

BOEMRE Director Testifies Before the National Commission on the BP Deepwater Horizon Oil Spill

WASHINGTON, DC – Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) Director Michael R. Bromwich testified today for the third time before the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. Today's testimony focused on the efforts currently underway by BOEMRE to improve existing programs and correct historical deficiencies in the regulation of offshore oil and gas drilling. Director Bromwich's Statement for the Record is below:

Chairman Graham, Chairman Reilly, thank you for inviting me to testify before the Commission. This is the third time I have testified before this distinguished panel. Since we last met, the Bureau of Ocean Energy Management, Regulation and Enforcement ("BOEMRE" or "the Bureau") has provided Commission staff with nearly one thousand documents, totaling over 15,000 pages, and approximately 30 interviews, briefings and meetings detailing the Bureau's historical functions and programs. My testimony today will focus on another aspect of our work: the enormous efforts currently underway to improve existing programs and correct historical deficiencies in the regulation of offshore oil and gas drilling.

Over six months have passed since these deficiencies were brought to light by the explosion and sinking of the Deepwater Horizon rig and the subsequent oil spill. The blowout and fire took the lives of 11 people, injured many others, and spewed millions of barrels of oil into the Gulf of Mexico for close to three months. The oil spill jolted the nation and will have lasting consequences on the entire Gulf region.

While multiple investigations into the root causes of the Deepwater Horizon blowout are still underway, it has become abundantly clear that there were fundamental shortcomings in drilling safety practices. After those factors contributed to the explosion of the rig, it became abundantly clear that the means and the know-how to contain a deepwater blowout in a timely and reliable manner were not immediately available – the unforgettable video of oil continuing to flow from the wild well for almost three months bore witness to that fact. Spill response capabilities were initially inadequate to clean up the massive quantities of oil before it reached the shore, in part because these capabilities were challenged as never before. In other words, industry was not prepared. We as a country were not prepared. For 30 years, while drilling technologies became more sophisticated, safety practices and equipment lagged behind, as did techniques and resources for spill containment and spill response.

That was and is unacceptable – and we at BOEMRE are working very hard to change it. My team and I have been working hard over the past few months to restore public confidence in oil and gas drilling on the Outer Continental Shelf ("OCS"). Together with Secretary of the Interior Ken Salazar, we are undertaking the most aggressive and comprehensive reforms of offshore oil and gas regulation and oversight in U.S. history. This includes the reorganization of the former Minerals Management Service, as well as the implementation of tougher standards for drilling equipment, safety practices, and environmental safeguards.

I. ORGANIZATIONAL REFORMS

BOEMRE has continued to move forward with its overall reform agenda, including the reorganization of the former MMS and a number of other initiatives.

1. The BOEMRE Reorganization

We are continuing our work to create three strong, independent entities to carry out the missions of promoting energy development, regulating offshore drilling, and collecting revenues. In the past, these three functions resided within the same bureau, creating the potential for internal conflict and an increased risk of a pro-development bias. This will no longer be the case.

The revenue collection arm of the former MMS has already become the Office of Natural Resources Revenue. In the next year, the offshore leasing and regulation programs will also become separate, independent organizations.

We have been busy interviewing dozens of Bureau employees in all of our regional offices; collecting and analyzing data relating to the Bureau's processes, systems and regulatory metrics; and developing various models and options for restructuring and reforming the leasing, permitting, safety, environmental enforcement, and other functions of the Bureau.

This work, although painstaking and time-consuming, is critical to informed decision-making regarding the transformation of the Bureau and the necessary foundation for the broad changes and reforms that are the purpose of the reorganization.

2. The Safety Oversight Board Report Implementation Teams

In addition to our progress on the reorganization, BOEMRE has created 11 Implementation Teams that are responsible for analyzing the specific issues raised in the Report of the Outer Continental Shelf Safety Oversight Board ("the Board") and helping to formulate appropriate institutional and organizational solutions. These 11 teams, the issues for which they are responsible and their activities to date, are described in more detail below:

1. **Permitting Team.** This team has been assigned to develop measures in response to the Board's recommendations in the section, "Permitting: Resources and Protocol for Permit Review." During the past month, this team also has been developing processes for the verification of worst case discharge calculations submitted by operators and the preparation of site-specific environmental analyses for drilling under deepwater exploratory and development plans, including the development of staffing plans to address the permitting workload in light of current resources.
2. **Inspection Functions Team.** This team has mapped the existing functions related to inspections from the District level to headquarters. The team is supporting the reorganization team, as well as responding to the Board's recommendations regarding "Inspections: Program Structure and Effectiveness," by analyzing alternative organizational structures, the distribution of inspections personnel throughout the organization, and internal management and oversight structures.
3. **Inspection Strategies Team.** This team is responsible for defining near- and long-term strategies for inspecting industry compliance with safety and environmental regulatory requirements, including the safety measures imposed by the Drilling Safety Rule published last month. The team is developing strategies and plans for the monitoring of blowout preventer (BOP) testing and other drilling-related activities. The work of the Inspection Strategies Team is central to BOEMRE's reform agenda as well as to the orderly implementation of the Board's recommendations contained in the section of its report entitled "Inspections: Program Structure, Training, Management Support, Personnel and Resources."
4. **Inspection Staff Training Team.** This team is charged with developing training programs and curricula for inspectors, supervisory inspectors, and engineers involved in BOEMRE's compliance and enforcement programs. The design and implementation of BOEMRE's training and professional development programs is central to our reform agenda and this team's responsibilities encompass the Board's recommendations relating to "Inspections: Training and Professional Development." Among other things, this team is working on an evaluation of the resources necessary to develop an appropriate in-house training program, the development of new recruit and refresher training curricula and programs, the development of a formal field training program, establishing certification and periodic re-certification requirements for inspections and enforcement personnel, and the creation of individual professional development plans for these personnel.
5. **Inspections Tools Team.** This team is responsible for examining available inspections and enforcement tools, including technological solutions, for increasing inspections coverage and efficiency and for improving the Bureau's ability to conduct real-time monitoring of offshore drilling activities. Among other things, the Inspections Tools Team is evaluating the increased use of laptop computers and digital tablets by inspectors and environmental enforcement personnel, as well as the use of satellite imagery, e-inspections software, and live data feeds from offshore facilities. This work relates to the Board's recommendations concerning "Inspections: Personnel and Resources."
6. **Enforcement Team.** The Enforcement Team is reviewing BOEMRE's regulatory regime related to all potential incidents of non-compliance (PINCs) and enforcement actions, including the use of civil penalties and the process for operator probation and disqualification, including the specific issues identified in the Board's recommendations concerning "Enforcement: Financial Penalties and Incentives for Safety Compliance." We have undertaken a review of the regulations relating to civil penalties and possible legislation to increase substantially civil penalties available for violations of BOEMRE's safety and environmental regulations, which currently are inadequate to deter such violations.
7. **Environmental Compliance Team.** This team is assigned to develop enhanced inspection and enforcement programs relating to environmental compliance, including developing staffing plans, analyzing aviation and technological support requirements, and systems for obtaining information necessary to support environmental enforcement. This team also will be closely involved in the implementation of the reorganization, a central goal of which is to establish structures and programs that provide for more robust enforcement of environmental standards.
8. **Incident Investigations Team.** The Incident Investigations Team, which includes a representative from the Investigations and Review Unit (IRU), is, among other things, evaluating and developing investigative procedures relating to specific categories of accidents and incidents, identifying types of expertise necessary to support BOEMRE's investigations programs, and designing systems for tracking the status of investigations, the imposition of enforcement action based on investigative findings, and the implementation of improvements to safety and

environmental regulations and practices recommended as a result of investigations. This work includes measures relevant to implementing the Board's recommendations regarding "Post-Accident Investigation."

9. **Oil Spill Response Plan Team.** BOEMRE is conducting a comprehensive review of spill response and the adequacy of oil spill response plans (OSRPs), and has formed the OSRP Team to address these issues. For example, this team is working closely with the U.S. Coast Guard on developing guidance regarding the enhancements to OSRPs based on lessons learned from the Deepwater Horizon oil spill response. Substantial progress has already been made in drafting this guidance. The reorganization effort is also analyzing the structure and performance of the Bureau's program for reviewing and evaluating OSRPs. These initiatives include addressing the Board's recommendations regarding "Environmental Stewardship: OSRP Review" and "Environmental Stewardship: OSRP Content."
10. **Environmental Regulatory Team.** The Environmental Regulatory Team was formed to develop programs and measures to implement the Board's recommendations regarding "Environmental Stewardship: Regulatory Framework," including the ongoing review of the Bureau's regulatory process. These recommendations also implicate structural issues that are central to the reorganization, and therefore this team will be working closely with and supporting BOEMRE personnel involved in the reorganization.
11. **Safety and Environmental Management Systems Team.** Although Safety and Environmental Management Systems (SEMS), the development of which was made mandatory for industry through the Workplace Safety Rule published last month, are not included among the Board's recommendations, we also have created a SEMS Team that is responsible for designing an oversight and auditing program for operators' compliance with the new SEMS requirements. The new requirements relating to the development and implementation of SEMS programs represent a significant advance in the promulgation of performance-based standards for safety and environmental protection.

3. BOEMRE's Recruitment Initiatives

I recently completed a four-day recruitment tour of universities in the Gulf of Mexico region with strong petroleum engineering programs. I met with faculty and students in engineering programs at Louisiana State University, University of Louisiana - Lafayette, University of Houston, Texas A&M University, and University of Texas at Austin as part of a recruitment effort and call to public service for young professionals. I have also contacted the Society of Petroleum Engineers as an initial step in an effort to encourage retired professional engineers to bring their experience, expertise, and familiarity with complex technological and engineering issues associated with offshore drilling to BOEMRE.

Our recruitment efforts are paying off. In the week after we announced new inspector and engineer positions, we have received more than 500 applications for our open inspector and engineer positions. Because the success of the reform agenda for offshore oil and gas exploration and development is largely dependent on bringing this talent and expertise into the government, we are very gratified that our aggressive recruitment efforts are showing such positive results.

4. BOEMRE's Requests for Additional Funding and Resources

We are also taking steps to secure additional funding and resources for BOEMRE and its successor agencies. We are working with Secretary Salazar to develop a legislative strategy for the coming session of Congress. Central to this effort is encouraging congressional approval of additional funding and resources for BOEMRE and its successor agencies as we implement the reorganization. The Administration recently submitted a FY 2011 Budget Amendment requesting a \$100 million increase for BOEMRE operations funding to facilitate reorganization and reform of the agency.

As the Secretary and I have emphasized on numerous occasions, additional resources are absolutely critical to our ability to accomplish meaningful and lasting change in the way in which the Department manages the nation's offshore energy resources and provides effective oversight to ensure the safe and environmentally sound development of oil and gas resources on the OCS.

BOEMRE is also exploring what further steps it could take to use existing human resources authorities. This includes hiring employees at a higher step in their pay range based on their superior qualifications or special needs of the agency; the use of recruitment, relocation and retention incentives; and expanded special rates; as well as non-pay hiring and recruiting flexibilities. While we have authority to take most of these steps on our own, we note that special rates would need departmental approval and submission to OPM, which in turn would need to coordinate with other agencies regarding the occupation, grade, and geographic location of similar positions.

II. ENVIRONMENTAL AND SAFETY REFORMS

In addition to our ongoing organizational reforms, we have raised the bar in the drilling and production stages for equipment, safety, environmental safeguards, and oversight – and we will continue to do so in the coming months as additional information about the causes of the Deepwater Horizon blowout becomes available.

More specifically, we announced two new rules last month that raise the bar further for the oil and gas industry's safety and environmental practices on the OCS. One of these rules strengthens requirements for safety equipment; the other improves workplace safety by reducing the risk of human error on drilling rigs and platforms.

The first rule, the Drilling Safety Rule, is an emergency rulemaking that puts in place tough new standards for well design, casing and cementing and well control equipment, such as blowout preventers (BOPs). Operators are now required to obtain independent third-party inspection and certification of each stage of the proposed drilling process. An engineer must also certify that BOPs meet new standards for testing and maintenance and are capable of severing the drill pipe under the pressures anticipated for the well.

The second rule we implemented is the Workplace Safety Rule, which aims to reduce the human and organizational errors that lie at the heart of many accidents and oil spills. Operators now are required to develop a comprehensive safety and environmental management program that identifies the potential hazards and risk-reduction strategies for all phases of activity, from well design and construction, to operation and maintenance, and finally to the decommissioning of platforms. Although many companies have developed SEMS on a voluntary basis, many had not. And our reviews had demonstrated that the percentage of offshore operators that adopted such programs voluntarily had declined over time.

These new policies substantially raise the standards for all offshore operators.

III. THE MORATORIUM ON DEEPWATER DRILLING

Based in part on these improvements in drilling safety, Secretary Salazar decided last month to lift the moratorium on deepwater drilling nearly two months ahead of its original schedule.

When the original moratorium was imposed in May, it was a necessary step to give the government and industry time to evaluate the potential causes of the blowout and spill, and begin to put in place additional safeguards that would drive down the risks of similar spills in the future.

In July, while the moratorium on deepwater drilling was in effect, Secretary Salazar asked me to gather additional information about the state of drilling and workplace safety, containment, and response mechanisms. I conducted eight public forums across the country – six of them in the Gulf of Mexico.

A total of 61 experts from the academic community, the oil and gas industries, conservation and environmental groups, and local businesses provided thoughtful and valuable information about drilling and workplace safety, well containment, and oil spill response, as well as other issues related to offshore drilling.

BOEMRE also received hundreds of written comments from the public, and I held dozens of individual meetings with stakeholder groups. We also reviewed a number of reports and other documents that became available during this time.

At the end of an intense 45-day fact-gathering process, I prepared a report to the Secretary that described the advancements that had been made and outlined recommendations on moving forward. The report concluded that sufficient progress had been made on the constellation of issues that originally supported the moratorium to justify lifting it more than two months ahead of the November 30 expiration date.

First, containment capabilities had improved – industry had developed a number of containment mechanisms intended specifically for use in deepwater. Going forward, we expect further improvements. The five major oil and gas companies have committed to contributing resources to develop a permanent inventory of containment resources that will be available in the event of future deepwater blowouts.

Second, the report determined that the plugging of the Macondo well had freed up a significantly greater number of spill response resources that could be available in the event another spill took place.

Finally, and most importantly, we have implemented a number of new rules and regulations, which have become effective immediately.

IV. THE PATH FORWARD: FUTURE REFORMS

While we have accomplished quite a bit and our reform agenda is moving fast, our work is far from complete. In the near future, BOEMRE will proceed through the standard rulemaking process to consider additional safety measures, intended to further improve the safety of oil and gas operations on the OCS.

The Bureau will also consider additional workplace safety reforms through the standard notice and comment rulemaking process that builds upon recent updates to operators' SEMS programs.

But we won't stop there. We will continue to analyze information that becomes available, including the findings and recommendations of this Commission and other ongoing investigations into the causes of the Deepwater Horizon spill – and we will implement reforms necessary to make offshore oil and gas production safer, smarter and with stronger protections for workers and the environment.

Our challenge in the months and years ahead is to ensure that the current momentum for developing state-of-the-art safety, containment and response capabilities continues. Government, industry, and the best minds in our universities must continue to collaborate on ongoing research and development to create cutting-edge technologies in areas such as well condition sensor capabilities and remote BOP activation. Government and industry must also work together to establish the necessary procedures and structures to address containment in the case of a blowout. It is critical to ensure that, in the event of a blowout, containment resources are immediately available, regardless of the owner or operator involved. These are goals that we must pursue aggressively.

As an important step in this effort, last week, Secretary Salazar proposed establishing an “Ocean Energy Safety Institute” designed to facilitate research and development, training and implementation in the areas of offshore drilling safety, blowout containment and spill response. This Institute would be housed in the Department of the Interior and would be a collaborative initiative between the government, industry, academia and scientific experts. Among the Institute’s objectives would be:

- Advancing safe and environmentally responsible offshore drilling through collaborative research and development in the areas of drilling safety, containment and spill response;
- Developing advanced drilling technology testing and implementation protocols;
- Understanding full-system risk and reliability for the offshore environment;
- Developing an enduring research and development capability and an expertise base useful both for preventing and responding to accidents;
- Developing training and emergency response exercises;
- Increasing opportunities for communication and coordination among industry, government, academia and the scientific community; and
- Developing a larger cadre of technical experts who can oversee or otherwise participate in deepwater drilling-related activities.

Most importantly, this Institute is an important component of a long-term strategy to address on an ongoing basis the technological needs and inherent risks associated with offshore drilling, and deepwater drilling in particular.

Going forward, I am confident that our many reform initiatives will lay the groundwork for a safer, more environmentally responsible drilling in the OCS.

Thank you for your time and attention.

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