to oversee the operations of government and, in this case, the incident management operations led by the Department of Homeland Security.

We are not here to determine how the explosion of the oil rig Deepwater Horizon happened. Nor do we seek to determine which elements of the well failed and when, or who is responsible for the chain of equipment malfunctions that have prolonged this disaster. Those are critically important questions, but other Congressional committees, Executive Branch agencies and private groups have already begun to explore them.

Our focus today is on the response of our government and the businesses involved to the accident and spill once they occurred. Were the oil companies and government prepared for a deep water blowout like this one and how have they performed in response?

We owe it to the American people to learn from this catastrophe not only so that we can do everything we can to prevent anything like it from happening again but so that we can guarantee that if it does happen again, the oil companies and the government will not be left to scurry about trying to figure out how to stop the oil gushing into the Gulf, like firefighters trying to extinguish fires already consuming a building or neighborhood. Instead, they will have learned lessons from this spill and will be much better prepared to respond.

Under the Homeland Security Act and Homeland Security Presidential Directive 5, the Secretary of Homeland Security is charged with coordinating the federal response to major disasters when a federal agency requests assistance; when more than one federal agency is substantially involved; when the resources of state and local authorities are overwhelmed, and local authorities request assistance; or when the Secretary has been directed to assume responsibility by the President. All four criteria have been met in this case.

The Secretary of Homeland Security is further charged with coordinating the activities of the private sector and non-governmental players in response to a disaster and must ensure that disaster information is gathered and disseminated to the public, and public and private sector officials. The United States Coast Guard is specifically responsible for managing a marine oil spill clean up.

A host of other agencies - the Minerals Management Service (MMS) within the Department of Interior, the National Oceanographic and Atmospheric Administration (NOAA),

and the Environmental Protection Agency (EPA) - also have critical responsibilities in this kind of crisis.

And, of course, the private sector companies involved have enormous obligations under law. In fact, much of the actual clean-up is being conducted by contractors BP has hired to respond to the spill. The law also provides that the private companies responsible for the spill will pay for the clean-up, regardless of who is actually carrying out the response.

This afternoon, we will ask whether BP had adequate incident management and response plans in place ahead of time to guide their response efforts. Did the plans specifically cover the consequences of a blowout and oil gushing 5,000 feet underwater?

We know that the oil companies' spill response plans must be filed and approved by MMS for wells and the U.S. Coast Guard for drilling vessels before any drilling can begin. Were those plans, as approved, adequate to the crisis we are now facing?

We also want to know what plans were in place to guide the Coast Guard and other federal agencies involved in the response. What capabilities did the Department of Homeland Security, the Department of Defense, and other agencies make available in the early days of the oil spill? Did they act quickly enough? And what response capabilities will be made available as the disaster continues?

We will also ask whether our government was forced to over-rely on the oil company's expertise. Did the government have any knowledge of the disaster independent of what BP was telling it? Finally, what exactly is the government's role - if any, directly - in trying to stop the oil pouring into the Gulf?

I have spent some time studying what the law requires of the oil drilling companies and our government, and the response plans that were filed and approved for the Deepwater Horizon well. And I emerge with a tentative conclusion I will ask the witnesses today to respond to. I regret that MMS has chosen not to appear before our Committee today because they must be asked these same questions - since they approve or reject the oil spill response plans for wells before they can be drilled. The Secretary of the Interior, in which the MMS is housed, will first appear tomorrow before its committee of original jurisdiction, the Energy and Natural Resources Committee. If appropriate, our Committee will ask the Secretary and or the MMS to appear before us.

Here in brief is my tentative conclusion and the questions that I believe need to be answered by our witnesses. BP was required to submit an oil spill response plan to the MMS. Under the law, this plan can be regional or specific to a particular well and rig. Almost 10 years ago, in December 2000, BP filed only a regional response plan, and the MMS did not ask for more. That regional plan was mostly recently revised on June 30 of last year.

So my first question is: should the government have been satisfied with only a regional response plan instead of one for each well?

Second, and more important, did our government, through MMS, require an oil spill response plan adequate to the widest range of possible dangers, including the failure of a blowout preventer?

The response plan which BP filed and which was approved by MMS included, as required, an appendix which identifies worst case spill scenarios and proposed methods for responding. Under MMS regulations, the plan must address an uncontrolled blowout at a well's highest capacity for at least 30 days. And in its plan, BP foresaw such a worst case scenario for a deep water blowout resulting in more than 250,000 barrels of crude oil being discharged every day. That is much more than is actually being discharged in the Gulf today, with the estimates ranging from a low of 5,000 barrels daily to a high of 100,000 barrels daily.

In its proposed response plan, BP said it could use booms and skimming vessels and dispersants to counter or collect more than 490,000 barrels a day mostly from the surface. But as far as I can tell, those methods don't effectively deal with the enormous accumulation of oil under water now in the Gulf, reportedly as large as 10 miles long, three miles wide, and 300 feet thick. Was that a foreseen consequence of a deep water well blowout? Why didn't MMS require that oil companies have a better plan for responding to that consequence?

And perhaps most important in the approved BP response plans, there appears to be total reliance on the blowout preventer, and no plans filed for what to do to control and stop a spill if a blowout preventer fails in deep water, as it did in the current case. Why not?

Finally, what can be done to prevent another failure of a blowout preventer in deep water, or control the spill more quickly and effectively, if it does?

Until those questions are answered satisfactorily, I don't see how our government can allow any new deepwater wells to be permitted and drilled. I say that with regret because I know how important offshore American oil is to our nation's energy independence. But the U.S. government has a responsibility to the public safety that is more important, and that responsibility, I fear, was not fulfilled in this case. The result is the human, environmental, and economic catastrophe we are witnessing in the gulf today.

Senator Collins?