

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE AND TECHNOLOGY

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June 24, 2010

The Honorable Kenneth Salazar  
Secretary  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Secretary Salazar:

The national tragedy unfolding in the Gulf of Mexico is impacting the lives of millions in the Gulf Region and has attracted the attention of the entire nation. In the months following the Deepwater Horizon accident, BP, as well as federal, state, and local authorities, have sought to halt the flow of the ruptured wellhead, contain leaking oil and natural gas, prevent oil from reaching nearby shores and wetlands, and mitigate the effects of the spill on the Gulf's ecosystem. These are clearly daunting tasks. Despite the complexity involved, it is the responsibility of BP, along with federal, state, and local governments to meet these challenges. In order to surmount this hurdle, all parties need to know they are receiving the best scientific and technical advice possible – guidance free from political meddling or special interest motivations. Because I feel so strongly that the investigation, amelioration, and remediation of the Deepwater Horizon incident should be guided by unfettered scientific and technical advice, I am deeply concerned with a number of instances that have come to light in the wake of this accident.

On May 27, 2010, you issued a report titled "Increased Safety Measures for Energy Development on the Outer Continental Shelf." The report stated that, "The recommendations contained in this report have been peer-reviewed by seven experts identified by the National Academy of Engineering." The Academy selected these individuals because of their extensive petroleum industry expertise and independent perspective. Unfortunately, the expert opinions of those individuals appear to have been manipulated to advance the Administration's policy goal of preventing domestic oil production. In a letter to Governor Jindal, and Senators Landrieu and Vitter, six of the eight peer-reviewers chastised the Administration's manipulation of their expert advice.

In their letter they stated:

*"the scope of the moratorium on drilling which is in the executive summary differs in important ways from the recommendation in the draft which we reviewed. We believe the report does not justify the moratorium as written and that the moratorium as changed will not contribute measurably to increased safety and will have immediate and long term economic effects. Indeed an argument can be made that the changes made in the wording are counterproductive to long term safety.*

*The Secretary should be free to recommend whatever he thinks is correct, but he should not be free to use our names to justify his political decisions.”<sup>1</sup>*

On March 9, 2009 the President issued an executive memorandum on scientific integrity tasking the Director of the Office of Science and Technology Policy (OSTP) to develop recommendations within 120 days to guarantee scientific integrity throughout the executive branch.<sup>2</sup> I’ve sought updates on the status of these recommendations for almost a year now.<sup>3</sup> They are still outstanding. Despite this delay, his memorandum did lay out the following principle:

*“Political officials should not suppress or alter scientific or technological findings and conclusions...*

*(c) When scientific or technological information is considered in policy decisions, the information should be subject to well-established scientific processes, including peer review where appropriate, and each agency should appropriately and accurately reflect that information in complying with and applying relevant statutory standards;<sup>4</sup>*

In March of 2006, the previous Administration issued guidance to agencies to encourage

*“the free exchange of ideas, data and information as part of scientific and technical inquiry. Scientific and technical information from or about Agency programs and projects will be accurate and unfiltered.” (emphasis added)<sup>5</sup>*

In August of 2007, the previous Administration issued a memorandum to agencies that said,

*“[a]gencies are expected to conduct programs in accordance with the highest standards of ethical and scientific integrity.”<sup>6</sup>*

We expect our government to provide both Congress and the public the full results of their work without the filter that those with opposing views might like to impose. Otherwise, we cannot have a full and free scientific debate. While the Department of Interior report may not have directly altered the scientific and technical advice of those peer-reviewers, by implying that they agreed with the findings contained in the report, it appears that the Department of Interior clearly violated not only the spirit, but also the letter of several of the principles previously noted.

The Department of Interior’s deceptive misrepresentation of peer-review in order to justify an offshore drilling moratorium presents a troublesome view of how this Administration views the role of science and technology relating to the Deepwater Horizon oil spill and the continuing response. As U.S. District Judge Martin Feldman recently wrote,

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<sup>1</sup> Letter from Kenneth E. Arnold, PE, NAE to Gov. Jindal, Senator Landrieu, and Senator Vitter, undated (attached).

<sup>2</sup> White House Memorandum, Subject: Scientific Integrity, March 9, 2009.

<sup>3</sup> Letter from Rep. Paul Broun to Director Holden, July 14, 2010.

Letter from Rep. Paul Broun to Director Holden, October 2, 2010.

Letter from Rep. Paul Broun to Director Holden, December 1, 2010.

<sup>4</sup> White House Memorandum, Subject: Scientific Integrity, March 9, 2009.

<sup>5</sup> NASA Policy on “The Release of Information to News and Information Media,” pp. 1-2.

<sup>6</sup> White House Memorandum, Subject: FY 2009 Administration Research and Development Budget Priorities August 14, 2007.

*"Much to the government's discomfort and the Court's uneasiness, the Summary [of the Department of the Interior Report] also states that 'The recommendations contained in the report have been peer reviewed by seven experts identified by the National Academy of Engineering.' As the plaintiffs, and the experts themselves, pointedly observe, this statement was misleading. The experts charge it was a 'misrepresentation.' It was factually incorrect."*<sup>7</sup>

Therefore, by this letter, I request that the Department of Interior provide to the Committee all records, as defined in the attachment, relating to the Department of the Interior's report titled "Increased Safety Measures for Energy Development on the Outer Continental Shelf." This should include all drafts of the report and records of changes that were made. These documents should be delivered to room 394 Ford House Office Building by 5 p.m. on Friday July 2, 2010. If you have any questions or need additional information, please contact Mr. Tom Hammond, Investigations and Oversight Subcommittee Minority Staff, at (202) 225-6371.

Sincerely,



REP. PAUL BROUN, M.D.  
Ranking Member  
Subcommittee on Investigations  
And Oversight

cc: REP. BRAD MILLER  
Chairman  
Subcommittee on Investigations & Oversight

cc: THE HONORABLE JOHN HOLDREN  
Director  
Office of Science and Technology Policy  
Executive Office of the President

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<sup>7</sup> Hornbeck Offshore Services, L.L.C Et Al. V. Kenneth Lee "Ken" Salazar Et Al., No. 10 Civ. 1663 (E.D.L.A. June 22, 2010).

## ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

Fax to: Gov. Jindal: 225-342-7099  
Senator Landrieu: 202-224-9735  
Senator Vitter: 202-228-5061

From: Kenneth E. Arnold, PE, NAE  
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cc. Dr. Robert Bea, Department of Civil and Environmental  
Engineering, Univeristy of California at Berkeley

Dr. Benton Baugh, President, Radoil, Inc.

Ford Brett, Managing Director, Petroskills

Dr. Martin Chenevert, Senior Lecturer and Director of  
Drilling Research Program, Department of  
Petroleum and Geophysical Engineering,  
University of Texas

Dr. Hans Juvkam-Wold, Professor Emeritus, Petroleum  
Engineering, Texas A&M University

Dr. E.G. (Skip) Ward, Associate Director, Offshore  
Technology Research Center, Texas A&M  
University

Thomas E. Williams, The Environmentally Friendly  
Drilling Project

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 moratorium as proposed in the executive summary of that 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.**

As outlined in the attached document, we believe the report itself is very well done and includes some important recommendations which we support. However, the scope of the moratorium on drilling which is in the executive

summary differs in important ways from the recommendation in the draft which we reviewed. We believe the report does not justify the moratorium as written and that the moratorium as changed will not contribute measurably to increased safety and will have immediate and long term economic effects. Indeed an argument can be made that the changes made in the wording are counterproductive to long term safety.

The Secretary should be free to recommend whatever he thinks is correct, but he should not be free to use our names to justify his political decisions.

## **The Primary Recommendation in the May 27, 2010 report, "INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF" Given by Secretary Salazar to The President Misrepresents our Position**

The National Academy of Engineering recommended us as contributors and reviewers of the recent Department of Interior "30 Day Review" of the BP Oil Spill. We were chosen because of our extensive petroleum industry expertise, and independent perspectives. The report states:

"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."

The BP Macondo blow out was a tragedy for eleven families, and an environmental disaster of worldwide scale. We believe the blowout was caused by a complex and highly improbable chain of human errors coupled with several equipment failures and was preventable. The petroleum industry will learn from this; it can and will do better. We should not be satisfied until there are no deaths and no environmental impacts offshore - ever. However, we must understand that as with any human endeavor there will always be risks.

We broadly agree with the detailed recommendations in the report and compliment the Department of Interior for its efforts. However, we do not agree with the six month blanket moratorium on floating drilling. A moratorium was added after the final review and was never agreed to by the contributors.

The draft which we reviewed stated:

"Along with the specific recommendations outlined in the body of the report, Secretary Salazar recommends a 6-month moratorium on permits for new exploratory wells with a depth of 1,000 feet or greater. This will allow time for implementation of the measures outlined in this report, and the

consideration of information and recommendations from the Presidential Commission as well as other investigations into the accident.

“In addition, Secretary Salazar recommends a temporary pause in all current drilling operations for a sufficient length of time to perform additional blowout preventer function and pressure testing and well barrier testing for the existing 33 permitted exploratory wells currently operating in deepwater in the Gulf of Mexico. These immediate testing requirements are described in Appendix 1.”

We agree that the report and the history it describes agrees with this conclusion. Unfortunately after the review the conclusion was modified to read:

“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.”

We believe the moratorium as defined in the draft report addresses the issues evident in this case. We understand the need to undertake the limited moratorium and actions described in the draft report to assure the public that something tangible is being done. A blanket moratorium is not the answer. It will not measurably reduce risk further and it will have a lasting impact on the nation's economy which may be greater than that of the oil spill.

The report highlights the safety record of the industry in drilling over 50,000 wells on the US Outer Continental Shelf of which more than 2000 were in over 1000 feet of water and 700 were in greater than 5000 feet of water. We have been using subsea blowout preventers since the mid- 1960s. The



only other major pollution event from offshore drilling was 41 years ago. This was from a shallow water platform in Santa Barbara Channel drilled with a BOP on the surface of the platform.

The safety of offshore workers is much better than that of the average worker in the US, and the amount of oil spilled is significantly less than that of commercial shipping or petroleum tankers. The US offshore industry is vital to our energy needs. It provides 30% of our oil production, is the second largest source of revenue to the US Government (\$6 Billion per year), and has a direct employment of 150,000 individuals. The report outlines several steps that can be taken immediately to further decrease risk as well as other steps that should be studied to determine if they can be implemented in a way that would decrease risk even more.

This tragedy had very specific causes. A blanket moratorium will have the indirect effect of harming thousands of workers and further impact state and local economies suffering from the spill. We would in effect be punishing a large swath of people who were and are acting responsibly and are providing a product the nation demands.

A blanket moratorium does not address the specific causes of this tragedy. We do not believe punishing the innocent is the right thing to do. We encourage the Secretary of the Interior to overcome emotion with logic and to define what he means by a "blanket moratorium" in such a way as to be consistent with the body of the report and the interests of the nation.

The foregoing represents our views as individuals and does not represent the views of the National Academy of Engineering or the National Research Council or any of its committees.

Kenneth E. Arnold, PE, NAE

Dr. Robert Bea, Department of Civil and Environmental Engineering,  
University of California at Berkeley

Dr. Benton Baugh, President, Radoil, Inc.

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