

OFFSHORE DRILLING: WILL INTERIOR'S REFORMS CHANGE ITS HISTORY OF FAILED OVERSIGHT

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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OFFSHORE DRILLING: WILL INTERIOR'S REFORMS CHANGE ITS HISTORY OF FAILED OVERSIGHT

THURSDAY, JULY 22, 2010

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:11 a.m., in room 2154, Rayburn House Office Building, Hon. Edolphus Towns (chairman of the committee) presiding.

Present: Representatives Towns, Maloney, Cummings, Kucinich, Clay, Watson, Connolly, Kaptur, Norton, Van Hollen, Murphy, Welch, Speier, Driehaus, Chu, Issa, Burton, Mica, Duncan, Turner, McHenry, Bilbray, Jordan, Fortenberry, Luetkemeyer, and Cao.

Staff present: John Arlington, chief counsel—investigations; Kwame Canty, senior advisor; Lisa Cody, Craig Fischer, Katherine Graham, investigators; Brian Eiler and Neema Guliana, investigative counsels; Aaron Ellias, staff assistant; Linda Good, deputy chief clerk; Velginy Hernandez, press assistant; Adam Hodge, deputy press secretary; Carla Hultberg, chief clerk; Marc Johnson, assistant clerk; Mike McCarthy, deputy staff director; Leneal Scott, IT specialist; Ron Stroman, staff director; Lawrence Brady, minority staff director; John Cuaderes, minority deputy staff director; Rob Borden, minority general counsel; Jennifer Safavian, minority chief counsel for oversight and investigations; Frederick Hill, minority director of communications; Adam Fromm, minority chief clerk and Member liaison; Justin LoFranco, minority press assistant and clerk; Tom Alexander and Kristina Moore, minority senior counsels; and John Ohly, minority professional staff member.

Chairman TOWNS. The meeting will come to order.

Good morning and thank you for being here.

The Interior Department is responsible for the regulation and oversight of offshore oil drilling. Unfortunately, the BP oil spill followed a long history of regulatory and ethical failures at the Interior Department and its Minerals Management Service [MMS].

The Deepwater Horizon disaster has now exposed what appears to be continuing, major problems at MMS. Over the last decade, MMS has essentially permitted the oil industry to police itself.

For example, in 2000, MMS issued an alert requiring oil companies to have a backup system to activate “blowout preventers,” one of the components that failed, contributed to the Deepwater Horizon explosion, and exacerbated the size of the oil spill. But MMS

officials decided to let oil industry executives determine how they wanted to comply with this requirement.

In other words, BP and the other oil companies were essentially on the honor system. The Deepwater Horizon disaster suggests this is not an effective approach to ensuring safe offshore drilling.

Regulatory failures at MMS were made worse by the rapid growth of offshore oil drilling in the Gulf. Over the last two decades, the number of offshore oil rigs in the Gulf of Mexico has expanded dramatically, and extended further offshore into much deeper waters. Yet, at the same time, MMS remained relatively small, had trouble recruiting qualified engineers and inspectors, and could not keep up.

Though drilling has expanded in the Gulf by tenfold, the number of inspectors has only grown by 13 percent. The result: fewer than 60 inspectors are currently responsible for conducting over 18,000 inspections annually.

The agency was born with a built-in conflict of interest. When MMS was created, it was given the dueling responsibilities of promoting drilling and collecting royalty payments on the one hand, while also issuing and enforcing environmental and safety regulations on the other hand.

It seems as though it was only a matter of time before these conflicting responsibilities would lead to the disaster we are seeing here today.

In short, it was a tug-of-war between drilling and safety. As the BP disaster illustrates, safety found itself on the losing side of the struggle.

Even worse, regulatory failures have been accompanied by ethical failures.

In 2008, the Interior Department's Inspector General found a "culture of ethical failure" within MMS's Royalty-In-Kind program. The IG's investigation revealed that, over a 4-year period, senior employees within MMS improperly accepted gifts and engaged in sex and drug abuse with oil company employees.

Unfortunately, this was not an isolated incident.

Just last month, the IG released another report which found that inspectors improperly accepted gifts from oil companies. Additionally, at least one employee simultaneously conducted inspections of an oil company's operations while negotiating employment with the very same company.

In addition, in a series of reports, GAO found that flaws in royalty collection have resulted in millions of dollars in lost revenue.

We can and must do a better job overseeing offshore oil and gas activities.

Today, we will hear directly from the Secretary and Mr. Bromwich about how exactly they plan to implement the reorganization and increase oversight and accountability at MMS, which we are anxious and eager to hear.

Before we begin, however, I want to make one final observation.

While the Interior Department is responsible for regulating the oil industry and they have been taking a lot of heat for that, it does not change the fact that BP was responsible for the safety of its oil well and BP was responsible in terms of responding to the oil spill. And it is BP that is ultimately responsible for the entire

cleanup and the costs, as well as the job losses and lost income resulting from the spill.

I am committed to ensuring that the Government has the authority and ability to effectively regulate the safety of offshore oil drilling.

On that note, I now yield 5 minutes to the ranking member of the full committee, the gentleman from California, Congressman Issa.

[The prepared statement of Chairman Edolphus Towns follows:]



**Opening Statement of
Chairman Edolphus Towns**

House Committee on Oversight and Government Reform

July 22, 2010

“Offshore Drilling: Will Interior’s Reforms Change Its History of Failed Oversight?”

Good morning and thank you all for being here.

The Interior Department is responsible for the regulation and oversight of offshore oil drilling. The magnitude of the *Deepwater Horizon* oil spill, the inadequacy of British Petroleum’s (BP) emergency response, and reports that BP may have failed to adopt adequate “blowout” control measures, raise very serious questions about the effectiveness of Interior’s oversight of offshore oil drilling.

Unfortunately, the BP oil spill followed a long history of regulatory and ethical failures at the Interior Department and its Minerals Management Service (MMS), the once-obscure agency created by former Secretary of the Interior James Watt in 1982.

The *Deepwater Horizon* disaster has now exposed what appears to be continuing, major problems at MMS.

Over the last decade, MMS has essentially permitted the oil industry to police itself.

For example, in 2000, MMS issued an alert requiring oil companies to have a backup system to activate “blowout preventers,” one of the components that failed, contributed to the *Deepwater Horizon* explosion, and exacerbated the size of the oil spill. But MMS officials decided to let oil industry executives determine how they wanted to comply with this requirement.

In other words, BP and the other oil companies were essentially on the honor system. The *Deepwater Horizon* disaster suggests this might not be the most effective approach to ensuring safe offshore drilling.

Regulatory failures at MMS were made worse by the rapid growth of offshore oil drilling in the Gulf. Over the last two decades, the number of offshore oil rigs in the Gulf of Mexico has expanded dramatically, and extended further offshore into much deeper waters. Yet at the same time, MMS remained relatively small, had trouble recruiting qualified engineers and inspectors, and could not keep up.

Though drilling has expanded in the Gulf by tenfold, the number of inspectors has only grown by 13 percent. The result: fewer than 60 inspectors are currently responsible for conducting over 18,000 inspections annually.

Moreover, the agency was born with a built-in conflict of interest. When MMS was created, it was given the dueling responsibilities of promoting drilling and collecting royalty payments on the one hand, while also issuing and enforcing environmental and safety regulations on the other.

It seems as though it was only a matter of time before these conflicting responsibilities would lead to the disaster we are seeing now.

In short, it was a tug-of-war between drilling and safety. As the *BP* disaster illustrates, safety found itself on the losing side of this struggle.

Unfortunately, regulatory failures have been accompanied by ethical failures.

In 2008, the Interior Department's Inspector General found a "culture of ethical failure" within MMS's royalty-in-kind program. The IG's investigation revealed that, over a four year period, senior employees within MMS improperly accepted gifts and engaged in sex and drug abuse with oil company employees.

Unfortunately, this was not an isolated incident.

Just last month, the IG released another report which found that inspectors improperly accepted gifts from oil companies. Additionally, at least one employee simultaneously conducted inspections of an oil company's operations while negotiating employment with the very same company.

In addition, in a series of reports, GAO found that flaws in royalty collection have resulted in millions of dollars in lost revenue.

We can and must do a better job overseeing offshore oil and gas activities.

Today, we will hear directly from Secretary Salazar and Mr. Bromwich about how exactly they plan to implement the reorganization and increase oversight and accountability at MMS.

Before we begin, however, I want to make one final observation.

While the Interior Department is responsible for regulating the oil industry and they have been taking a lot of heat for that, it doesn't change the fact that BP was responsible for the safety of its oil well and BP was responsible responding to the oil spill. And it is BP that is ultimately responsible for the entire cleanup costs, as well as the job losses and lost income resulting from the spill.

I am committed to ensuring that BP lives up to its responsibilities.

Thank you.

###

Mr. ISSA. Thank you, Mr. Chairman, and thank you for holding this important hearing.

Five years ago we began looking at failures in the Gulf and more. In light of Hurricane Katrina, we knew that this was a sensitive area and one that would struggle for years to come, and one that was vulnerable to failures by the Federal Government in just an area or two. And whether it is the levies that failed to protect the people of New Orleans or the plan approved by Mineral Management Service that failed to even consider the possibility that oil could come ashore in a disaster of this size, we, the Federal Government, have failed.

Every day every American here somewhere, it seems, a chain is only as strong as its weakest link. There were two weak links that led to this disaster: British Petroleum acting irresponsibly, failing to maintain safety standards well established in the industry, failing to maintain their own safety standards, and being in too big a hurry to cut corners, cut costs, ultimately leading to the loss of life and the loss of billions of dollars to the American people around the Gulf and beyond.

But there is another weak link, a well noted weak link, one that this committee has been pursuing change for almost 6 years now from: Mineral Management Service, an organization that has checks and balances that mean nothing. Years ago we discovered that when a contract was signed, person after person after person was required to initial it. They initialed it and nothing else; they did not read it, they did not verify, they did not ask any questions.

That kind of absence does not just go to the engineers that are hard to recruit; it goes to the very top of the organization, and has under multiple administrations. In fact, problems in our first set of hearings go all the way back to the Clinton administration. But let us make it very clear, those problems were well known during the entire Bush administration, and for those 8 years change did not occur.

Sadly, Mr. Secretary, during the year and a half of your administration, change did not occur. I know that it seems like a very little bit of time, but if in fact the 20 or so findings that have occurred by your own IGs and GAO had been put together with the work of this committee sooner, and the urgency put onto it, I believe this could have been prevented.

Having said that, we need to look to the future. We need to look to real change in the Mineral Management Service. I personally would not like to see it broken into three even smaller parts but, rather, have the real focus either as an independent agency or as one that has a level of clarity to the American people, much more similar to the EPA. We need to have that. We need to have the American people understand that the proper revenue that has not come to the American people is a factor; the proper controls and safeguards are a factor.

Chairman Waxman, Mr. Kucinich, Mr. Towns, and the rest of us have all seen hearings, but we haven't seen the amount of hearings that we should have had, and we haven't had the followup by previous administrations or, to date, by your administration.

I believe that there are a number of factors that we can deal with today that have to do with the current disaster, with a number of

factors including, if you will, an overstatement of available resources, an over-reporting of available resources and when they were there, and a number of other areas. Those occurred under your watch.

But ultimately this is the Committee on Oversight and Reform, and it is those published 20 reports that we want to deal with primarily; it is the discovery of documents that would allow us to take a first hand in the reorganization to ensure that, when this is over with, we can count on an agency that recruits and trains the kind of second guessers to an oil industry.

I think it is important to note that there are many, many, many rigs that have been operated safely and responsibly. It only takes one operating irresponsibly and then a lack of oversight. In fact, to my amazement, the last inspection by Minerals Management Service of this rig before the disaster occurred, as required, with two individuals; two being part of the inspection team. That was because there was a requirement to have two separate people independently second-guessing each other. To my amazement, of course, it was a father-son team and, in fact, less likely to be independent.

This is one of many too cozy relationships at MMS that have to change. This has to be an organization of professionals, not a family practice.

The American people want us to take care of a number of items, but they want us to go further. I will note today that four other major oil companies have announced an investment in the construction of a very large dome designed to work in the Gulf, certainly on our part of the Gulf, but perhaps in Brazil and other areas, if a similar event happens. This kind of proactive thinking is important.

In fact, Mr. Secretary, to the extent that you have been involved in it, either by urging or demanding, I would like to personally applaud you. I believe that when we look at the blow-off preventers next generation, something that has been needed since 2003, and we look at the recovery and response assets, not just for this event, but for any event, for a major shipwreck, a hurricane that destroys a refinery, or even chemical failures, we all have a responsibility to see that we go with a program much more similar to putting a man on the moon than simply business as usual in the Gulf.

So, Mr. Chairman, I look forward to an extensive hearing today. I look forward to the balance of our discovery, and I look forward to working with you on trying to oversee over the next couple of years a real birth of an organization unlike the old MMS and much more like an organization that we can all be assured will keep the good actors doing what they are supposed to and the bad actors altogether out of the business.

With that, I yield back the balance of my time.

[The prepared statement of Hon. Darrell E. Issa follows:]

EDOLPHUS TOWNS, NEW YORK
CHAIRMAN

DARRELL E. ISSA, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-5051
Minority (202) 225-6074

Statement of Rep. Darrell Issa, Ranking Member

**“Offshore Drilling: Will Interior’s
Reforms Change Its History of Failed Oversight?”**

July 22, 2010

Thank you, Mr. Chairman, for holding today’s hearing about the Administration’s failure to deal effectively with the Gulf crisis. Five years ago this August, the Gulf region was hit hard by Hurricane Katrina. We all watched in horror as the levees broke and the search and rescue efforts struggled to keep pace with the destruction.

That horror turned to despair as the federal government mismanaged the emergency and recovery efforts. The Bush Administration underestimated the crisis, and the federal government was inept at reacting to it. In the aftermath, this committee investigated the government’s failure in the Katrina recovery. On February 15, 2006, under the leadership of Chairman Tom Davis, a 569-page report was released detailing breakdowns at all levels of government that “significantly undermined and detracted from the heroic efforts of first responders, private individuals and organizations, faith-based groups, and others.” The investigation exposed “failures of initiative . . . failures of agility . . . information gaps” and other factors that contributed to the crisis.

We should have learned a lesson.

Yet here we are, nearly five years later, faced with another Gulf crisis – this time, caused from beginning to end by human failure. A deadly combination of BP’s disregard for the safety of its workers and the protection of our environment has been matched by the Interior Department’s carelessness in regulating offshore drilling and the Administration’s irresponsible public relations campaign to conceal the extent of the crisis.

In fact, the only difference between the Obama Administration and the Bush Administration has been the full-scale P.R. effort to cover up the inadequacy of its response to the Gulf oil crisis, now in its 94th day.

There are four primary areas of concern for this hearing.

First, it is clear that neither this Administration nor the last has dealt effectively with the systemic problems at MMS, despite widespread media reports and numerous independent investigations that exposed MMS for what it is: a regulatory nightmare that undermines its mission through carelessness, neglect, and a

Statement of Rep. Darrell Issa, Ranking Member

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compromised relationship with the industry. The fact that we are here today – still talking about MMS – should come as no surprise to anybody. And yet, it should surprise us all.

In 2006, I held four investigative hearings into the failures at MMS, and Chairman Tom Davis held a full committee hearing on the culture of irresponsibility and the lack of accountability at MMS. Since 2007 – when the new Democratic Majority took control -- I have been working to get this Committee's full attention on the problems at MMS. I've written numerous letters to Chairman Waxman, Mr. Kucinich, and Chairman Towns asking for a prioritized focus on MMS. Moreover, during the last Congress, when yet another scandal erupted, Chairman Waxman punted the issue completely and refused to investigate the matter. And despite the explicit plan for MMS oversight announced by the Majority at the beginning of this Congress, we are just now holding our first hearing into this serious failure of government.

Mr. Chairman, it is inexcusable that it has taken this Committee so long – and another crisis in the Gulf – to get serious about investigating MMS and reforming the Interior Department.

Like its predecessor, the Obama Administration – and you in particular, Secretary Salazar – has ignored the problems at MMS until it was too late. When you did wake up – after the oil started flowing, eleven workers were dead, and the entire Gulf coastal region was covered in sludge – you announced a hasty and ill-conceived reorganization of MMS.

In fact, your proposal to reform MMS, Secretary Salazar, is not a plan at all. It is a political statement designed to protect yourself and your boss from the fallout of the crisis you helped create. You knew about the problems at MMS before you were confirmed, Mr. Secretary. By the time you were sworn in, GAO and the Inspector General had already published 20 reports detailing gross waste and mismanagement.

You knew that regulators were too cozy with the industry. You knew that MMS was corrupt from top to bottom.

The second concern of this hearing is how the Administration's moratorium on offshore drilling fails to consider the impact that its policies have on our economy. As with so many other issues, the Administration routinely ignores the analysis and recommendations of countless independent experts, and in the end causing more harm to the economy than it "inherited."

In fact, this moratorium will kill as many as 120,000 jobs in 132 counties and parishes in 4 states. Moreover, the on-again-off-again nature of the Administration's policy regarding offshore drilling causes uncertainty for the industry, which results in fewer jobs for Americans out of work.

The economic impact of a moratorium should be a factor in the Administration's policy, and Secretary Salazar has the authority to consider such an economic hardship before imposing a ban. But thus far, he is deliberately refusing to do so. The disregard shown by this President and his Administration for the way their policies affect millions of unemployed and underemployed Americans is staggering.

Third, the American people have a right to know why the Administration waited so long to respond. They have a right to know why the statements of the White House about the assets deployed to the Gulf region contradict with reports from local officials on the ground. They have a right to know why the President hasn't fulfilled the promises he made. And they have a right to know why false statements have been made to conceal the Administration's failure.

Statement of Rep. Darrell Issa, Ranking Member

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I have learned from parish officials that BP has denied their equipment requests while they have been caught in bureaucratic limbo awaiting much-needed resources. Why has there been an arbitrary process for approving equipment requests that slows response efforts? Has BP been punishing some parishes for doubting the ability of the company responsible for the spill and unable to control the spill to clean up the spill? And why are parish officials having to go through BP for their response efforts anyway?

Finally, the American people have a right to know why the Administration still does not have control of the situation in the Gulf. On numerous occasions, the President has told the American people that his Administration has "been in charge of the response effort ... from the moment this disaster began."

The reality, however, is that BP has been in control while the Administration has been busy creating bureaucratic bottle-necks that have slowed or prevented response efforts.

Mr. Secretary, there is a story I once heard about a man who took over a company after his predecessor failed to succeed and resigned.

The story goes that the man opened his desk drawer the first day on the job and found three letters. One was labeled "Failure Number One." Another one was labeled, "Failure Number Two," and the third was labeled "Failure Number Three." A note from his predecessor told him to open the letters, one at a time, whenever a systemic failure in the company occurred.

About one year later, the first crisis hit, and he opened the letter. Inside, he found a note that said, "Blame me, your predecessor." A few months after that, the second crisis hit, and he opened the next letter. The note said, "Reorganize."

Some time passed, but eventually the third crisis hit, and the CEO opened the final letter. The note inside said, "Write three letters."

Today, I wonder, Mr. Secretary, how long do you think you will be around until the next guy is reading the letters you leave for him?

The public has a right to know whether the federal government implemented an appropriate emergency response plan to mitigate this disaster, and if so, then why it wasn't used. The American people should know that their government is taking every effort to address this crisis, to save jobs, to protect the environment, and to reform the Administrative agencies who share responsibility with BP for the Deepwater Horizon disaster.

Thank you, again, Mr. Chairman, for your willingness to finally bring this matter to the full committee's attention.

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Chairman TOWNS. I also now recognize for 3 minutes the gentleman who is the chairman of the subcommittee from Ohio, Congressman Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman, for calling this hearing on "Offshore Drilling: Will Interior's Reforms Change Its History of Failed Oversight."

It is important that we do our work of oversight, but I also have to tell you that while I am sitting here looking at the preparation for the hearing and thinking about how we are going to focus on things, for example, I am going to have some questions, so you can think about it now, about the Atlantis platform, how 19 Members of Congress wrote to the Minerals Management Service back in February raising questions about engineering documents and didn't get the answers that we were entitled to. The breach in the catastrophe occurred with Deepwater Horizon, but the questions that we raised with respect to the Atlantis platform were relevant not only to Atlantis, but Deepwater Horizon and other platforms that are out there in the Gulf.

So we are going to get into that in the Q&A, but I just have to say something about this moment. There seems to be some feeling in this country that we can endlessly invade the natural world without any consequences. Well, the catastrophe in the Gulf put the lie to that, but we still believe we can do it. We are still moving forward with people talking about doing drilling and we have built our whole economy around this.

So, Mr. Secretary, you are being asked to defend a system which truly is basically collapsing. It really is. And I thank you for your service, but the fact of the matter is the system itself is collapsing. We think we can keep interfering in the natural world without any consequences. We think we can postpone the delivery or the development of alternative energies. We think we can keep on living in this country the way we have been living, without any correction in our course, even in the face of a tremendous catastrophe in the Gulf.

Well, we are going to have to start thinking again.

I yield back.

Chairman TOWNS. I thank the gentleman from Ohio.

I now recognize the gentleman from Florida, Congressman Mica, for 3 minutes.

Mr. MICA. Well, first of all, I want to thank Chairman Towns and Mr. Issa for convening this hearing. I am pleased to see the Secretary here. There are some very serious questions that need to be answered about what took place and also what measures we have in place to deal with the current spill that I see from Florida around the Gulf Coast, affecting people's life, the moratorium. We have so many questions, but I am pleased that you are here to hopefully shed some light on it, and your colleague.

Mr. Issa stated that we knew something was rotten in the Minerals Management Service even under the Bush administration, and I will put in the record a copy of a letter that cites three criminal investigations were launched during the Bush administration on that agency, things we knew there were problems with. I would like to know from you, when you inherited that position, if that was one of your focuses.

There are other questions that have been raised about the development of policy with the new administration. You know, I think a lot of people voted for President Obama on the other side; they thought they were the protectors of the environment and all this. And it turns out that they were asleep at the switch.

What baffles me is how you could come up with proposals, and I want to know if you were consulted on this budget proposal in 2011 to cut the Coast Guard budget, which is one of the first responders whenever you have an oil incident or a disaster in this country. In addition, \$2 million cut from MMS, Minerals Management Service's budget for environmental reviews. It is in here; these were proposals. I don't know if you had anything to do with this in February of this year. This is February, and then in March the administration develops a policy. Here is the headline from the New York Times, "Obama to Open Offshore Areas to Oil Drilling," and it cites the Gulf of Mexico.

So here we are cutting the assets and those responsible for oversight and permitting, and there are questions about the rubber-stamping carte blanche of the approval. This is the approval signed by your administration to drill in deepwater. And then the rush to do more deepwater drilling. This is the list of 33 approvals by the Obama administration. There is only a total of 27 deepwater operations in the Gulf after those are exploratory, half, approximately, production, but your rush to more drilling and cutting the assets.

I think I would like to know how this policy was developed and if you had any part in it, or what the thinking was when they took this path.

Chairman TOWNS. The gentleman's time has expired.

Mr. MICA. I yield back the balance of my time.

Chairman TOWNS. Thank you very much.

Let me indicate that is the longstanding policy of this committee that we swear all of our witnesses in, so if you would stand and raise your right hands.

[Witnesses sworn.]

Chairman TOWNS. You may be seated.

Let the record reflect that the witnesses answered in the affirmative.

We are delighted to have Secretary Salazar with us. He is serving as the fiftieth Secretary of the U.S. Department of Interior. Prior to his confirmation, Secretary Salazar served as a Senator from the great State of Colorado. Before becoming Senator, Secretary Salazar spent two terms as Colorado's attorney general and served as chief legal counsel and executive director of the Colorado Department of Natural Resources in the cabinet of Governor Roy Romer.

Welcome. We are aware of your time constraints, and we will respect them, no question about it.

Then Mr. Michael Bromwich was sworn in to lead the Bureau of Ocean Energy Management, Regulation, and Enforcement, formerly known as MMS, on June 21, 2010. Director Bromwich previously served as inspector general for the Department of Justice and as an assistant U.S. attorney in the southern district of New York. Most recently, Director Bromwich was a partner at the law

firm of Fried Frank, where he specialized in conducting internal investigations.

We welcome both of you.

At this time, I ask that each witness deliver their testimony within 5 minutes, which will allow the committee ample time to raise questions, also considering your time constraints, Secretary. Of course, you know the rules. They start out with the light on green; then, of course, you know, because you know all about these lights, then at the end it becomes red. So, Mr. Secretary, you may begin.

STATEMENTS OF KEN SALAZAR, SECRETARY, U.S. DEPARTMENT OF THE INTERIOR; AND MICHAEL R. BROMWICH, DIRECTOR, BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION, AND ENFORCEMENT

STATEMENT OF KEN SALAZAR

Secretary SALAZAR. Thank you very much, Chairman Towns, and thank you, Congressman Issa, and all the distinguished members of the committee who are here. At the outset, let me just say thank you to the committee for the work that it has done in the prior years relative to putting into the spotlight some of the necessary reform efforts that are required of the Minerals Management Service, many of those which we have been working on since day one, when I became Secretary of the Interior.

Let me, at the outset, just say to the members of the committee I know you are all wondering about the status of where we are with respect to the containment of the oil leak out in the Gulf of Mexico. Since day one, and today is day plus 93, we have been working from early morning until late at night making sure that the entire arsenal of the United States of America is focused on the problem and getting it resolved.

Myself and Secretary Suh, other members of the Cabinet, have been working on this from day one, and as of today we see the light at the end of the tunnel. There is a shut-in that has occurred of the well and the monitoring that we have required of BP is showing that it is holding. But the weather patterns that we are seeing may have some interruption in terms of getting to the ultimate solution here, which is the ultimate kills that have to occur of this well. But we are seeing the light at the end of the tunnel.

Let me move to the subject area that I think this committee wants to explore, and that is the issue of responsibility and what is it that has happened here. Let me frame it for this committee the way that I see it. This is a collective responsibility, and I do not believe that, at the end of the day, the blame game is going to help us relative to how we move forward and develop the broad energy portfolio and the comprehensive energy plan that is required of America; that we need to work together to fix the problem, make sure we learn the lessons from this incident, and that we move forward with an energy portfolio that I think, at the end of the day, will include oil and gas. That has been the position of the President and my position as Secretary of Interior.

In terms of the responsibility for this incident that brings us here today, certainly, BP and other companies that were involved have

broken the rules and have strayed from the best practices of the industry. Many investigations are going on. Much of that has already been reported in the press.

Second, industry has made the wrong representations, both to the Congress as well as to the Department of Interior and others, with respect to drilling safety, with respect to the ability to contain blowouts, and with respect to oil spill response. The efforts announced yesterday by the four major companies in moving forward with a billion dollar effort, on which I was briefed, will need significant additional work before we can be satisfied with at least one of those particular prongs that I think are essential to be righted.

Third, the Congress serves a responsibility. This committee has been at the forefront, at least, of exposing some of the ethical lapses, but, at the end of the day, the drilling that has occurred in the deepwater drilling has been something which this Congress has also embraced. And I recognize that I too was a Member of the U.S. Senate. The passage of the 2005 Energy Policy Act which you, Congressman Issa, and other members of this committee, voted on essentially was part of a national framework.

Fourth, there is a reality that this is an issue which requires looking back not just at one administration, but it is multiple administrations. The MMS was formed in 1981, and you think about the fact that there have been Republican and Democratic administrations that essentially have allowed this organization to continue by fiat of Secretary Lauder, and it was for that reason that even as early as last year proposed to the Natural Resources Committee, Congressman Rahall's committee, that we move forward with organic legislation because the missions of this agency are so important.

So let me just say it is a shared responsibility and we need to move forward and fix the problems.

I believe that we started, in my tenure as Secretary of the Interior, moving forward implementing the reform agenda, much of which had been uncovered through some of the work of this committee. On ethics, from day one, we put together a strong and robust ethics program, working with the findings of the Inspector General and moving forward to clean up the corruption that occurred in Lakewood and other places. People have been fired; people have been sent over for criminal prosecution; people have been suspended; and we have done everything that we can to clean house from an ethics point of view.

We eliminated the Royalty-in-Kind program which had existed for a long time and which had been one of the magnets for corruption. That has been eliminated and we move forward with a comprehensive review and change with respect to the Outer Continental Shelf plan that had been proposed by the prior administration. Finally, we have worked very hard to stand up the renewable energy resources out in the oceans of America.

With respect to what has happened since April 20th and how we move forward with that reform agenda, it is a continuing effort. We have proposed and developed a report on safety to the president of the United States. It was a 30-day report that laid out a number of different majors from prevention mechanisms to moving with cementing, encasing, and the like.

We have proposed, in the last 2 years' budgets, efforts to expand the number of inspectors that we have at MMS and we are moving forward with the reorganization of MMS now into the Bureau of Ocean Energy Management, Enforcement, and Regulation, and that is being done under the leadership of Wilma Lewis and Michael Bromwich.

Let me just say that both of them have incredible credentials as prosecutors, as well as Inspectors General, and they were chosen by me to run the agency in large part because of the ethical improprieties which this committee and which the Inspector General had uncovered.

So we have been working hard on making sure that those ethical lapses are not there, and we understand that there is still significant reform that we have to undertake in the days and months ahead, and we will be focused on it like laser beam and look forward to working with you, Mr. Chairman, Congressman Issa, and members of this committee, to make sure that the new organizational ultimately gets it right.

Let me finally say I know some of you will have questions on the moratorium. I would be delighted to answer those questions.

Finally, just in terms of what I hope the legacy of this crisis is. I would hope that, as we learn the lessons from this crisis, that at the end of the day we will look back at this time and we will say that we have, together as a Nation, developed safer oil and gas production in the Outer Continental Shelf that does in fact protect the environment and protect the safety of the workers.

I would hope that we can move forward as a Nation and say that we have restored the Gulf Coast to a place that it is in a better condition than it was before April 20th, and I would hope that we are able to move forward and embrace the new energy future of America with a much broader portfolio that includes solar and wind and geothermal and all the rest of the portfolio that is part of the renewable energy initiative of President Obama and Members of this Congress.

Thank you, Mr. Chairman.

[The prepared statement of Secretary Salazar follows:]

**STATEMENT OF KEN SALAZAR
SECRETARY OF THE INTERIOR
BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
ON THE CONTINUING REFORM OF
THE OUTER CONTINENTAL SHELF PROGRAM
JULY 22, 2010**

Chairman Towns, Ranking Member Issa, and Members of the Committee, thank you for holding this hearing today as we continue to address the issues and challenges associated with reform of the Department of the Interior's offshore energy program.

Offshore Energy Reforms Completed

The reforms we have embarked on over the last year and a half are substantive and systematic, and we will continue to build on them. The fundamental changes we are making do not come easily, and many of the changes we have already made have raised the ire of industry. Our efforts at reform have been characterized by some as impediments and roadblocks to the development of domestic oil and gas resources. But this unprecedented disaster at the Deepwater Horizon has only strengthened our resolve. We believe that our reform efforts are crucial to ensuring that we carry out our responsibilities effectively, without compromise, and in a manner that facilitates the balanced, responsible, and sustainable development of the resources entrusted to us.

I want to review reforms we have already undertaken:

First, we focused our efforts on ethics and other concerns that had been raised in the revenue collection side of the MMS. We:

- upgraded and strengthened ethics standards and enforcement throughout MMS and for all political and career employees;
- terminated the Royalty-in-Kind program to reduce the likelihood of fraud or collusion with industry in connection with the collection of royalties; and
- aggressively pursued continued implementation of the recommendations to improve the royalty collection program that came from the Department's Inspector General, the Government Accountability Office, and a committee chaired by former Senators Bob Kerrey and Jake Garn.

Second, we reformed the offshore oil and gas regulatory program, and:

- initiated, in the Fall of 2009, an independent study by an arm of the National Academy of Engineering to examine how we could upgrade our inspection and safety program for offshore rigs;
- procured necessary increases in the MMS budget for FY 2010 and FY 2011, including a 10 percent increase in the number of inspectors for offshore facilities; and
- developed a new approach to ongoing oil and gas activities on the Outer Continental Shelf (OCS) aimed at promoting the responsible, environmentally-sound, and scientifically-grounded development of oil and gas resources on the OCS.

In reversing the plans of the previous administration, and charting a new course for oil and gas development on the OCS, we cancelled the upcoming Beaufort and Chukchi lease sales in the Arctic, removed Bristol Bay altogether from leasing in both the current five-year plan and the next five-year plan, and removed the Pacific Coast and the Northeast entirely from any drilling under a new five-year plan. We made clear that we will require full environmental analysis

through an Environmental Impact Statement prior to any decision to lease in any additional areas, such as the mid- or south-Atlantic, and launched a scientific evaluation, led by the Director of the United States Geological Survey (USGS), to analyze issues associated with drilling in the Arctic.

Third, we laid the groundwork for expanding the mission of MMS beyond conventional oil and gas development by devoting significant attention and infusing new resources into the renewable energy program, thereby providing for a more balanced energy portfolio that reflects the President's priorities for clean energy. Toward that end, we:

- finalized long-stalled regulations for off-shore wind – cutting through jurisdictional disputes -- and approved the Cape Wind project;
- announced the establishment of a regional renewable energy office to coordinate and expedite the development of wind and other renewable energy resources on the Atlantic Outer Continental Shelf; and
- entered into an MOU with governors of East Coast states, which formally established an Atlantic Offshore Wind Energy Consortium to promote the efficient, orderly, and responsible development of wind resources on the Outer Continental Shelf through increased Federal-State cooperation.

Reorganization of the Minerals Management Service

I appointed Michael Bromwich as BOEM Director on June 15th. Michael, a former Inspector General of the Department of Justice and, more recently, an attorney in private practice, will lead us through the reorganization, which will lay the foundation for the reforms we have underway. He will lead the changes in how the agency does business, implement the reforms that will raise

the bar for safe and environmentally-sound offshore oil and gas operations, and help our Nation transition to a clean energy future.

For the same reasons I chose Michael Bromwich for this position, I chose Wilma Lewis who oversees the Department's energy bureaus as the Assistant Secretary for Land and Minerals Management. A former U.S. Attorney for the District of Columbia and Inspector General at the Department, Wilma has played a central leadership role in some of the most significant reforms during my tenure as Secretary. She has helped shape reforms ranging from our new approach to offshore oil and gas leasing and a new emphasis on renewable energy development on the Outer Continental Shelf, to ethics reform, to the enhancement of leasing programs and the development of renewable energy programs onshore, to support for our study of policies designed to ensure fair return to American taxpayers for the development of public oil and gas resources. I have also appointed her to chair the Safety Oversight Board in the aftermath of the Deepwater Horizon oil spill, and to help spearhead the reorganization of MMS toward a new future.

In a May 19 Secretarial Order, I restructured the MMS, separating the bureau's resource management, safety, environmental oversight, enforcement, and revenue collection responsibilities, and reassigned those functions to three new entities within the Department: the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue. I also tasked Rhea Suh, the Assistant Secretary for Policy, Management and Budget, Wilma Lewis, the Assistant Secretary for Land and Minerals Management, and Chris Henderson, one of my senior advisors, to develop an implementation plan for the reorganization of the Department's offshore energy program.

The plan is based on the premise that the activities formerly carried out by the Minerals Management Service must be clearly defined and distinct from one another in order to eliminate both real and perceived conflicts within the organization. Another key objective of the restructuring was to establish necessary checks and balances in the relationship of the three new entities, but to also ensure that critical linkages among the three organizations were maintained to provide a predictably administered program. The plan balances the imperative to move quickly with the analysis and planning required to effectively achieve the identified objectives.

The Deepwater Horizon tragedy and the massive spill have made the importance and urgency of a reorganization of this nature ever more clear, particularly the creation of a separate and independent safety and environmental enforcement entity. We will responsibly and thoughtfully move to establish independence and separation for this critical mission so that the American people know they have a strong and independent organization ensuring that energy companies comply with their safety and environmental protection obligations.

The restructuring will also address any concerns about the incentives related to revenue collections. The OCS currently provides nearly 30 percent of the Nation's domestic oil production and almost 11 percent of its domestic natural gas production, and is one of the largest sources of non-tax and non-trust revenue for the Treasury. The MMS collected an average of more than \$13 billion annually for the past five years.

Offshore Energy Reforms and Related Activities Underway

Since the Deepwater Horizon explosion and oil spill, the reforms and associated efforts have continued with urgency, with particular focus on lessons learned from the event. We are taking aggressive action on multiple fronts, including:

- inspecting all deepwater oil and gas drilling operations in the Gulf of Mexico;
- issuing a safety notice to all rig operators in the Gulf;
- implementing the 30-day safety report to the President, including issuing notices to lessees on new safety requirements, developing new rules for safety and environmental protection, and issuing suspensions of deepwater drilling on the OCS to ensure that oil and gas companies implement adequate safety measures to reduce the risks associated with deepwater drilling operations; and
- requiring operators to submit information in their exploration plans regarding blowout scenarios— reversing a long standing exemption that resulted from too much reliance on industry to self-regulate.

Additional reforms will be influenced by several ongoing investigations and reviews, including the Deepwater Horizon Joint Investigation currently underway by the Bureau of Ocean Energy Management, Regulation and Enforcement, and the United States Coast Guard. In addition, at my request, a separate investigation is being undertaken by the National Academy of Engineering to conduct an independent, science-based analysis of the root causes of the oil spill. I also requested that the Inspector General's Office undertake an investigation to determine whether there was a failure of MMS personnel to adequately enforce standards or inspect the Deepwater Horizon.

Further, on April 30th I announced the formation of the Outer Continental Shelf Safety Oversight Board to identify, evaluate, and implement new safety requirements. The Board, which consists of Assistant Secretary for Land and Minerals Management Wilma A. Lewis, who serves as Chair; Assistant Secretary for Policy, Management and Budget Rhea Suh; and Acting Inspector

General Mary Kendall, will develop recommendations designed to enhance safety and environmental protection and improve overall management, regulation, and oversight of operations on the Outer Continental Shelf.

The Council on Environmental Quality (CEQ), working with the Department of the Interior, is conducting a review of National Environmental Policy Act (NEPA) policies, practices, and procedures for the Department of the Interior's Minerals Management Service (MMS) decisions for Outer Continental Shelf (OCS) oil and gas exploration and development. We anticipate that additional reforms will be informed by this review.

Finally, the President established the independent bipartisan National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, which has been tasked with providing options on how we can prevent and mitigate the impact of any future spills that result from offshore drilling.

The Administration will make sure that BP and other responsible parties are held accountable, that they will pay for the costs of the government's response to the spill, and compensate individuals, families, and business for losses and damages that arise from the spill. We will do everything in our power to make the affected communities whole. As part of this effort, last Thursday BOEM Director Michael Bromwich notified BP in writing that it is required to pay royalties on all oil captured from the leaking well and that it may also be responsible for royalties on any oil lost or wasted from the well if it is determined that such loss or wasted oil was due to negligence or regulatory violations that contributed to the tragedy.

Supplemental Legislation

As part of our reforms, we are also building on the efforts we undertook in the last seventeen months to strengthen the OCS budget. As I already mentioned, the President's 2011 budget includes a 10 percent increase in the number of inspectors. Our restructuring of the OCS program will require additional resources to implement the aggressive reforms we are pursuing. We are currently hiring an additional 12 inspectors and taking other actions that are outlined in the 30-day report to the President. Our restructuring of a more robust OCS regulatory and enforcement program will dictate the need for engineering, technical, and other specialized staff.

The President's supplemental request of May 12, 2010, includes \$29 million to fund near term resources for these activities. These funds are critically needed to bolster inspections of offshore oil and gas platforms, draft health, safety, and environmental protection regulations, develop the required enforcement measures for these new regulations and carry out environmental and engineering studies. The President's request included a proposal to extend the time allowed by statute for review and approval of oil and gas exploration plans from 30 days to up to 90 days. This is also necessary, and I urge Congress to include it in the final version of the supplemental.

Sustained Response Efforts in the Gulf

My staff and I have worked virtually non-stop to address the Deepwater Horizon incident since April 20th. I personally have worked in Houston, Louisiana, Mississippi, Alabama, and Florida many days since then to help with efforts to both stop the oil spill and to protect the coasts, wetlands, marine environments, and wildlife threatened by this spill. We have deployed over 1,000 employees to the Gulf, and they have been directing actions to contain the spill; cleaning up affected coastal and marine areas under our jurisdiction; and assisting Gulf Coast residents with information related to the claims process, health and safety information, volunteer opportunities, and general information on the efforts being carried out in the region.

Under the direction of Admiral Thad Allen, we remain hopeful that the well will soon be killed and the planned cementing operations will ultimately seal the well. And good progress is being made on drilling the relief wells. Oil spill containment and clean up of the Gulf remains of utmost importance to us.

The Department's senior staff continues to offer coordination and guidance to the effort. Deputy Secretary David J. Hayes is devoting his time to coordinating the many Gulf-related response activities we are undertaking. Assistant Secretary for Fish, Wildlife and Parks Tom Strickland has been leading the Department's efforts for onshore and near shore protection. National Park Service Director Jon Jarvis and Acting Director of the Fish and Wildlife Service Rowan Gould continue to supervise incident management personnel and activities that their bureaus are taking to respond to the spill and clean up oil impacts. The NPS and FWS have dispatched approximately 600 employees to protect the eight national parks and 36 wildlife refuges and the numerous wildlife, birds, and historic structures they are responsible for in the Gulf of Mexico. And Dr. Marcia McNutt, my science advisor and the Director of the United States Geological Survey, has been at the Unified Command Center in Houston almost continuously since May 2010, providing science-based and technical expertise, coordination, and oversight to BP's efforts to contain the leak and kill the well.

Representatives from the FWS also participated with the U.S. Coast Guard, the Environmental Protection Agency, National Oceanic and Atmospheric Administration and state and local governments in a series of public meetings with local residents to answer questions and offer information on a variety of topics related to the spill and response activities.

Finally, there are many people in the Department devoting significant time and energy to various investigations and inquiries that are being carried out and to the ongoing reorganization and reform. I want to acknowledge their work and let them know their efforts are appreciated and are not going unnoticed.

Over the last several months, we have seen what the employees in the Bureau of Ocean Energy Management, Regulation and Enforcement are capable of -- their professionalism, dedication to the Department, and enthusiasm for the reforms underway. With Michael's help we will be able to cast aside the shadow that was left by an errant few, as well as the old policies that prioritized production over ethics, safety, and the environment.

Conclusion

Much of my time as Secretary of the Interior has been spent working to reform old practices of the MMS and advance the President's vision of a new energy future that will help us to move away from spending hundreds of billions of dollars each year on imported oil. A balanced program of safe and environmentally-responsible offshore energy development is a necessary part of that future. Our efforts to develop a robust OCS renewable energy program are a major part of the effort to find that balance and help move our Nation toward a clean energy future. However, we also recognize that, for now, conventional oil and gas continues to play a significant role in our economy. As we evaluate new areas for potential oil and gas exploration and development on the OCS, we will work with other federal agencies to conduct thorough environmental analysis and scientific study, gather public input and comment, and carefully examine the potential safety and spill risks.

The findings of the Joint Investigation and the independent National Academy of Engineering will provide us with the facts and help us understand what happened on the Deepwater Horizon. Those findings, the work of the Outer Continental Shelf Safety Oversight Board, the OIG investigation and review, and the findings of the Presidential Commission will help inform the implementation of the Administration's comprehensive energy strategy for the OCS.

We are taking responsible action to address the safety of other offshore oil and gas operations, further tightening our oversight of industry's practices through a package of reforms, and taking a careful look at the questions this disaster is raising.

This Administration will continue its relentless response to the Deepwater Horizon tragedy. Our team is committed to help the people and communities of the Gulf Coast region persevere through this disaster, protect our important places and resources, and take actions based on valuable lessons learned that will help prevent similar spills in the future.

Chairman TOWNS. Thank you, Mr. Secretary, for your statement. Mr. Bromwich.

STATEMENT OF MICHAEL R. BROMWICH

Mr. BROMWICH. Thank you very much, Chairman Towns, Ranking Member Issa, and other distinguished members of the committee. It is a pleasure to be here and to testify before you, and to answer any questions you may have.

As the chairman noted and as the Secretary noted, I am new on this job; I have been on the job exactly a month yesterday as head of the newly renamed Bureau of Ocean Energy Management, Regulation and Enforcement. The change of name was made by Secretary Salazar with a point, which was to stress and emphasize the regulation and enforcement part of the organization's mission that many people have fairly suggested has been ignored or neglected in the past.

Let me focus very briefly on three things that we have been doing since I got there. No. 1, on the second day after I was named Director, with Secretary Salazar's approval, we created an Investigations and Review Unit within the organization that will have several primary functions, but the principle function will be some self-policing. It will be authorized in conjunction and cooperation and communication with the Office of the Inspector General to do investigations into ethical lapses, into misconduct, and so forth. To my surprise, there had not been that capability within the organization previously. I believe that any healthy and robust organization should have that capability. This organization now has that.

Second, that unit, the Investigations and Review Unit, will spearhead a heightened enforcement program that will be focused on oil and gas companies, and that will launch aggressive investigations in those cases in which there are allegations that the rules have been violated. Too often in the past I have heard and I fear enforcement has not been vigilant, it has not been aggressive. That will change.

Finally, as the ranking member and the chairman noted, there have been many, many reviews and investigations by various entities, including the Office of the Inspector General, GAO, and so forth. One of the duties of this Investigation and Review Unit will be to followup on those reviews to see whether the remedial steps that should have been taken and where statements may have been made that those remedial steps had been taken, whether they in fact have been taken. So that kind of followup work will be a central mission of the Investigations and Review Unit.

The next subject I would like to touch on briefly are the new regulations that have already been implemented and that will be implemented in the future. Following the Deepwater Horizon blowout and the 30-day safety report that the Secretary mentioned, a new safety regulation, NTL-5, was issued that is binding on the industry. That was followed by the issuance of NTL-6, which is a more environmentally oriented regulation. These are tough new rules and regulations that govern oil and gas companies as they do work in the Outer Continental Shelf, and I think they are fair and appropriate new rules and regulations.

There are other rulemakings that are in process that are, in part, the product of learning that has gone on in the Interior Department both previously and that is going on in an accelerated way over the last 2 months, and we hope to be putting out those rules in the near future. Again, I think we feel that those are necessary and appropriate.

Finally, the Secretary mentioned briefly the moratorium. One of the charges he gave me in connection with the moratorium issued on July 12th was to conduct a series of public forums around the country to gather information on three central issues, drilling safety, spill containment, and spill response, with an eye to gathering as much information from industry, from academia, from stakeholders, from NGO's, from environmental groups to determine whether there are ways in which the moratorium might be shortened before the November 30th current expiration date, but generally to learn as much as we can on what additional measures need to be taken on those three dimensions to ensure that when deepwater drilling is resumed it is done in a safe and appropriate manner.

We will begin those meetings starting August 4th in New Orleans. We will follow those with a series of meetings in Mobile, AL, Pensacola, FL, Santa Barbara, CA, Anchorage, AK, Biloxi, MI, Houston, TX, and Lafayette, LA. Those will be conducted between August 4th and September 15th with a call to report back to Secretary Salazar with the results of those public forums no later than October 31st.

It is a lot of work, but it is a lot of important work, and we look forward to doing it and I look forward to working with you. Thank you very much.

[The prepared statement of Mr. Bromwich follows:]

**STATEMENT OF MICHAEL R. BROMWICH
DIRECTOR OF THE BUREAU OF OCEAN ENERGY MANAGEMENT,
REGULATION, AND ENFORCEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
ON THE CONTINUING REFORM OF
THE OUTER CONTINENTAL SHELF PROGRAM**

JULY 22, 2010

Thank you, Chairman Towns, Ranking Member Issa, and Members of the Committee for the opportunity to be here today with Secretary Salazar. I appreciate being included in this hearing and being part of the discussions about reorganization of the Outer Continental Shelf (OCS) program.

Overview

My appointment as the director of the Bureau of Ocean Management, Regulation and Enforcement began one month ago on June 21. I would like to take a moment to introduce myself and give you an overview of my vision and goals.

When the President and Secretary Salazar asked me to take this assignment, I was a partner in the law firm of Fried, Frank, Harris, Shriver and Jacobson. Even while in private practice I have had significant experience with turning around troubled government agencies. I served for six years as the Independent Monitor for the District of Columbia's Metropolitan Police Department and had just begun performing the same role for the Virgin Islands Police Department, which involved overseeing sweeping reforms of those Departments' use of force programs. I also conducted a comprehensive investigation of the Houston Police Department's (HPD) Crime Lab and provided HPD with extensive recommendations for reforming its Crime Lab, which had a long history of very serious problems.

In the private sector, I have conducted many major internal investigations for companies, including in the energy industry; reviewed the compliance programs and policies of major companies in a variety of industries, conducted extensive field reviews of such programs and made recommendations for their improvement; and represented companies and individuals in state and federal enforcement proceedings and criminal investigations.

From 1994 to 1999, I was the Inspector General for the Department of Justice. I conducted special investigations into allegations of misconduct, defective procedures and incompetence in the Federal Bureau of Investigation (FBI) Laboratory; the FBI's conduct and activities regarding the Aldrich Ames matter; the handling of classified information by the FBI and the Department of Justice in the campaign finance investigation; the alleged deception of a Congressional delegation by high-ranking officials of the Immigration and Naturalization Service; and the Justice Department's role in the Central Intelligence Agency crack cocaine controversy.

From 1987 through 1989, I served as Associate Counsel in the Office of Independent Counsel for Iran-Contra. I was one of three courtroom lawyers for the government in the case of *United States v. Oliver L. North*. I supervised a team of prosecutors and law enforcement agents that investigated allegations of criminal misconduct against government officials and private citizens in connection with provision of aid to the Contras in Nicaragua and serving as overall coordinator of the Iran-Contra grand jury.

From 1983 to 1987, I served as an Assistant U.S. Attorney in the U.S. Attorney's Office for the Southern District of New York. During my tenure, I tried a number of lengthy and complex cases and argued appellate matters before the Second Circuit. I served as Deputy Chief and Chief of the Office's Narcotics Unit.

From my past experience leading and reviewing the leadership of many government agencies, I have accumulated substantial knowledge about what works and what does not in organizations. Based on this experience, I am confident that I can lead this organization and implement the changes that are necessary.

MMS Reorganization

Secretary Salazar announced the restructuring of the Minerals Management Service (MMS) on May 19, 2010, by issuing Secretarial Order No. 3299. By this Order the Secretary separated the responsibilities performed by MMS and reassigned those responsibilities to the newly established Office of Natural Resources Revenue (ONRR), the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE). The Order further established a process for providing the Secretary with an implementation plan for the restructuring. These three new entities will replace the Minerals Management Service, which Secretary Salazar renamed the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEM).

The reorganization of BOEM is a substantial endeavor that will pose significant challenges. The reorganization process must be planned both to achieve important structural goals and to engage employees and managers in an important and precedent-setting governmental transition. Internal and external communications will be critical throughout this process of change. The structure established in the Secretarial Order is based on the premise that the missions within BOEM – including OCS resource management, safety and environmental oversight and enforcement, and revenue collection – need to be clearly defined and distinct from each other.

Last week, on July 15, Secretary Salazar received an implementation plan for restructuring the department's offshore energy management and revenue management responsibilities, detailing a transition that could begin as early as October 1, 2010 and be completed in 2011. The Secretary is reviewing the plan and has forwarded it to congressional leaders for their review and comment.

The implementation plan provides a balance between the need to move quickly and the necessary analysis and planning required to effectively achieve an organizational change of this scope and complexity. It was drafted by Assistant Secretary for Policy

Management and Budget Rhea Suh, Assistant Secretary for Land and Minerals Management Wilma Lewis and Senior Advisor Chris Henderson. I have reviewed the plan and provided comments. The plan recommends that the Office of Natural Resources Revenue be transitioned under an accelerated timetable with the objective of transferring the largely intact Minerals Revenue Management function to the Assistant Secretary for Policy, Management and Budget on October 1, 2010. Further analysis and optimization of the operation will follow the transition.

The task of establishing the new Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement is more complex, requiring a careful and deliberate process to clearly define how roles and responsibilities will be divided, how ongoing interactions will be managed, what administrative resources each entity will need, and where and when new personnel will be added. The plan calls for six months of employee engagement and communication, detailed analysis, and planning to accomplish this, with a phased implementation beginning in January 2011 and continuing for about twelve months.

The plan notes that reorganization is not the sole means of addressing the problems in federal offshore energy management, but it is an essential element of a broader program that includes major new safety requirements, investigation of the BP Deepwater Horizon oil spill, legislative and regulatory reform, and programs to enhance enforcement and inspection activity.

Among its objectives, the restructuring must engage employees in the process of change; undertake detailed process mapping and redesign; address facilities needs; fully evaluate budgetary impacts and needs; evaluate existing employee skills; recruit new talent; and establish information technology plans. Timing and planning will be affected by ongoing BP Deepwater Horizon oil spill response efforts, as well as the organizational attention required to identify and implement new safety regulations.

The plan describes the missions and roles of the new organizations as follows:

The Office of Natural Resources Revenue will ensure the full and fair return to the American people of royalties and other monies owed for the utilization of public resources in the production of conventional and renewable energy and mineral resources both onshore and on the OCS. The new office will report to a Deputy Assistant Secretary for Natural Resources Revenue Management and Oversight within the Office of the Assistant Secretary for Policy, Management and Budget. The office will be responsible for collecting and disbursing funds, which have averaged more than \$13 billion per year over the past five years. Collections come from the Bureau of Land Management, the Bureau of Indian Affairs, and BOEM energy and minerals programs -- from the development of oil and gas resources, renewable sources (including geothermal), coal, lead, limestone, phosphates, potash, and sand-gravel.

The Bureau of Ocean Energy Management will foster environmentally responsible and appropriate development of the OCS for both conventional and renewable energy and mineral resources. The bureau will function as the resource manager for these resources on the OCS. It will be the primary contact for the public and coastal state governments interested in offshore energy and mineral development issues. The bureau will be headed by a Director under the supervision of the Assistant Secretary for Land and Minerals Management.

The Bureau of Safety and Environmental Enforcement will promote and enforce safety in offshore energy exploration and production operations and assure that potential negative environmental and other impacts on marine ecosystems and coastal communities are appropriately considered and mitigated. The bureau will be headed by a Director under the supervision of the Assistant Secretary for Land and Minerals Management. Applying independent regulation, oversight, and enforcement powers, the bureau will develop and enforce policy, rules, and regulations related to safe and environmentally sound development of OCS energy resources. Its program will include necessary engineering and safety reviews, inspecting operations for compliance, approving spill response plans, and reviewing National Environmental Policy Act activities

In addition to these new entities, I am establishing an Investigations and Review Unit within the BOEM to: 1) promptly and credibly respond to allegations or evidence of misconduct and unethical behavior by bureau employees as well as by industry; 2) oversee and coordinate the bureau's internal auditing, regulatory oversight and enforcement systems and programs; and 3) assure the bureau's ability to respond swiftly to emerging issues and crises, including significant incidents such as spills and accidents. As appropriate, the review unit's functions and capabilities will continue in the new organizations.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to questions.

Chairman TOWNS. Thank you. Thank you for your statement.

Let me begin with Secretary Salazar. Will you commit today that the reorganization process will be transparent and this committee will be provided with all the critical details?

Secretary SALAZAR. Yes, we will absolutely be working with the committee, with Members of Congress relative to legislation on the reorganization, as well as keeping you up to date on the implementation of the new organization.

Chairman TOWNS. Now, I want to know how will the reorganization help to prevent further future disasters.

Secretary SALAZAR. Well, first, in terms of dealing with some of the ethical lapses, which I agree have been abhorrent in the past and which this committee has appropriately pointed out, as well as our Inspector General of the Department of Interior, we are dividing up the agency into different units so the revenue functions that were formerly in the MMS will move over into an office of Natural Resources Revenue.

So the dollar collectors will be separated from those who are in charge of granting the leases and doing the enforcement. The rest of the agency which Director Bromwich will oversee will be split into a Bureau that essentially manages the resource out in the Outer Continental Shelf, both conventional, as well as renewable, and another unit that essentially will be in charge of safety and enforcement.

So that is the essential concepts around the reorganization, to ensure, first of all, that conflicts of interest are avoided in the future, the kinds that you have pointed out in your investigations, and, second of all, that there is a kind of enforcement with respect to safety and environmental requirements.

Chairman TOWNS. The GAO and, of course, DOI IG have made numerous recommendations to improve royalty collection. Have you implemented any of these recommendations up to this point?

Secretary SALAZAR. Mr. Chairman, the answer to that is we have in major ways relative to the elimination of the Royalty-in-Kind program. We are also looking at other ways in which we can provide a more effective calculation of royalties and have been working at putting together a program so that the American taxpayer receives the return from the royalties from oil and gas production that the American taxpayer deserves.

Chairman TOWNS. Let me ask you have you looked at the turnover process in terms of people that work for MMS moving on based on the fact that they are so poorly paid?

Secretary SALAZAR. The revolving door issue is one that has troubled us and one that we are working on. It is my personal view that if you have been an MMS Director, that you ought not to go out and then work with the industry. But I will have Michael Bromwich, if I may, Mr. Chairman, just quickly answer that question, because it is something that we have been focused on.

Chairman TOWNS. Sure.

Mr. BROMWICH. I think it is a serious issue and a serious problem. There have been historical problems in recruiting qualified inspectors, and many of the qualified inspectors do come from industry and then seem to want to go back to industry.

Now, it is my view that we can do a couple of things about that. One is to create tighter rules to ensure that if people who are agency government inspectors do go back into the private sector, that at least they don't deal directly with the agency that they just left on any of the matters that they worked on, and for some period of time perhaps not deal with the agency at all. So that is one set of issues that we are in the process of addressing.

I think a more fundamental issue, though, is how do you enlarge the pool of qualified inspectors. One of the things that I have begun conversations about is talking to some of the schools of engineering around the country to see if we can develop recruiting programs so that this becomes a desirable public service career path. Let's recruit the best and the private out of some of the petroleum engineering schools around the country, people who have no prior ties with industry, and let's make it a sustainable career path so that they are not tempted by more dollars in the private sector, but they can make a decent living serving as a qualified inspector.

I had a conversation yesterday with the Dean of the School of Engineering at UC Berkeley. He said there are a number of schools of engineering deans around the country who are interested in working with us on precisely this point. So we are at the very beginning stages of this, but I am very hopeful that we will have some robust alternatives to the back and forth revolving door system that has existed up until now.

Chairman TOWNS. That is very encouraging.

I now yield 5 minutes to the ranking member, Congressman Issa.

Mr. ISSA. Thank you, Mr. Chairman. First, I would like to do just a little technical housework.

Mr. Secretary, your staff, up until last night, told us that there was a policy which they would not provide in writing, that you only deliver document requests to the majority. Now, the majority has been kindly making copies and giving them to us; however, under Ranking Member Waxman and the Bush administration, we never saw such a policy and we were not able to get it in writing.

Would you pledge that both the rest of the discovery would be coming, which you have already said before the committee hearing started, but also that the discovery would be transparent to both sides? The chairman may have requests that are slightly different than we have, but that what we request would be granted to both sides at the same time, rather than relying on somebody to go through and try to make an effective copy, rather than your knowing that you delivered both sides the same information?

Secretary SALAZAR. Congressman Issa, we delivered thousands of pages of documents both to the chairman, as well as to you, and we are working with you to try to get all the additional documents—

Mr. ISSA. And I appreciate your participation and your promising that. It was actually more technical than that. Until last night, any documents we got we got because they were delivered to the majority and not to the minority, and the majority then made copies. And that is not a normal practice from government.

Each of us has independent requests and usually they are shared by delivering them either to the person who requested them, if only one requested, but in most cases administration delivers to both

sides so that both sides know exactly what is being delivered. This was troubling, particularly when, last night, your folks suddenly changed, probably because you were going to be here, and gave us both copies. We would like to know that would continue, that each of us would get information independently, but copied to the other.

Secretary SALAZAR. Congressman Issa, let me just say that we will follow the processes that the Department of Justice and others have required of the executive branch of Government. My view is that transparency is important. We have provided tremendous documents to this committee and will continue to work with you to provide you the information that you need so that you have absolute information relative to what it is that you are seeking.

Mr. ISSA. OK, I won't belabor the point; I will trust that if you gave it to us directly last night, you are probably going to continue giving it to us directly, and not the way your staff had decided to do it prior to that time.

The questions I have are a number, and I will try to be brief. The culture at MMS, we can talk about changing. Mr. Bromwich, I am looking forward to your helping change that. But in our earlier investigations one of the things we discovered was that not only was this organization cozy, it was inept. We had testimony in evidence that now what you own, or maybe what you own, Mr. Secretary, the portion that was collecting the money completely relied on the energy companies to deliver how much was owed from where; that there was no independent accounting and that no audit ever basically found a different number, meaning if Kerr-McGee, when they were still in business, said we got X amount out and delivered X amount of dollars, they just took the money and recorded it; that they had no independent ability to know whether that was the right number or not.

Do you, one or both of you, have plans to implement a system so that you can independently discover how much oil or natural gas or other resources are being taken out and verify them, not just take the word of the good players and the bad players alike?

Secretary SALAZAR. The answer to that, Congressman Issa, is yes, and we have already done it, indeed, with BP. We just sent them a notice for some, I think, \$5 million with respect to royalty under-payments on an onshore activity. Second, with respect to the Office of Natural Resource Revenue, which we have created, there will be the auditing functions so that we can do that independent verification, and perhaps Director Bromwich may want to comment on that as well.

Mr. BROMWICH. I agree with you, Congressman Issa, that is an inappropriate and unacceptable system. The Secretary has just said that has been changed and that is absolutely the right way to do it. You cannot rely on the regulated entity to report without checking that, auditing it, and coming up with an independent assessment.

Mr. ISSA. I appreciate that. Very quickly, I might suggest that every year the Army Corps of Engineers has huge amounts of senior engineers retire who still would like to work for government. I would hope that you look at both ends of the spectrum, those coming directly out of universities that have never worked with oil companies, but perhaps senior engineers who have 5, 10, or 15

more good years to give that also are not tainted by an ambition to work for seven figures for an oil company.

Mr. BROMWICH. I think that is a great idea. Last week I found out that there may be a pool of people in the Coast Guard, I think they are called warrant officers, who similarly have useful experience that we can count on. So I think there are actually pockets of experienced personnel all over government that people just haven't thought of tapping into in the past, but that we are going to try to tap into now.

Mr. ISSA. Thank you.

Thank you, Mr. Chairman.

Chairman TOWNS. The gentleman's time has expired.

I now yield to the gentleman from Ohio, Congressman Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

I indicated in my opening remarks that I had some questions about the way that the Minerals Management Service handled the British Petroleum's Atlantis platform issues in the Gulf of Mexico. I was 1 of 19 Members of Congress who signed a letter to the Minerals Management Service back in February 2010.

Mr. Bromwich, this was about 2 months before the Deepwater Horizon incident. Ms. Birnbaum, the former director, received a letter about BP Atlantis's platform. We requested an investigation to verify a whistleblower claim that 90 percent of the final construction plans for the platform, almost 7,000 plans, were never approved. So if there is an accident on that rig, there would be no plans for response teams to use to try to deal with it.

Though I am happy to see that an investigation is now underway, I am concerned that it is not expected to conclude until September. It is important to keep in mind that this platform is in waters deeper than the Deepwater Horizon platform, and BP's own worst case scenario for a catastrophe with Atlantis would put over 200,000 barrels of oil per day into the Gulf, which is about anywhere from 4 to 10 times the size of the Deepwater Horizon catastrophe.

My first question, Mr. Bromwich, is whether BP would be found in violation of the law if it does not maintain certified as-built drawings on file.

Mr. BROMWICH. I don't know the answer to that. Let me get back to you on that. My intuition is——

Mr. KUCINICH. I am disappointed that——

Mr. BROMWICH. My intuition is that the answer——

Mr. KUCINICH. I am disappointed you don't have the answer to that because that is your job. I will give you the answer. The answer would be yes.

Now, I am told that it should not take that long to review the plans. That raises a question: that the plans might not even exist. I am concerned that Atlantis is the rule, and not the exception. Given what we know about the Horizon accident, and how BP Atlantis does not have engineer-certified documents for its subsea components, as required by law, wouldn't it make sense for the Bureau of Ocean Energy Management, Regulation, and Enforcement to close the Atlantis project, as well as any deepwater drilling production operations in the Gulf that lack final plans until an independent third party have proven that they are operating with com-

plete sets of engineer-approved drawings for their above- and below-sea components? Mr. Bromwich.

Mr. BROMWICH. Congressman, you are correct that there is an investigation ongoing. You are also correct that it is going to be completed by the end of September. I am advised that there is a letter that is on its way to me that will update you and other interested members of the committee with what I anticipate will be preliminary results of that investigation.

The truth is I have spent the bulk of the month since I came onboard dealing with various offshoots of the Deepwater Horizon matter, so I am not as fully aware of the Atlantis matter as you would like me to be, but I will make it my business to become more knowledgeable about it and am very happy to talk to you further about it in the near future.

Mr. KUCINICH. Mr. Bromwich, I appreciate that response, but I think it would be useful for you to review the letter that was sent back on February 20, 2010, signed by 19 Members of Congress, including myself, which provides a very powerful warning about the consequences of not having an appropriate inspection of the issue relating to engineering plans at that BP Atlantis platform.

Mr. BROMWICH. I will review that.

Mr. KUCINICH. You understand the concern here. You are dealing with a catastrophe from the lack of appropriate oversight at Deepwater Horizon. What I am maintaining to you, and what other Members of Congress have all joined together in asserting, is that lack of appropriate oversight also exists with respect to a BP Atlantis platform, which would have even more catastrophic implications than the Deepwater Horizon disaster.

I thank the gentleman. I yield back.

Secretary SALAZAR. If I may, Mr. Chairman. Congressman Kucinich, I would want to just supplement what Director Bromwich said by saying, one, the investigation is underway and he will keep you posted as to the results of the investigation. No. 2, we have sent inspectors out into the Gulf to look at the drilling, as well as the production platforms, so there is an ongoing inspection effort underway.

And, No. 3, one of the things that should come out of the lessons learned here is that you cannot have 60 inspectors essentially having the responsibility of conducting the massive job that has been assigned to these inspectors, and that is why there is a budget amendment in front of this Congress to try to beef up the level of inspection and investigation capability within the agency.

Mr. KUCINICH. Mr. Chairman, I just want this committee to be on notice that we have to find out whether BP has certified as-built drawings on file. This is a serious matter, especially in light of Deepwater Horizon. Thank you.

Chairman TOWNS. The gentleman's time has expired.

I now yield 5 minutes to the gentleman from Florida, Congressman Mica.

Mr. MICA. Thank you.

Again, we appreciate your being here, Mr. Secretary. I raised some questions in my couple of minutes of opening statement, and I think everyone has to be baffled by the administration's development of policy. You were one of the first people nominated, I think,

back by the President. People were pleased we had somebody from the Congress and your experience in the position.

So you came in in 2009. You had an opportunity to develop budget and policy, I would imagine. I was kind of shocked, again, when the staff gave me the budget and it showed cuts like \$2 million in the mineral management environmental permit activity that was proposed by your agency. Did you participate in making decisions on that?

Again, the primary agency for response in these kinds of disasters would be the Coast Guard. The administration proposed 1,100 positions cut, cutting assets; ships, planes, helicopters, all the things that you would use in a response. Were you part of the decision to make those cuts either in your agency, maybe not the Coast Guard?

Secretary SALAZAR. Congressman Mica, with respect to the budget that had been submitted to MMS, you will, if you look at the 10-year history of the budget, there had been erosion within the Department of Interior MMS, as well as with all—

Mr. MICA. But you were proposing—

Secretary SALAZAR. Well, let me just finish. With respect to the rest of the other agencies within Interior, including MMS, a very significant erosion until we came onboard. Now, you will note that the inspectors that are set forth in the budget for MMS are a significant increase from what had been there in the past. Now, the question is appropriate, I think, for this committee and for the Congress is is that number sufficient; and in our view it is not. We need to have additional capacity.

Mr. MICA. Well, again, all I can go by is the budget. I asked if you were there when the decision was made to cut the environmental review activities, which also reviewed permits.

Then the next thing is this is February it came out. In March did you participate in the decision to expand drilling in the Gulf and other areas?

Secretary SALAZAR. The—

Mr. MICA. Were you consulted? Is there any documentation—

Secretary SALAZAR. Not that I was consulted; it was my decision and it was my plan, and it is a plan that is a very well thought out plan relative to moving forward in a thoughtful way that changes the direction that we are going on in the OCS that does different things with respect to what was being planned on the Atlantic and does different things than was being planned in Alaska, and brings in the kinds of environmental reviews that are necessary.

Mr. MICA. Well, again, let's go to that. You were there when they issued this one-page permit, and this is the person to drill for BP, one page. This is backed up by a 500-page cleanup spill plan. I am sure you didn't review this.

But you told me that people who were responsible and all were fired and people changed.

Have we got that organization chart?

The guy that was responsible for signing this, we have two people here, Saucier and then Tolbert signed it for Saucier. He is still there. That circle there, the yellow thing. So he wasn't fired. He

gave carte blanche. This is the approval for BP to drill and the conditions by which they drill, and it refers to a 500-page document.

That 500-page document my staff tells me it says it has spill provisions for dealing with cleanup for seals, walruses, and polar bears, none of which I have seen in the Gulf. It looks like all this was sort of carte blanche approval. Is that what it appears to be? And is this guy going to get fired? This guy is still making the decisions. This is Saucier, and here is Saucier here making the decision on implementing the moratorium.

Secretary SALAZAR. Congressman Mica, let me respond with two points. First, while it is true that there were people who committed both criminal and ethical conduct that is wrong—

Mr. MICA. And he signed or was responsible for issuing the permit—

Secretary SALAZAR. Well, hold on, let me finish. Let me finish, Congressman Mica. The reality of it is that there are many good people within the agency. There are some bad people. Those are being dealt with. With respect to the document that you referred to and with respect to people that were involved concerning the approvals of the Macondo well and what happened there, I have asked the Inspector General to take a look at that, and the Inspector General—

Chairman TOWNS. The gentleman's time has expired.

Secretary SALAZAR [continuing]. Will provide us their own independent review, which I would be happy to share, as appropriate, with members of this committee.

Mr. MICA. I would appreciate a list on the status of those who were held responsible. Thank you. Maybe we could submit that to the committee.

Chairman TOWNS. Without objection.

Mr. MICA. Thank you.

Chairman TOWNS. I now yield 5 minutes to the gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

Thank you to the Secretary and to Mr. Bromwich. A series of questions. From the outside, there is an ethical crisis at MMS, whether you change the name or not. There has been a history of drugs, sex, rock and roll concerts, and I am concerned, based on the Post article today that says that there is a much higher degree of revolving door that exists in the oil industry than anywhere else in that three out of every four lobbyists had some relationship to the Government. We know there are 12 former employees of MMS that are now lobbying for the oil industry.

Mr. Bromwich and Mr. Secretary, I would like to know what you are going to do now to freeze out those 12 former employees from interacting with MMS.

Mr. BROMWICH. Well, we will certainly make sure that they observe the current ethical rule that exist that restrict their contacts to some extent. But one of the things I have to do is to gather information from people who have the information. If they happen to be former employees of the agency, I am not going to exclude them for that reason, but I am certainly not going to give their information any more weight than anyone else's.

I agree, I read the same article you did and I am troubled by it. I think what I can tell you and tell the committee, that you will never see me in that position. I will say right now that I will self-impose a lifetime ban on contacts with the agency, and I hope that sets an example for other people in the agency and other people throughout government. I agree it is unseemly—

Ms. SPEIER. Well, I guess from our perspective can you take action, independent of Congress passing a bill, to restrict former employees from having access to the agency?

Mr. BROMWICH. Well, let me give you an example. I have actually met with two of the former directors who are now part of trade associations within the last couple weeks.

Ms. SPEIER. But that was at your request.

Mr. BROMWICH. No, it was at their request. But I am in the business right now of trying to gather information from a variety of sources, including from trade associations, because they have relevant information to provide bearing on some of the issues that the Secretary and I are working on. I am going to give them a hearing, but I am also going to give all other groups, including environmental groups, including—

Ms. SPEIER. OK, I understand that. I have a limited amount of time, so—

Mr. BROMWICH. OK.

Ms. SPEIER. My question was can you act independent of Congress in creating some restrictions around access to the agency after employees have left.

Mr. BROMWICH. Yes, we can, but—

Ms. SPEIER. All right, thank you.

Mr. BROMWICH [continuing]. We need to do it in a thoughtful way.

Ms. SPEIER. All right. So you will report back, once you have decided on what you are going to do, to the committee?

Mr. BROMWICH. Sure.

Ms. SPEIER. All right. The GAO report to this committee indicated that the revenue share the Government collects for oil and gas produced in the Gulf ranks 93rd out of 104 revenue collection regimes around the world. I think most of us find that stunning and shocking.

What are you going to do to change that so that the royalties being received from the Gulf are reflective of the world as a whole, at least the international average of royalties received around the world?

Secretary SALAZAR. Congresswoman Speier, let me just say that the royalty issue in getting a fair return to the American taxpayer is foremost in our minds. We have been working on it; we are working on it. We have proposals to change how royalties are in fact collected to make sure that the American taxpayer is getting a fair return for royalties not only in the offshore, but also on the onshore, where you have a circumstance that probably is even worse, where you still have the same royalty rate that existed since the 1920 Mineral Leasing Act was passed at 12.5 percent. So we are making the kinds of changes that will bring in the right level of royalties and, at the same time, make sure that there is accountability with respect to the auditing functions related to that.

Ms. SPEIER. And when will those be put into place and do you need congressional action to do that?

Secretary SALAZAR. We are already working on it; we are moving forward with it. It is being put into place as we speak. The elimination of the Royal-in-Kind program was part of that effort and there are continuing efforts to address the issue.

Ms. SPEIER. That is good news to hear. One last question. My understanding, along with Congressman Mica's reference, is that this particular 600-page document was reviewed by two people for a total of 10 hours. So by anyone's measurement it was inadequate. I don't care if you are a speed reader; there is no way that, in 10 hours, you can give the kind of attention to that document. What are you doing, moving forward, to make sure the employees doing that kind of review are both qualified and have adequate amount of time to do the review?

Secretary SALAZAR. With the reorganization that we have put on the table and the resources that we have asked from Congress to be able to do the right kind of work ensuring safety and ensuring environmental protection should address those issues.

Chairman TOWNS. The gentlelady's time has expired.

I now yield to the gentleman, Mr. Turner.

Mr. TURNER. Thank you.

Mr. Secretary, I have a few items on a time line that lead up to the explosion in the oil field and the oil leak, and I would like to go over those items and get some of your responses to them. We focus a lot on what happens after the explosion. I would like to focus on the period leading up to it.

And, Mr. Chairman, I would like this time line included in the record.

The time line begins with January 29, 2009, and the Secretary being declared the Secretary; he is appointed on that date and declares himself the new sheriff in town. That is January 2009.

In February 2009, in a site-specific exploration plan filed by BP, it states that it was "not required" to file a scenario for a potential blowout of the Deepwater well.

In March 2009, as we have a new sheriff in town, a whistleblower brought forth an issue of a safety breach by BP in the Gulf of Mexico to the attention of MMS. "The whistleblower who was hired to oversee the company's data bases that housed documents related to its Atlantis project discovered that the drilling platform had been operating without a majority of the engineer-approved documents it needed to run safely. No action was taken by the agency."

But the most important thing was 2 months after the whistleblower came forward, May 2009, MMS fails to perform a standard monthly inspection of Deepwater Horizon. But what is happening in the Secretary's office May 2009? Our Interior Secretary is speaking at the Wind Energy Conference in Chicago.

June 17, 2009, MMS proposes new rules to require oil and gas operators to develop and implement "safety environmental management systems for offshore drilling." The rule is still not finalized 1 month and 1 year later.

In June, that same month that these rules were provided but not finalized, Secretary Salazar hires Sylvia Baca away from BP Amer-

ica to become his Deputy Assistant Secretary of Lands and Materials Management, according to this time line.

Summer 2009, the MMS awards Transocean's U.S. Gulf of Mexico operation a safety award for excellence and our Secretary directs MMS to begin focusing on promoting wind energy. Elizabeth Birnbaum assumes duties as the Director of MMS. The U.S. Times reported that, "In particular, she was tasked with handling the politically charged issue of citing the 25 mile cape wind farm off of Cape Cod.

But what happens the next month, August 2009? MMS fails to perform a standard monthly inspection of Deepwater Horizon.

August of that same month, at the White House's request, Secretary Salazar takes a break from your wind energy efforts to begin the big effort of selling health care reform.

August 2009 you travel throughout the West to tout Obama's stimulus plan. I understand from this time line that on August 21st you were in Grand Canyon, South Rim highlighting \$10.8 million of stimulus dollars. On August 20th you were in Utah, \$3.6 million of stimulus dollars, and August 20th again you were in Oregon on stimulus dollars.

That very next month the National Oceanic Atmospheric Administration sends MMS a letter about the offshore drilling proposal, saying MMS understated environmental impacts of the new drilling proposal.

September 8th of that month Salazar says, during an interview at Reuters, right now we are focused on health care reform.

In fact, CBS reports, in November 2009, that anticipating a struggle, the White House deputized Interior Secretary Ken Salazar and former Senate Majority Leader Tom Daschle to join Vice President Joe Biden in trying to clear the way for health care bills overhaul perform of the next several weeks.

But MMS is busy. MMS has a renewable energy task force meeting in Rhode Island, Massachusetts, and New Jersey, and with all this activity happening in November, what happens in the Gulf in December? December 2009, MMS fails to perform the standard monthly inspection of Deepwater Horizon.

They again failed to perform the inspection in January, and then through a series of notifications that BP provides to the agency, the specifications from Deepwater are continued to be adjusted; MMS responding in 7 minutes to one request for a modification, 4½ minutes to another after having routinely not shown up for standard inspections.

And in April the Deepwater Horizon rig explodes and then sinks, and I believe the Secretary is there by April 30th, after attending, on April 27th, participating in a ceremony on wind turbines, April 28th announcing the approval of the Cape Wind Project, and then your attending in the Gulf to take a look at what has occurred.

Chairman TOWNS. The gentleman's time—

Mr. TURNER. It sounds like a significant amount of inactivity—

Chairman TOWNS. The gentleman's time has expired.

Mr. TURNER [continuing]. And I would appreciate your response. I believe my staff has a copy of the time line which they can also provide to you.

Secretary SALAZAR. Mr. Turner, if I may, Mr. Chairman, respond, even though the gentleman's time has expired.

The fact is the U.S. Department of the Interior has a major mission to protect and preserve the natural resources of America, both onshore as well as offshore, as well as being the custodian of America's history; and in that mission we work on the set of issues relating to Native Americans and all of the other assignments that we have within the Department of Interior.

Specifically, with respect to many of the things that you cite in there, I have spent probably more time on the comprehensive energy program for the Nation that the President and I have been championing than on almost any other issue. But I can tell you that within that comprehensive energy plan, which we are confident we will see unfold for this Nation, that you will have a broad energy portfolio that will include oil and gas and, at the same time, include the new energy frontier of solar and wind and geothermal, which we have worked on very hard.

Now, I will say this to you, Mr. Turner, that, without equivocation, we have spent a huge amount of time with respect to all of the issues relating to MMS, and they have included changing the ethics culture, moving forward with a new direction on the Outer Continental Shelf from what was left over from the prior administration, and moving forward standing up a renewable energy program.

So we work hard, we cover a lot of ground, and we have a lot of ground to cover in the future.

Chairman TOWNS. Thank you very much. The gentleman's time has expired.

I now yield 5 minutes to the gentlewoman from California, Ms. Chu.

Ms. CHU. Thank you, Mr. Chair.

We know that the blowout preventers failed with BP and with enormously tragic consequences. Now, it is my understanding that an inspector does not actually have to witness in person the blowout preventer test, but can simply review paperwork from the oil company operators, and they can basically take their word for it. We know that these tests can be successfully faked, as illustrated by several cases. This practice is just unimaginable, and it cuts corners and compromises the oversight mechanism and validity of the test.

So how will the reorganization of MMS work to improve these inspection practices and what specific improvements do you anticipate making to make this BOP test actually effective? And what are your thoughts about having these types of tests certified as safe by independent third-party inspectors that are selected by Federal regulators, and not the oil companies?

Secretary SALAZAR. Congresswoman Chu, it is a very good question and it is something which we have been working on. It really relates to two parts of the reforms within the OCS. The first of those is having the right standards in place, and many of those standards were set forth in the 30-day report which President Obama directed that I deliver to him. Many of those standards are now being implemented with respect to the notice to lessees that Director Bromwich spoke about a little bit earlier.

And then, finally, with respect to the enforcement of those standards, there needs to be a significantly beefed up effort with respect to the agency's inspection capabilities, because right now it is a fool's errand to think that 60 inspectors can essentially go out and inspect all of the different OCS facilities, including production facilities, that are out there.

Ms. CHU. So you will be coming forth with new regulations pertaining to this particular practice?

Secretary SALAZAR. Yes.

Ms. CHU. Well, then it leads to another question, which is about new regulations. One of the problems with the current regulatory system is that it takes a long time for any improvements. In fact, it took 9 years for regulations related to pipeline safety to work its way through the process and take effect. So how will the reorganization of MMS work to resolve this issue of this delayed implementation of new and necessary regulations?

Secretary SALAZAR. Well, the reorganization itself, there will be two parts to essentially dealing with the Outer Continental Shelf beyond the revenue side, and one of them will be to manage the resource; the other unit will be to provide the safety and enforcement. And we will make sure that we are moving forward to address all the issues and all the lessons to be learned from this tragedy.

Ms. CHU. But my question is how long will it take and what will you do to make sure that it is accelerated?

Secretary SALAZAR. Congresswoman Chu, I think some people might say that we should have waited for another 6 months, 8 months until we found out exactly all of the results of all the investigations. Our view from day one has been that we would work on the issue as fast as we can, so the 30-day report that was delivered to the President is a report that has many rules and requirements and standards which are already being implemented, some of them through notice to lessees and some of them through rulemaking that will be conducted by Director Bromwich.

Ms. CHU. And, finally, let me ask this. Under Interior Department regulations, oil companies use models developed by MMS to predict the likelihood of oil reaching the shore following a spill. In the Deepwater Horizon case these models incorrectly predicted that there was a zero percent likelihood of oil reaching most shores in Florida, Alabama, and Louisiana. It suggests, of course, that these models are outdated and that the regulations relating to the oil response plans need to be revisited.

So my question is does MMS need to reexamine all of these oil spill response plans, particularly with regard to these kinds of predictions, which are clearly incorrect and way off? And how will the MMS reorganization help this process?

Secretary SALAZAR. The answer is yes on drilling safety and containment measures and oil spill responsibilities, and I would like Director Bromwich to comment on it as well.

Mr. BROMWICH. You are quite right, Congresswoman, that the oil spill response plans are plainly inadequate, and that is one subject on which I am going to be gathering information on the public forums that we are going to be holding over the next month and a half, with an eye toward not only insisting in the short-term, before

any new regulations are implemented, that those oil spill response plans be substantially revised if they are going to pass muster, but also, with an eye toward getting out new regulations in the future, we will make sure that is the standard from now on.

Ms. CHU. And you are reviewing all the oil response plans?

Mr. BROMWICH. Yes.

Chairman TOWNS. The gentlelady's time has expired.

I now yield to the gentleman from Tennessee, and let me also wish him happy birthday.

Mr. DUNCAN. Well, I have the honor of sharing a birthday yesterday with the chairman, and he sent me a note saying that he thinks we should make it a national holiday, and that was a very nice note.

Mr. Secretary, thank you for coming here. I have sat through hearings in the Transportation Committee and the Resources Committee on the BP oil spill, and in both of those hearings witnesses have mentioned that over 40,000 wells have been drilled in the Gulf since 1960, and my staff got some information from your Department earlier today saying since 1947 more than 50,000 wells have been drilled in the Gulf of Mexico.

Would you not agree it is almost an astonishingly safe, clean history that we have there in the Gulf? I mean, there has never been anything even close to this BP spill. In fact, I am told there are more spills out of ships than there are from these rigs.

Secretary SALAZAR. Congressman Duncan, I agree with you. In fact, I think it was that history of safety over all of those times, 50,000 wells, which essentially was the empirical foundation upon which the national framework has been built with respect to oil and gas production in the Outer Continental Shelf.

Mr. DUNCAN. And I am told that there are now 3,600 structures in the Gulf right now.

Governor Engler wrote a column for the Washington Times a few weeks ago, and the headline says, Drilling Moratorium Is A Jobs Moratorium. And he said this, he said, the moratorium immediately shut down 33 deepwater rigs in the Gulf, including 22 near Louisiana. This action could cost 3,000 to 6,000 Louisiana jobs in the next 2 to 3 weeks, and potentially 20,000 by the end of next year. For every one employee on an oil rig, there are nine employees onshore supporting that one employee.

That is my main concern, because not only did I read this by Governor Engler, but repeatedly I have seen on the news reports these oil workers in the Gulf area almost in a panic situation about all the thousands of jobs that are being destroyed or potentially could be destroyed.

Secretary SALAZAR. Congressman Duncan, let me just say that we too are concerned, and we are aware of the issues. Our view and my view in issuing the moratorium is that it was the right way to move forward, to put the pause button in place until we can answer three fundamental questions: drilling safety, blowout containment capability, as well as oil spill response capability.

If we were to have another blowout in the Gulf of Mexico today or next week, we could not have the oil spill response capability to deal with those blowouts. The effort which Exxon and Shell and Chevron and Conoco Phillips came up with yesterday is a begin-

ning point of that conversation relative to how we address one of those three fundamental issues, and Director Bromwich's set of meetings and hearings around the country will help us answer those three fundamental questions so that we can determine how to move forward with respect to the pause button in place.

Mr. DUNCAN. On another point, Charles Krauthammer, the columnist and commentator who I think almost everybody agrees, even if they don't agree with him, they think he is one of the smartest men in this city, he wrote recently, he said, "environmental chic has driven us out there." He asks the question why we were drilling in 5,000 feet of water in the first place, and he says, "Environmental chic has driven us out there. Environmentalists have succeeded in rendering the Pacific and nearly all the Atlantic coast off limits to oil production and, of course, in the safest of all places, on land, we have had a 30-year ban in the Arctic wildlife refuge."

I have seen articles that say something like 83 or 84 percent of the Outer Continental Shelf is off limits to oil production, and that also is a concern of mine.

Then, finally, before my time runs out, I see the yellow light on, I would say to Mr. Bromwich I am concerned we have changed the name and there seems to be a goal of emphasizing enforcement, and I am just wondering are we going to have a gotcha type agency now? Let's forget about BP; let's consider them a bad actor. But most of these companies are doing a good job and complying with all the laws.

Mr. BROMWICH. I agree with you. We are not going to have a gotcha culture, but we are going to have clear rules and we are going to have aggressive inspections, and violations of those clear rules will be dealt with severely. I think that is the right kind of regulatory regime to have.

Mr. DUNCAN. And if you find a violation, are you going to give the company a chance to correct it, or are you going to immediately come down on them and just shut them down?

Mr. BROMWICH. That is a very fact-specific determination. We will have to take it on a case-by-case basis.

Mr. DUNCAN. All right.

Chairman TOWNS. The gentleman's time has expired.

I now recognize the gentleman from Maryland, Congressman Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Secretary Salazar, I head up the Coast Guard Subcommittee on the Transportation Committee and one of the things that we were concerned about is what role do you all see the Coast Guard playing in the future. You know, the legislation passed by the Committee on Transportation and Infrastructure will require a much more significant role for the Coast Guard in their approval of oil spill response plans, which is crucial given that the Coast Guard is responsible for managing the response to the spills.

So what steps, if any, are MMS and the Coast Guard taking now to strengthen the role of the Coast Guard? And, by the way, that has been one of their complaints, that they are asked to be responsible for overseeing the cleanup, but they don't have enough say in

creating the plan. Did you know that? They have actually testified to that. Either one of you.

Secretary SALAZAR. Congressman Cummings, if I may, the role that we have seen playing out with respect to the response to the Deepwater Horizon blowout and the BP oil spill has been one where we have been working hand-in-hand with Admiral Allen as the national incident commander, and it has been continuous. You know, we will look back at the Deepwater Horizon tragedy and look at the lessons learned, including the capacities that are out there with respect to the Coast Guard and others, but the fact of the matter is that the relationship in terms of the structure that has been set up to respond to the oil spill response has worked well between Interior and the Coast Guard and other agencies that are also involved.

Mr. CUMMINGS. Well, I have to tell you, again, we have had testimony within, I would say, the last 3 weeks, and I will get you that information, and this is not Admiral Allen, where they have told us that they want they want more say in the development of the emergency response plan because they just feel like, by the time you are going to call on them to oversee the cleanup, they should be more involved in it at the beginning. So I will get that to you. You might want to take a look at that.

Secretary SALAZAR. Let me just say—

Mr. CUMMINGS. I am surprised you didn't know that.

Secretary SALAZAR. No, I do know it. Let me just say this, Congressman Cummings. The fact is that the oil spill response issue is one of the three most central issues that we are looking at, and that issue will necessarily involve, should involve and will involve, I will make sure that it happens, a close collaboration with the Coast Guard, because we are not going to move forward until we have an assuredness with respect to the adequacy of oil spill response plans.

Mr. CUMMINGS. Now, Mr. Secretary, although the Deepwater Horizon was registered in the Republic of the Marshall Islands, Captain Hennin, the Deputy Commissioner of Maritime Affairs with the Republic of the Marshall Islands, is reported to have testified before the joint MMS-Coast Guard panel examining this accident that the RMI, as a flag state, did not inspect the drilling equipment and systems on the Deepwater. He reportedly indicated that such inspections are left up to the MMS. And we understand that MMS often relies on offshore facility operators to perform key safety tests and that MMS inspectors only review the paperwork associated with the test.

How can we make sure that we have adequate approval of these reports, because there is a question of inspection, that some of the inspections are not actually done by our people, but they are done by the Marshall Island folks and people that they contract. So how can we guarantee that those inspections which are so important are properly done?

Secretary SALAZAR. Let me say first there were inspections that were conducted of the Deepwater Horizon, including inspections in April and testings, including of the oil preventer, that occurred in the days leading up to the explosion. Second, we will have a significantly more robust inspection regime and is part of what Director

Bromwich will be working on, and he may want to comment on that.

Mr. BROMWICH. No, that is absolutely right. That is one of the things we are going to be focusing on most intently. Important inspections can't be paper inspections; they need to be done by human beings and they need to be done by human beings with experience, demonstrated competence, and an arm's length relationship, at least, to the entities that own the facilities.

Mr. CUMMINGS. I see my time is up. Thank you very much.

Ms. NORTON [presiding]. The Secretary has to leave at 12, and I am going to try to get in as many Members as we can before they have to leave to go to vote.

Mr. Burton, 5 minutes.

Mr. BURTON. Mr. Secretary, you know, 50,000 wells have been drilled in the Gulf without a problem, and yet the President put a moratorium on the drilling. As a result, you have had some of the rigs go to Egypt, to the Congo, Brazzaville. In Canada they are talking about new wells being drilled up to 6,500 feet in the Arctic waters.

So we are going to lose a lot of those rigs and they probably won't come back, at least not for a long, long time. It makes no sense to me to cutoff the drilling in the Gulf when you have not had any real problems except for this one catastrophe, and I just don't understand why the administration is taking this carte blanche approach. Can you explain that?

Secretary SALAZAR. Congressman Burton, having been involved in this matter in response to the Deepwater Horizon blowout every single day since the blowout, I can tell you that there are three fundamental questions that have to be answered before we take our hand off the pause button, and those are the issues of drilling safety, oil well blowout containment, as well as oil spill response capacities. And that is what we are working with Director Bromwich, as well as with a whole host of other efforts.

Mr. BURTON. Well, you have already stated that there is more of a chance of a leak from a tanker than there is from one of these rigs. It just doesn't make any sense, with a 50,000 drilling of wells in the Gulf and you have one spill, that you are going to cutoff everything. And the rigs are already moving to Brazzaville and the Congo.

In Brazil, we just sent \$1 billion down to Brazil to help them drill in deepwater areas. So what we are doing, in effect, is shoving oil production away from the United States and we are costing us jobs when there is really no reason for it except for this one exception. And what you are talking about, in my opinion, really doesn't make a great deal of sense.

Now I want to ask a couple other questions real quick. I have a video I would like to show to you real quick; it is about 15 seconds long.

So can you cue up that video?

[Video played.]

Mr. BURTON. This is Deano Bonano, who is the Homeland Security Director down there and the fire chief, Mark Scardino. They said that you have never been down to that parish, and it is one

of the most toxic areas that has been hit since this spill took place. Why haven't you been down there?

Secretary SALAZAR. Congressman Burton, first of all, I believe that the last count that I saw had 11 times that I have been in one of the Gulf Coast States or in Houston.

Mr. BURTON. Have you been to this parish? This is one of the hardest hit.

Secretary SALAZAR. I have been through Louisiana, Alabama,—

Mr. BURTON. Have you been to this parish?

Secretary SALAZAR [continuing]. Mississippi, Florida. I don't know the exact parish-by-parish, but let me just say that since April 20th, and even before that, I spent a lot of time in the Gulf Coast, and I continue to spend a lot of time down there, and will, and we will work relentlessly on this problem until we get it fixed and we chart the ways forward. And I will just say, Congressman Burton—

Mr. BURTON. It seems like this would have been one of the top priorities. I don't understand why you weren't there. And they were complaining very vigorously that you had ignored their problems there.

Secretary SALAZAR. The President, the Vice President, and members of the Cabinet have been down there countless times. My Assistant Secretary—

Mr. BURTON. Well, you are the guy.

Secretary SALAZAR. My Assistant Secretary for Fish and Wildlife has taken 17 trips down into that area to deal with these issues.

Mr. BURTON. Well, Mr. Secretary, you are the guy. You should have been there, in my opinion.

Now, the last thing I want to ask is I know the Jones Act was referred to. There were a number of countries that wanted to bring skimmers in as soon as this thing took place. We could have eliminated an awful lot of these ecological problems if those skimmers had been brought in. Why in the world didn't we let all these other countries bring those skimmers in as quickly as possible?

Secretary SALAZAR. Mr. Burton, I disagree with you. The fact is the Jones Act has not kept a single vessel from coming into the country, No. 1.

Mr. BURTON. Well, then why weren't the skimmers brought in?

Secretary SALAZAR. The shortage of skimming vessels has not been an issue and the Jones Act has not been an issue.

Mr. BURTON. Why weren't those skimmers brought in from other countries? Why weren't they allowed in?

Secretary SALAZAR. They were brought in as they were required, and Thad Allen and the national incident commander have been in charge.

Mr. BURTON. After, what, 70 days?

Ms. NORTON. The gentleman's time has expired.

Mr. DRIEHAUS, 5 minutes.

Mr. DRIEHAUS. Thank you, Madam Chair.

My intent wasn't to rebut my Republican colleagues in this hearing, but given what was just said about the exception of this disaster, it is like suggesting that 9/11 was an exception to air traffic control regulations and that we shouldn't react to that. The fact is this has been an environmental disaster, and the fact is that we

should look at the regulation appropriately of oil wells in the Gulf, and I think it is very appropriate that the administration take the steps that it has to make sure that all of the wells are safe.

I further heard my Republican colleagues suggest that it is limitations on onshore drilling in other parts of the country that is driving BP and others to go to the Gulf. I assume that they are making money in the Gulf; that the reason we have all these wells in the Gulf is because there is oil there and they are making money. Is that correct?

Secretary SALAZAR. That is correct.

Mr. DRIEHAUS. So the reason that BP and the other oil companies are in fact drilling is because they are making a profit in the Gulf.

Secretary SALAZAR. That is correct.

Mr. DRIEHAUS. I would like to move on. And I think the issue here is one that is important, and it dates back to the 2005 Energy Act and the issue of categorical exclusions. I am concerned, as are others, with regard to the number of categorical exclusions that we have seen for wells in the Gulf, and I would appreciate if you would help us better understand how categorical exclusions are determined and whether or not BP advocated aggressively for categorical exclusions for its drilling operations in the Gulf.

Secretary SALAZAR. Congressman, let me just say, first of all, just back on the moratorium, it is a prudent position that we have taken, and I appreciate the support that you echo for that moratorium because of these fundamental issues that we do need to have addressed.

Second, with respect to your question on categorical exclusions, they appear at a time, after significant environmental analysis has been done because the process is that, in developing a 5-year plan, you do an environmental impact statement. Before you have a lease sale, there is another environmental impact statement that is reviewed. So there are a series of reviews that happen.

Now, the categorical exclusions, in part, in the Gulf of Mexico, which have been granted more than BP, those occur in large part because there is a 30-day window of approval required by statute when an exploration plan itself is filed as part of the leasing and development process. So we have asked the Congress to extend that 30-day window to a 90-day window, and I hope that it is something that you enact in the oil spill legislation that is before you.

Mr. DRIEHAUS. When you say that 30-day window is in statute, when was that 30-day window implemented and why was it implemented, why was it only 30 days, and who advocated for the 30-day window?

Secretary SALAZAR. I do not have the specifics on when that requirement was put into the law, but I can get that for you.

Mr. DRIEHAUS. What is your opinion as to how long it should be for the review? You said 90 days. Is 90 days appropriate?

Secretary SALAZAR. Thirty days I believe is too short, and I do think that what we need to do, especially in places like the Gulf of Mexico, you have tremendous environmental information and reviews that have already been conducted, so we just need to make sure that the environmental reviews that are being conducted are worthwhile and that we are doing the right thing in terms of the

aim of the environmental analysis, which is to understand what impacts there will be to the environment from the activity.

Mr. DRIEHAUS. Do you believe that there has been an overuse of categorical exclusions under the previous administration and the 30-day window is a primary cause of that?

Secretary SALAZAR. I do believe that there was an overuse of the categorical exclusions and, indeed, with respect to what we have already done on the onshore under the Bureau of Land Management is we have changed that practice, and obviously we are now conducting a comprehensive review with the Council of Environmental Quality relative to the environmental reviews and changes that need to happen with respect to OCS.

Mr. DRIEHAUS. Thank you, Madam Chair. I yield back.

Ms. NORTON. Mr. Murphy.

Mr. MURPHY. Thank you very much, Madam Chair. I know we are about to go to votes and, Secretary Salazar, you have been great to spend so much time with us. I appreciate your measured response to Mr. Burton's question. I think we could be here for days on end if we were going to play videos of single individuals who are upset that one particular Federal official didn't visit them. I think we are very lucky to have you in this position. So many of us have been impressed by your immediate and robust response to this tragedy.

Mr. Bromwich, you have a reputation as a no-nonsense administrator in everything you have done, and I think you are the right guy for the job.

I just have a couple quick questions, one relevant to funding sources moving forward. The reorganization, as you split into three different entities, is going to require more people in and of itself; three directors, maybe three offices of congressional relations. We know that we need more people to do the inspection work. As you look down the road at how you think the agency should be funded and you look at a potential diminishing reliance on royalty payments, how do you expect that, moving forward, the new functions of these agencies are going to be funded?

Secretary SALAZAR. Congressman Murphy, thank you for your comments. We are in the midst of working with the appropriators in developing the budget amendments to make sure that the funding is there to be able to do the job. The funding sources themselves and where they will come from, that will be part of that discussion that we will engage with Congress on.

Mr. MURPHY. And with respect to royalty payments, do you have ideas today as to what components will continue to be funded by royalty payments or what components you no longer want to be funded with respect to royalty payments?

Secretary SALAZAR. That is part of the review that we currently have underway in the implementation programs that we are developing.

Mr. MURPHY. Maybe I will direct this question to Mr. Bromwich, but I would be happy to have the Secretary weigh in as well. One of the things that has been a great frustration to us is the technology that we are using right now to deal with this spill, and the fact that we have had a fairly slow pace of innovation within the industry in developing new technologies to address spills. Maybe it

is moving a lot faster right now as we speak, but over a long period of time it has been relatively slow given the threat.

Can you talk a little bit about how you foresee, either within your agency or in putting pressure on the industry, how do we more quickly advance oil spill disaster mitigation technology, oil spill response technology going forward?

Mr. BROMWICH. Yes, it is a very good question. I think one of the things that this disaster has focused people's attention on generally is the lack of advances in containment technologies, as well as in oil spill response technologies. That has not only been recognized by Secretary Salazar and me and many others; it has been recognized by players in the industry, and I think that is one of the reasons why, yesterday, we saw the four largest majors come forward with the outlines of a plan to deal with oil spill containment in the Gulf of Mexico.

I think that this disaster has focused people's energies; it will stimulate innovation. We will obviously be directly involved in that process. The proposal that was made yesterday is an interesting one, it is an intriguing one, but we are going to want to review and study it carefully. We will ask for more elaboration on it by the companies. It is one that not only we, but you and the American public is going to need to have confidence in.

Ms. NORTON. Mr. Issa for 5 minutes.

Mr. ISSA. Thank you, Madam Chair.

Just one quick question. You know, Mr. Secretary, that your decision was, by definition, for 6 months of a moratorium, arbitrary. In light of what you said earlier today, would you say that resources that are freed up at the time of the kill of this well could just as easily be the end of the moratorium? As you said earlier, clearly there were resources that you didn't want to have not available if something, one in 50,000 wells, happened a second time, but wouldn't a target of the killing of this well be just as appropriate for considering limited well supervised rolling back into exploration of the existing 22 rigs?

Secretary SALAZAR. Congressman Issa, I appreciate your observation and I also appreciate the sense of urgency that you have that these issues be addressed, but let me say there is a tremendous amount of work that is unfolding. I will have a report back from the Oversight Safety Board, which I established, which includes great work from the Inspector General and her staff that are focused in on some of these safety issues. That is due, I believe, on August 15th.

The National Academy of Engineering arm of the National Academy of Sciences will have an interim report for me by October 31st; and obviously the multiple investigations that are underway are informing us. So if there is a point in time between now and November 30th where the three fundamental questions that I have already addressed are addressed to our satisfaction, we will revisit that time line for the moratorium.

Mr. ISSA. I appreciate that.

I yield the balance of the time to Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Secretary, for joining us today, and Mr. Bromwich. This oil spill is an environmental catastrophe. BP was a reckless actor and clearly all of us must work to-

gether to ensure three things: that this leak is continued to be stopped, that the environment is cleaned up, and that we work with all the resources we have to ensure that this never happens again.

In that regard, I think Mr. Issa has made a reasonable point and you have answered it reasonably, that your reasoning for the moratorium is that our resources are currently deployed and perhaps depleted, and in case there was a second spill or catastrophe like this, we would not have the sources to work against it. But given that there is the potential for this leak to be permanently stopped in the near term, your consideration of that factor in terms of the moratorium deadlines I think is reasonable.

The second point, though, being given that the resources that are applied are under intense pressure to potentially move overseas, and that this would cause more imported oil to come into our waters, more tankers, which are inherently more environmentally dangerous than the drilling itself, is the moratorium time line potentially more risky?

A related point is that all drilling is not the same. Now, BP was clearly engaged in the riskiest type of drilling. There is partial drilling, there is development drilling. Is there a consideration that those may be exempted as well, given that their risk profile is lower?

Secretary SALAZAR. Congressman, the answer to that is yes, and that is part of what Director Bromwich will be gathering information on. There may be different activities and different zones of risk that might be allowed to go forward. We have already made one of those findings with respect to the shallow water drilling and there may be others as we move forward.

Mr. FORTENBERRY. So a segmentation of risk, risk profiling based upon the actual historical analysis of risk based upon the type of drilling, rather than a blanket moratorium—

Secretary SALAZAR. There may be, for example, Congressman, the differentiation between the exploration wells in the deepwater and wells that are being drilled into already developed reservoirs, where you know exactly what it is that you are drilling into, as opposed to the exploratory type of wells which the Macondo well was one. So those are the kinds of distinctions that we will be taking a look at in the months ahead.

Mr. FORTENBERRY. Well, I think the last thing we want to do is increase pressures for more imported oil, which puts more tankers into our water, which, again, traditionally has a higher environmental risk of spillage than the drilling operations.

With that said, I also would like to point out that I visited the area recently, one of the coastal communities. These people are exhausting themselves trying to save their land, save their way of life, and save the environment. I think you have heard—

Ms. NORTON. The gentleman's time has expired.

Mr. FORTENBERRY. I have a good video for you, Mr. Secretary, but we will have to do it another time.

Ms. NORTON. Mrs. Maloney.

Mrs. MALONEY. Thank you, Madam Chair.

And I thank Secretary Salazar and Mr. Bromwich for your testimony. The devastation of the BP oil spill has highlighted many

problems in worker safety and containment and oversight, but it has especially highlighted the mismanagement of the MMS, the Minerals and Management Service agency, which, if managed appropriately, could literally bring in millions, if not billions, to our Treasury from oil extracted from land owned by the American people.

Under the current structure, the Government Accountability Office has found that the MMS should do a great deal more to improve the accuracy of the data used to collect and verify the oil royalties. I have a bill in, H.R. 1462, which would require the National Academy of Engineering to study and come forward with improvements and recommendations of ways that we could more accurately collect the royalties on the production of oil. I would like, Mr. Secretary, if you would review it, and certainly this could be helpful in defining it in a way that we could be more successful in giving the American people, the taxpayers, their just reward or their just revenues from this oil.

According also to the Government Accountability Office report that was given to this committee, the revenue share that the Government collects from oil and gas produced in the Gulf ranks 93rd, among the lowest, of the 104 revenue collection regimes around the world. Is that an accurate statement? Are we 93rd in collection?

Secretary SALAZAR. I cannot comment on that statistic, but I will say this, that we have been implementing many of the recommendations from the Government Accountability Office, as well as recommendations that came forth from the Kerry-Garns Commission, that addressed many of these issues, and at the end of the day what we are looking at is to achieve the objective which you outlined, which is to make sure that we are getting a fair return back to the American taxpayer, and we would be delighted to take a look at your bill.

Mrs. MALONEY. Did you testify earlier that this has not been updated since the 1920's, in your statement?

Secretary SALAZAR. No, I did not. That was a referral to the royalty rate that is established under the 1920 Mineral Leasing Act with respect to onshore oil and gas leasing, and that is something which we have been reviewing and do believe it should be changed.

Mrs. MALONEY. So that has not been updated since the 1920's. We certainly should look at that and bring it into the 21st century.

Also, the GAO report reported that MMS does not audit oil and gas company royalty numbers. Is that correct? At this point. That was the GAO report.

Secretary SALAZAR. There are auditing functions that do occur and, in fact, that is why we go back and do collections from companies where they have underpaid, and that does happen on an ongoing basis. But, as I said, we are in the process of implementing numerous recommendations that have come from GAO, the several commissions, as well as recommendations from our Inspector General.

Mrs. MALONEY. But is it fair to say that we could be under-collecting by millions, possibly billions in this royalty program?

Secretary SALAZAR. I think it is fair to say that there is under-collection that is taking place, and it really revolves around two key issues. One of them is the measurements relative to the oil and

gas that is being produced against which the royalties are being levied; and, second, the royalty level itself, and whether or not that is the appropriate royalty level.

Mrs. MALONEY. And that is what my bill would look at, to look at more accurate measurements and compare with other countries.

They are calling me to a vote, but this is an important area and we need to move into the 21st century. Why in the world are we rated so low, 93rd in the world, in the royalty payments coming from the Gulf? And did you testify earlier that you had written BP for royalty payments of \$5 billion? Is that what you said?

Secretary SALAZAR. No. There was an underpayment by BP with respect to onshore activities in the West. The royalty program now in effect in the—

Mrs. MALONEY. How much was their underpayment?

Ms. NORTON. The gentlewoman's time has expired.

Mrs. MALONEY. Can he answer that question? May I ask for—

Secretary SALAZAR. As I recall, and it has been several weeks ago, I think for that particular issue it was about \$5 million.

Mrs. MALONEY. \$5 million. Thank you.

Ms. NORTON. Mr. Salazar, I announced that you had to leave at noon, and I will abide by that and not even ask my own question. I know that you understand, as a former Member of Congress, when bells ring, but I know I speak for the chairman when I thank you and Mr. Bromwich for very important testimony here today.

The hearing is in recess until after the vote.

[Recess.]

Chairman TOWNS [presiding]. I would like to reconvene and welcome our distinguished second panel. As with the first panel, of course, it is committee policy to swear in all of our witnesses, so before you sit, Ms. Randolph, let me have you stand and raise your right hands.

[Witnesses sworn.]

Chairman TOWNS. You may be seated.

Let the record reflect that all the witnesses answered in the affirmative.

Mr. Frank Rusco is the Director of the Government Accountability Office of the Natural Resources and Environment Team. Mr. Rusco has been at GAO for 11 years and his work there focuses on energy issues, including oil and gas royalty collection and policy. We want to welcome you to the committee.

Ms. Mary Kendall has been at the Department of Interior Office of the Inspector General since 1999, when she first served as Deputy Inspector General. Ms. Kendall became Acting Director in 2009. Before joining the Inspector General's Office, Ms. Kendall served as an attorney at the Environmental Protection Agency for over a decade. We welcome you to the committee.

Ms. Danielle Brian has been the executive director of the Project On Government Oversight since 1993. Ms. Brian has led numerous investigations that have exposed wasteful government spending and helped bring policy reform to government programs. We also welcome you to the committee.

Ms. Randolph is the parish president for Lafourche. As well as serving as parish president, Ms. Randolph is the owner of a public

relations and advertising company and was previously an editor at the Lafourche Gazette. We welcome you.

At this time, I ask that each witness deliver their 5 minute testimony, which will allow us an opportunity to raise questions with you.

Let me just sort of go through the procedure. You start out, the light is on green; then it goes to yellow, which means you have a minute to sum up; and then, of course, it is on red. Then, at that time, the Members will raise questions with you.

So I would like to begin with you, Mr. Rusco, for your 5 minutes, and just come right down the line. Again, we welcome you to the committee, Mr. Rusco. You may begin.

STATEMENTS OF FRANK RUSCO, DIRECTOR, NATURAL RESOURCES AND THE ENVIRONMENT, GAO; MARY L. KENDALL, ACTING INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF THE INTERIOR; DANIELLE BRIAN, EXECUTIVE DIRECTOR, PROJECT ON GOVERNMENT OVERSIGHT; AND CHARLOTTE RANDOLPH, PRESIDENT, LAFOURCHE PARISH

STATEMENT OF FRANK RUSCO

Mr. RUSCO. Thank you, Chairman Towns, members of the committee. Thank you for the opportunity to speak today about Interior's reorganization of the Minerals Management Service.

This reorganization takes place in the context of the disastrous Deepwater oil spill, and it is hoped that some of the proposed changes to Interior's management of oil and gas will reduce the risks of future spills. It is also important, however, to recognize that Interior faces multiple challenges in effectively and efficiently managing its Federal oil and gas program.

Over the past 5 years, GAO and others have evaluated many aspects of Interior's management of oil and gas production on Federal lands and waters and have found many deficiencies. As a result, we have recommended numerous changes to the program.

In fairness, Interior has responded to many of these recommendations with actions that we hope will result in improved efficiency and effectiveness. Many specific challenges remain, however, and we hope that Interior will keep its focus on addressing the deficiencies we have found, even as it undergoes organizational change.

The findings and recommendations from GAO's recent evaluations are detailed in my written statement for the record. In the remainder of my oral comments, I want to discuss three key examples that illustrate a fundamental challenge for Interior. While each of the examples come from separate evaluations and will require separate actions to resolve, I hope that my discussion will make it clear that all three share an important common thread. Specifically, each of these problems illustrates the importance to Interior of keeping up with and adapting to change.

First, until recently, Interior had gone over 25 years without fundamentally reevaluating its approach to leasing oil and gas properties. When we evaluated Interior's lease management practices, we found that Interior did less than other resource owners to en-

courage diligent development. Specifically, other resource owners did more than Interior to require or incentivize rapid development of promising oil and gas leases, while offering more time for development of less promising or more speculative leases.

Second, until recently, Interior had gone for over 20 years without fundamentally reevaluating its approach to collecting revenue for oil and gas production. When we evaluated Interior's approach in the context of what other resource owners do, we found that the Federal Government collected among the lowest levels of revenue from over 100 systems evaluated.

Further, we found that because Interior's revenue collection system was inflexible to changes in oil and gas prices, that Interior was at an increased risk of succumbing to ad hoc changes to royalties in response to price changes. For example, in the mid-1990's, low oil and gas prices and pressure from oil companies led to royalty relief for deepwater leases. With the subsequent increase in oil and gas prices, this royalty relief will cost the Federal Government billions of dollars of lost revenue over the lifetime of the affected leases.

Finally, in recent evaluations, we found that Interior's oil and gas program utilizes data systems that are mutually incompatible, lack key functionality, and lag far behind similar systems used by industry. This poses risk to the effective and efficient management of the oil and gas program, and the collection of revenues. Part of the cause of these problems is that the IT systems were developed in a piecemeal fashion over a long period of time, with little to no centralized oversight or planning.

We are encouraged that Interior has begun recently to reevaluate its leasing policies, its revenue collection, and that Interior recognizes it faces significant IT challenges. However, the potential for future management problems will remain until and unless Interior adopts an effective risk-based approach that periodically evaluates and adapts to changes in the oil and gas industry, the practices of other resource owners, the IT environment, as well as other significant facets of oil and gas management.

There is risk inherent in all activities, and completely eliminating the risk associated with oil and gas development is not possible. However, if Interior builds risk management into its internal structure and applies it consistently to important management decisions over time, it can do much better at identifying risk and mitigating that risk to the extent possible. This is true regardless of how Interior is ultimately restructured, and Interior will not be fully successful until it addresses this fundamental challenge.

This concludes my oral statement. I would be happy to answer any questions the committee may have.

[The prepared statement of Mr. Rusco follows:]

United States Government Accountability Office

GAO

Testimony
Before the Committee on Oversight and
Government Reform, House of
Representatives

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OIL AND GAS MANAGEMENT

Past Work Offers Insights to Consider in Restructuring Interior's Oversight

Statement of Frank Rusco, Director
Natural Resources and Environment



July 22, 2010

OIL AND GAS MANAGEMENT

Past Work Offers Insights to Consider in Restructuring Interior's Oversight


Highlights

Highlights of GAO-10-888T, a testimony before the Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

The catastrophic oil spill in the Gulf of Mexico has drawn attention to the exploration and production of oil and gas from leases on federal lands and waters. The Department of the Interior oversees oil and gas activities on federal lands and waters. Onshore, the Bureau of Land Management (BLM) has oversight responsibilities. Offshore, the newly created Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE), has oversight responsibilities. Prior to BOEMRE, the Minerals Management Service's (MMS) Offshore Energy and Minerals Management oversaw offshore oil and gas activities, while MMS's Minerals Revenue Management collected revenues from oil and gas produced. For the purposes of our testimony today, we present our findings in accordance with Interior's organizational structure prior to establishing BOEMRE.

Over the past 5 years, GAO has issued numerous recommendations to the Secretary of the Interior to improve the agency's management of oil and gas resources—most recently in two reports issued in March 2010 (see app. II for a list of GAO reports). Overall, GAO's work in this area can be useful in evaluating potential strategies for reorganizing and improving oil and gas management at Interior. Specifically, GAO's work can assist the Secretary and Congress as they are considering restructuring Interior's oversight of oil and gas development and production, revenue collection, and information technology (IT) systems.

View GAO-10-888T or key components. For more information, contact Frank Fusco at (202) 512-3941 or ruscof@gao.gov.

What GAO Found

GAO's recent evaluations of federal oil and gas management have identified key areas where Interior could provide more effective oversight, including:

- In October 2008, GAO reported that Interior policies and practices for leasing offshore and onshore oil and gas differed in key ways. Considering the ways that areas are selected for leasing, GAO found that MMS sets out a 5-year strategic plan identifying both a leasing schedule and the offshore areas it will lease. In contrast, BLM relies on industry and others to nominate onshore areas for leasing, then selects lands to lease from these nominations and from areas it has identified.
- Oil and gas activity has generally increased in recent years, and Interior has at times been unable to meet its legal and agency mandated oversight obligations in key areas. For example, in a June 2005 report, GAO found that Interior was unable to complete its environmental inspections because of increased onshore drilling activity. GAO also found in a September 2008 review that Interior was not consistently completing inspections to verify oil and gas volumes produced from federal leases. GAO found in a March 2010 report that MMS faces challenges conducting required environmental reviews in Alaska. In particular, MMS has no handbook providing guidance on how to conduct these reviews, although Interior policy directs it to prepare one.
- Interior may be missing opportunities to fundamentally shift the terms of federal oil and gas leases and increase revenues. In a September 2008 report, GAO reported that, compared to other countries, the United States receives one of the lowest shares of revenue for oil and gas. In addition, Interior's royalty rate, which does not change to reflect changing prices and market conditions, has at times led to pressure on Interior and Congress to periodically change royalty rates in response to market conditions. Interior also has done less than some states and private landowners to encourage lease development and may be missing opportunities to increase production revenues. Interior began studying ways to improve revenue collection and leasing practices earlier this year.
- Interior's oil and gas IT systems lack key functionalities. A September 2008 GAO review found that MMS's ability to maintain the accuracy of oil and gas production and royalty data was hampered by two key limitations in its IT system: (1) it did not limit companies' ability to adjust self-reported data after MMS had audited them and (2) it did not identify missing royalty reports. More recently, a March 2010 report found that Interior's long-standing efforts to implement two key technologies for verifying oil and gas production are behind schedule and years from widespread adoption.

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to participate in this hearing to discuss the Department of the Interior's management of federal oil and gas leases and its proposed reorganization. Effective management and oversight of our nation's oil and gas resources is critical, especially in light of the tragic loss of life, damage to natural resources, loss of livelihoods, and harm to local economies that resulted from the explosion, fire, and catastrophic oil spill in the Gulf of Mexico. Additionally, ensuring royalties are accurately paid on oil and gas production is increasingly important as our country faces serious fiscal challenges.

Interior plays an important role in managing federal oil and gas resources. Under the current organizational structure, its bureaus are responsible for regulating the processes that oil and gas companies must follow when leasing, drilling, and producing oil and gas from federal leases as well as ensuring that companies comply with all applicable requirements. Specifically, the Bureau of Land Management (BLM) oversees onshore federal oil and gas activities, and the newly created Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) oversees offshore oil and gas activities.¹ Prior to BOEMRE, the Minerals Management Service's (MMS) Offshore Energy and Minerals Management (OEMM) oversaw offshore oil and gas activities. Additionally, MMS's Minerals Revenue Management (MRM) was responsible for collecting royalties on oil and gas produced from both onshore and offshore federal leases. For the purposes of our testimony today, we present our findings in accordance with Interior's organizational structure prior to the establishment of BOEMRE. In fiscal year 2009, Interior reported collecting over \$9 billion in royalties for oil and gas produced on federal lands and waters, purchase bids for new oil and gas leases, and annual rents on existing leases, making revenues from federal oil and gas one of the largest nontax sources of federal government funds.

In recent years, we and others, including Interior's Office of Inspector General (OIG) have conducted numerous evaluations of federal oil and gas management and revenue collection processes and practices and have found many material weaknesses (see app. II for related GAO reports). Our work has included reviews of Interior's oversight practices, operations, and rules, and our conclusions have been remarkably

¹Secretarial Order 3302, issued June 18, 2010, renamed the Minerals Management Service.

consistent: the agency has not done enough to meet the challenges it faces. Others, including the Interior OIG and a panel of experts convened by Interior have drawn similar conclusions. As a result, Interior staff are in the midst of attempting to implement over 100 recommendations spanning the scope of the department's operations. We acknowledge Interior's efforts to reassess key oil and gas policies addressing revenue collection and rates of development on federal lands and waters as an important first step to address material weaknesses. In addition, the Secretary of the Interior announced several changes to BLM's leasing process in May 2010, and has also announced plans to restructure MMS.

In this context, my testimony today discusses findings from our past work on (1) differences in Interior's policies and practices for offshore and onshore oil and gas leasing, (2) Interior's oversight of oil and gas production, (3) Interior's policies to encourage revenues from oil and gas development, and (4) Interior's oil and gas information technology (IT) systems. This statement is based on our extensive body of work on Interior's oil and gas leasing and royalty collection programs issued from June 2005 through March 2010, as well as preliminary results from our ongoing review on public challenges to federal onshore oil and gas leasing decisions, to assist the committee as it investigates Interior's oversight of oil and gas leasing, drilling, and production. We developed these preliminary results from June 2009 through July 2010 by reviewing federal laws, regulations, and guidance; analyzing data from Interior on the four Mountain West states (Colorado, New Mexico, Utah, and Wyoming) responsible for 69 percent of the oil and 94 percent of the natural gas produced on federal lands during fiscal years 2007 to 2009;² and interviewing BLM officials and stakeholder groups—including representatives from the energy industry, state government, and nongovernmental organizations representing environmental, hunting, fishing, and recreational interests. We conducted the performance audit work that supports this statement in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to produce a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our statement today.

²We assessed the reliability of these data and found them to be sufficiently reliable for our purposes.

Interior's Policies and Practices for Offshore and Onshore Oil and Gas Leases Differ in Key Ways

In October 2008, we reported that Interior's policies and practices for identifying and evaluating lease parcels and bids differ in key ways depending on whether the lease is located offshore—and therefore overseen by OEMM—or onshore—and therefore overseen by BLM.³

Identifying lease parcels. OEMM's and BLM's methods for identifying areas to lease vary significantly. Specifically:

- For offshore leases, OEMM—pursuant to the Outer Continental Shelf Lands Act—lays out 5-year strategic plans for the areas it plans to lease and establishes a schedule for offering leases. In addition, OEMM offers all leases for competitive bidding, and all eligible companies may submit written sealed bids, referred to as bonus bids, for the rights to explore, develop, and produce oil and gas resources on these leases, including drilling test wells.
- For onshore leases, BLM—which must follow the Federal Onshore Oil and Gas Leasing Reform Act of 1987—is not required to develop a long-term leasing plan and instead relies in part on the industry and the public to nominate areas for leasing. In some cases, BLM, like OEMM, offers leases through a competitive bidding process, but with bonus bids received in an oral auction rather than in a sealed written form.

Evaluating bids. OEMM and BLM differ in their regulations and policies for evaluating whether the bids received for areas offered for lease are sufficient.

- For offshore leases, OEMM compares sealed bids with its own independent assessment of the value of the potential oil and gas in each lease. After the bids are received, OEMM—using a team of geologists, geophysicists, and petroleum engineers assisted by a software program—conducts a technical assessment of the potential oil and gas resources associated with the lease and other factors to develop an estimate of their fair market value. This estimate becomes the minimally acceptable bid and is used to evaluate the bids received. The bidder submitting the highest acceptable bonus bid that meets or exceeds OEMM's estimate of the fair market value of a lease is awarded the lease. The primary term of the lease, which may be 5, 8, or 10 years, depends on the water depth of the leased area. If no bids equal or exceed the minimally acceptable bid, the

³GAO, *Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development*, GAO-09-74 (Washington, D.C.: Oct. 3, 2008).

lease is not awarded but is offered at a subsequent lease sale. According to OEMM, since 1995, the practice of rejecting bids that fall below the minimally acceptable bid and re-offering these leases at a later sale has resulted in an overall increase in bonus receipts of \$373 million between 1997 and 2006.

- For onshore leases, BLM relies exclusively on competitors, participating in an oral auction, to determine the lease's market value. Furthermore, BLM, unlike OEMM, does not currently employ a multidisciplinary team with the appropriate range of skills or appropriate software to develop estimates of the oil and gas reserves for each lease parcel, and thus, establish a market and resource-based minimum acceptable bid. Instead, BLM has established a uniform national minimum acceptable bid of at least \$2 per acre and has taken the position that as long as at least one bid meets this \$2 per acre threshold, the lease will be awarded to the highest bidder. Importantly, onshore leases that do not receive any bids in the initial offer are available noncompetitively the day after the lease sale and remain available for leasing for a period of 2 years after the competitive lease sale. Any of these available leases may be acquired on a first-come, first-served basis subject to payment of an administrative fee. Prior to 1992, BLM offered primary terms of 5 years for competitively sold leases and 10 years for leases issued noncompetitively. Since 1992, BLM has been required by law to only offer leases with 10-year primary terms whether leases are sold competitively or issued noncompetitively.

Interior's Oversight of Federal Oil and Gas Production Has Not Kept Pace with Increased Activity

Oil and gas activity has generally increased over the past 20 years, and our reviews have found that Interior has—at times—been unable to adequately oversee these activities: (1) completing environmental inspections; (2) verifying oil and gas production; (3) hiring, training, and retaining staff; (4) using categorical exclusions to streamline environmental analyses required for certain oil and gas activities;⁴ (5) performing environmental monitoring in accordance with land use plans; (6) conducting environmental analyses; and (7) responding to onshore lease protests. Specifically:

⁴In addressing long-term energy challenges, Congress enacted the Energy Policy Act of 2005, in part to expedite oil and gas development within the United States. This law authorizes BLM, for certain oil and gas activities, to approve projects without preparing new environmental analyses that would normally be required by the National Environmental Protection Act.

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- *Completing environmental inspections.* In June 2005, we reported that with the increase in oil and gas activity, BLM had not consistently been able to complete its required environmental inspections—the primary mechanism to ensure that companies are complying with various environmental laws and lease stipulations.⁵ At the time of our review, BLM officials explained that because staff were spending increasing amounts of time processing drilling permits, they had less time to conduct environmental inspections.
 - *Verifying oil and gas production.* In September 2008, we reported that neither BLM nor OMM was meeting its statutory obligations or agency targets for inspecting certain leases and metering equipment used to measure oil and gas production, raising uncertainty about the accuracy of oil and gas measurement.⁶ For onshore leases, BLM only completed a portion of its production verification inspections because its workload had substantially grown in response to increases in onshore drilling. For offshore leases, OMM only completed about 50 percent of its required production inspections in 2007 because of ongoing cleanup work related to Hurricane Katrina and Rita. Additionally, in March 2010, we found that Interior had not consistently updated its oil and gas measurement regulations.⁷ Specifically, OMM has routinely reviewed and updated its measurement regulations, whereas BLM had not. Accordingly, OMM had updated its measurement regulations six times since 1998, whereas BLM had not updated its measurement regulations since 1989. We made a number of recommendations to the Secretary of the Interior for improving oil and gas production verification, including providing for more regular updates of measurement regulations.
 - *Hiring, training, and retaining staff.* In March 2010, we reported that Interior has faced difficulties in hiring, retaining, and training staff in key oil and gas oversight positions.⁸ Specifically, we found that staff within

⁵GAO, *Oil and Gas Development: Increased Permitting Activity Has Lessened BLM's Ability to Meet Its Environmental Protection Responsibilities*, GAO-05-418 (Washington, D.C.: June 17, 2005).

⁶GAO, *Mineral Revenues: Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk*, GAO-08-803R (Washington, D.C.: Sept. 12, 2008).

⁷GAO, *Oil and Gas Management: Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volumes*, GAO-10-313 (Washington, D.C.: Mar. 15, 2010).

⁸GAO-10-313.

Interior's program for verifying that oil and gas produced from federal leases are correctly measured—including petroleum engineers and inspectors—lacked critical skills because, according to agency officials, Interior (1) had difficulty in hiring experienced staff, (2) struggled to retain staff, and (3) did not consistently provide the appropriate training for staff. Interior's challenges in hiring and retaining staff stem, in part, from competition with the oil and gas industry, which generally pays significantly more than the federal government. Moreover, key technical positions responsible for oversight of oil and gas activities have experienced high turnover rates, which, according to Interior officials, impede these employees' capacity to oversee oil and gas activities. These positions included petroleum engineers, who process drilling permits and review oil and gas metering systems, and inspection staff—including BLM's petroleum engineer technicians and production accountability technicians onshore—who conduct drilling, safety and oil and gas production verification inspections (see app. I). For example, we found that turnover rates for OEMM inspectors at the four district offices we reviewed between 2004 and 2008 ranged from 27 to 44 percent. Furthermore, Interior has not consistently provided training to the staff it has been able to hire and retain. For example, neither onshore nor offshore petroleum engineers had a requirement for training on the measurement of oil and gas, which is critical to accurate royalty collections and can be challenging at times because of such factors as the type of meter used, the specific qualities of the gas or oil being measured, and the rate of production. Additionally, although BLM offers a core curriculum for its petroleum engineer technicians and requires that they obtain official BLM certification and then be recertified once every 5 years to demonstrate continued proficiency, the agency has not offered a recertification course since 2002, negatively impacting its ability to conduct inspections. It is important to note that BLM's petroleum engineer technicians are the eyes and ears for the agency—performing key functions and also perhaps the only Interior staff with direct contact with the lease property itself. We recommended that the Secretary of the Interior improve its training for staff responsible for verifying oil and gas production and to determine what policies are necessary to attract and retain qualified measurement staff at sufficient levels to ensure an effective production verification program.

- *Using categorical exclusions.* In September 2009, we reported that BLM's use of categorical exclusions—authorized under section 390 of the Energy Policy Act of 2005 to streamline the environmental analysis required under

the National Environmental Policy Act (NEPA)⁹ when approving certain oil and gas activities—had some benefits but raises numerous questions about how and when BLM should use these categorical exclusions.¹⁰ First, our analysis found that BLM used section 390 categorical exclusions to approve over one-quarter of its applications for drilling permits from fiscal years 2006 to 2008. While these categorical exclusions generally increased the efficiency of operations, some BLM field offices, such as those with recent environmental analyses already completed, were able to benefit more than others. Second, we found that BLM's use of section 390 categorical exclusions was frequently out of compliance with both the law and agency guidance and that a lack of clear guidance and oversight by BLM were contributing factors. We found several types of violations of the law, such as approving more than one oil or gas well under a single decision document and drilling a new well after statutory time frames had lapsed. We also found examples, in 85 percent of field offices reviewed, where officials did not comply with agency guidance, most often by failing to adequately justify the use of a categorical exclusion. While many of these violations and noncompliance were technical in nature, others were more significant and may have thwarted NEPA's twin aims of ensuring that BLM and the public are fully informed of environmental consequences of BLM's actions. Third, we found that a lack of clarity in both section 390 of the act and BLM's guidance has raised serious concerns. Specifically: (1) Fundamental questions about what section 390 categorical exclusions are and how they should be used have led to concerns that BLM may be using these categorical exclusions in too many—or too few—instances. For example, there is disagreement as to whether BLM must screen section 390 categorical exclusions for circumstances that would preclude their use or whether their use is mandatory. (2) Concerns about key concepts underlying the law's description of these categorical exclusions have arisen—specifically, whether section 390 categorical exclusions allow BLM to exceed development levels, such as number of wells to be drilled, analyzed in supporting NEPA documents without conducting further analysis. (3) Definitions of key criteria in the law and BLM guidance are vague or nonexistent, which led to varied interpretations among field offices and concerns about misuse and a lack of transparency. We recommended that BLM take steps to improve the implementation of section 390 of the act by ensuring compliance through more oversight,

⁹Pub. L. No. 91-190, 83 Stat. 852 (1970).

¹⁰GAO, *Energy Policy Act of 2005: Greater Clarity Needed to Address Concerns with Categorical Exclusions for Oil and Gas Development under Section 390 of the Act*, GAO-09-872 (Washington D.C.: Sept. 16, 2009).

standardizing decision documentation, and clarifying agency guidance. We also suggested that Congress may wish to consider amending the Energy Policy Act of 2005 to clarify and resolve some of the key issues identified in our report. Since the issuance of our report, BLM has taken steps to implement some of our recommendations.¹¹

- *Performing environmental monitoring.* In June 2005, we reported that four of the eight BLM field offices we visited had not developed any resource monitoring plans to help track management decisions and determine if desired outcomes had been achieved, including those related to mitigating the environmental impacts of oil and gas development.¹² We concluded that without these plans, land managers may be unable to determine the effectiveness of various mitigation measures attached to drilling permits and decide whether these measures need to be modified, strengthened, or eliminated. Officials offered several reasons for not having these plans, including increased workload due to an increased number of drilling permits, as well as budget constraints.
- *Conducting environmental analyses.* In March 2010, we found that MMS faces challenges in the Alaska Outer Continental Shelf (OCS) Region in conducting reviews of oil and gas development under NEPA, which requires MMS to evaluate the likely environmental effects of proposed actions, including oil and gas development.¹³ Although Interior policy directed its agencies to prepare handbooks providing guidance on how to implement NEPA, we found that MMS lacked such a handbook. The lack of comprehensive guidance in a handbook, combined with high staff turnover in recent years, left the process for meeting NEPA requirements ill defined for the analysts charged with developing NEPA documents. It also left unclear MMS's policy on what constitutes a significant environmental impact as well as its procedures for conducting and documenting NEPA-required analyses to address environmental and cultural sensitivities, which have often been the topic of litigation over

¹¹On May 17, 2010, BLM issued an Instruction Memorandum that provides amended instructions for using some of the section 390 categorical exclusions, requires review of the circumstances for use of any of section 390 categorical exclusions, seeks to ensure all actions approved through the use of a section 390 categorical exclusion are in conformance with the approved land-use plan, and provides some general guidelines for ensuring compliance with NEPA.

¹²GAO-05-418.

¹³GAO, *Offshore Oil and Gas Development: Additional Guidance Would Help Strengthen the Minerals Management Service's Assessment of Environmental Impacts in the North Aleutian Basin*, GAO-10-276, (Washington, D.C.: Mar. 8, 2010).

Alaskan offshore oil and gas development. We also found that the Alaska OCS Region shared information selectively, a practice that was inconsistent with agency policy, which directed that information, including proprietary data from industry, be shared with all staff involved in environmental reviews. According to regional MMS staff, this practice has hindered their ability to complete sound environmental analyses under NEPA. We recommended that the Secretary of the Interior develop and set a deadline for issuing a comprehensive NEPA handbook providing guidance on how to implement NEPA.

- *Responding to lease protests.* In preliminary results from our ongoing work on public challenges to BLM's federal oil and gas lease sale decisions in the four Mountain West states responsible for most onshore federal oil and gas development, we found the extent to which BLM made publicly available information related to public protests filed during the leasing process varied by state and was generally limited in scope. We also found that stakeholders—nongovernmental organizations representing environmental, recreational, and hunting interests that filed protests to BLM lease offerings—wanted additional time to participate in the leasing process and more information from BLM about its leasing decisions. In May 2010, the Secretary of the Interior announced several agencywide leasing reforms that are to take place at BLM, some of which may address concerns raised by these stakeholder groups. For instance, BLM state offices are to provide an additional public review and comment opportunity during the leasing process. They are also required to post on their Web sites their responses to letters filed in protest of state office decisions to offer specific parcels of land for oil and gas development.

Interior May be Missing Opportunities to Fundamentally Shift the Terms of Federal Oil and Gas Leases to Increase Revenues

In our past work, we have identified several areas where Interior may be missing opportunities to increase revenue by fundamentally shifting the terms of federal oil and gas leases. As we reported in September 2008, (1) federal oil and gas leasing terms currently result in the U.S. government receiving one of the smallest shares of oil and gas revenue when compared to other countries and (2) Interior's inflexible royalty rate structure has put pressure on Interior and Congress to periodically change royalty rates.¹⁴ We also reported that Interior is doing far less than some states to encourage development of leases.¹⁵ Specifically:

- The U.S. government receives one of the lowest shares of revenue for oil and gas resources compared with other countries and resource owners. For example, we reported the results of a private study in 2007 showing that the revenue share the U.S. government collects on oil and gas produced in the Gulf of Mexico ranked 93rd lowest of the 104 revenue collection regimes around the world covered by the study. Further, the study showed that some countries recently increased their shares of revenues as oil and gas prices rose and, as a result, will collect between an estimated \$118 billion and \$400 billion, depending on future oil and gas prices. However, despite significant changes in the oil and gas industry over the past several decades, we found that Interior has not systematically re-examined how the U.S. government is compensated for extraction of oil and gas for over 25 years.
- Since 1980—in part due to Interior's inflexible royalty rate structure—Congress and Interior have been pressured, with varying success—to periodically adjust royalty rates to respond to current market conditions. For example, in 1980, a time when oil prices were high compared to today's prices, in inflation-adjusted terms, Congress passed a windfall profit tax, which it later repealed in 1988 after oil prices fell significantly from their 1980 level. Later, in November 1995—during a period with relatively low oil and gas prices—the federal government enacted the Outer Continental Shelf Deep Water Royalty Relief Act (DWRRA) which provided for “royalty relief,” the suspension of royalties on certain volumes of initial production, for certain leases in the Gulf of Mexico in depths greater than 200 meters during the 5 years after passage of the act—1996 through 2000. For leases issued during these 5 years, litigation established that MMS lacked the authority under the act to impose

¹⁴GAO, *Oil and Gas Royalties: The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment*, GAO-08-691 (Washington, D.C.: Sept. 3, 2008).

¹⁵GAO-09-74.

thresholds. As a result, companies are now receiving royalty relief even though prices are much higher than at the time the DWRRA was enacted. In June 2008, we estimated that future foregone royalties from all the DWRRA leases issued from 1996 through 2000 could range widely—from a low of about \$21 billion to a high of \$53 billion.¹⁶ Finally, in 2007, the Secretary of the Interior twice increased the royalty rate for future Gulf of Mexico leases. In January, the rate for deep-water leases was raised to 16-2/3 percent. Later, in October, the rate for all future leases in the Gulf, including those issued in 2008, was raised to 18-3/4 percent. Interior estimated these actions will increase federal oil and gas revenues by \$8.8 billion over the next 30 years. The January 2007 increase applied only to deep-water Gulf of Mexico leases; the October 2007 increase applied to all water depths in the Gulf of Mexico.

We concluded that these royalty rate increases appeared to be a response by Interior to the high prices of oil and gas that have led to record industry profits and raised questions about whether the existing federal oil and gas fiscal system gives the public an appropriate share of revenues from oil and gas produced on federal lands and waters. Furthermore, the royalty rate increases do not address industry profits from existing leases. Existing leases, with lower royalty rates, will likely remain highly profitable as long as they produce oil and gas or until oil and gas prices fall significantly. In addition, in choosing to increase royalty rates, Interior did not evaluate the entire oil and gas fiscal system to determine whether these increases were sufficient to balance investment attractiveness and appropriate returns to the federal government for oil and gas resources. On the other hand, according to Interior, it did consider factors such as industry costs for outer continental shelf exploration and development, tax rates, rental rates, and expected bonus bids. Further, because the new royalty rates are not flexible with respect to oil and gas prices, Interior and Congress may again be under pressure from industry or the public to further change the royalty rates if and when oil and gas prices either fall or rise. Finally, these past royalty changes only affect Gulf of Mexico leases and do not address onshore leases. To address weaknesses in Interior's royalty program, we suggested that Congress may wish to consider directing the Secretary of the Interior to

¹⁶Oil and Gas Royalties: *Litigation over Royalty Relief Could Cost the Federal Government Billions of Dollars*, GAO-08-792R, (Washington, D.C.: June 5, 2008).

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- convene an independent panel to perform a comprehensive review of the federal oil and gas fiscal system¹⁷ and
 - direct MMS and other relevant agencies within Interior to establish procedures for periodically collecting data and information and conducting analyses to determine how the federal government take and the attractiveness for oil and gas investors in each federal oil and gas region compare to those of other resource owners and report this information to Congress.¹⁸

Interior officials recently reported that the department is currently undertaking an examination of this issue.

- OEMM and BLM vary in the extent to which they encourage development of federal leases, and both agencies do less than some states and private landowners to encourage lease development. As a result, we concluded that Interior may be missing opportunities to increase domestic oil and gas production and revenues. Specifically, in the Gulf of Mexico, OEMM varies the lease length in accordance with the depth of water over which the lease is situated. For example, leases issued in shallow water depths typically have terms of 5 years, whereas leases in the deepest areas of the Gulf of Mexico have 10-year primary terms. This is because shallower water tends to be nearer to shore and to be adjacent to already developed areas with pipeline infrastructure in place, while deeper water tends to be further out, have less available infrastructure to link to, and generally present greater challenges associated with the depth of the wells themselves. In contrast to OEMM's depth-based lease terms, BLM issues leases with 10-year primary terms, regardless of whether the lease is adjacent to a fully developed field with the necessary pipeline infrastructure to carry the product to market or in a remote location with no surrounding infrastructure. Furthermore, BLM also uses 10-year primary terms in the National Petroleum Reserve-Alaska, where it is significantly more difficult to develop oil fields because of factors including the harsh environment.

We also examined selected states and private landowners that lease land for oil and gas development and found that some do more than Interior to encourage lease development. For example, to provide a greater financial incentive to develop leased land, the state of Texas allows lessees to pay a

¹⁷GAO-08-691.

¹⁸GAO-09-74.

20 percent royalty rate for the life of the lease if production occurs in the first 2 years of the lease, as compared to 25 percent if production occurs after the 4th year. In addition, we found that some states and private landowners also do more to structure leases to reflect the likelihood of finding oil and gas. For example, New Mexico issues shorter leases and can require lessees to pay higher royalties for properties that are in or near known producing areas, and allow longer leases and lower royalty rates in areas believed to be more speculative. Officials from one private landowners' association told us that they too are using shorter lease terms, ranging from 6 months to 3 years, to ensure that lessees are diligent in developing any potential oil and gas resources on their land. Louisiana and Texas also issue 3-year onshore leases. While the existence of lease terms that appear to encourage faster development of some oil and gas leases suggests a potential for the federal government to take steps, it is important to note that it can take several years to complete the required environmental analyses needed in order to receive approval to begin drilling on federal lands. To address what we believe are key weaknesses in Interior's royalty program while acknowledging potential differences between federal, state, and private leases, we recommended that the Secretary of the Interior develop a strategy to evaluate options to encourage faster development of oil and gas leases on federal lands, including determining whether methods to differentiate between leases according to the likelihood of finding economic quantities of oil or gas and whether some of the other methods states use could effectively be employed, either across all federal leases or in a targeted fashion. In so doing, Interior should identify any statutory or other obstacles to using such methods and report the findings to Congress. Interior officials recently reported that the department is currently undertaking an examination of this issue.

Weaknesses Exist in Interior's IT Systems for Managing Oil and Gas Royalty and Production Information

Our past work has identified shortcomings in Interior's IT systems for managing oil and gas royalty and production information. In September 2008, we reported that Interior's oil and gas IT systems did not include several key functionalities, including (1) limiting a company's ability to make adjustments to self-reported data after an audit had occurred and (2) identifying missing royalty reports.¹⁹

- *MMS's ability to maintain the accuracy of production and royalty data has been hampered because companies can make adjustments to their previously entered data without prior MMS approval.* Companies may legally make changes to both royalty and production data in MMS's royalty IT system for up to 6 years after the initial reporting month, and these changes may necessitate changes in the royalty payment. However, at the time of our review, MMS's royalty IT system allowed companies to make adjustments to their data beyond the allowed 6-year time frame. As a result of the companies' ability to make these retroactive changes, within or outside of the 6-year time frame, the production data and required royalty payments could change over time—even after MMS completes an audit—complicating efforts by agency officials to reconcile production data and ensure that the proper royalties were paid.
- *MMS's royalty IT system's inability to automatically detect instances when a royalty payor fails to submit the required royalty report in a timely manner.* Because MMS's royalty system did not detect instances when a payor failed to submit a payment in a timely manner, we found that cases in which a company stops filing royalty reports and stops paying royalties may not be detected until more than 2 years after the initial reporting date, when MMS's royalty IT system completes a reconciliation of volumes reported on the production reports with the volumes on their associated royalty reports. Therefore, it was possible under MMS's strategy that the royalty IT system would not identify instances in which a payor stopped reporting until several years after the report is due. This created an unnecessary risk that MMS was not collecting accurate royalties in a timely manner.

To address these weaknesses, we recommended that the Secretary of the Interior, among other things

- finalize the adjustment line monitoring specifications for modifying its royalty IT system and fully implement the IT system so that MMS can

¹⁹GAO-08-893R.

monitor adjustments made outside the 6-year time frame, and ensure that any adjustments made to production and royalty data after compliance work has been completed are reviewed by appropriate staff, and

- develop processes and procedures by which MMS can automatically identify when an expected royalty report has not been filed in a timely manner and contact the company to ensure it is complying with both applicable laws and agency policies.

Since September 2008, MMS has made improvements in its IT systems for identifying missing royalty reports, but it is too early to assess their effectiveness.

Additionally, in July 2009, we reported that MMS's IT system lacked sufficient controls to ensure that royalty payment data were accurate.²⁰ While much of the royalty data we examined from fiscal years 2006 and 2007 were reasonable, we found significant instances where data were missing or appeared erroneous. For example, we examined gas leases in the Gulf of Mexico and found that, about 5.5 percent of the time, lease operators reported production, but royalty payors did not submit the corresponding royalty reports, potentially resulting in \$117 million in uncollected royalties. We also found that a small percentage of royalty payors reported negative royalty values, something that should not happen, potentially costing \$41 million in uncollected royalties. In addition, royalty payors claimed gas processing allowances 2.3 percent of the time for unprocessed gas, potentially resulting in \$2 million in uncollected royalties. Furthermore, we found significant instances where royalty payor-provided data on royalties paid and the volume and or the value of the oil and gas produced appeared erroneous because they were outside the expected ranges. To address control weaknesses, we made a number of recommendations to MMS intended to improve the quality of royalty data by improving its IT systems' edit checks, among other things.

Moreover, in our March 2010 report, we found that Interior's longstanding efforts to implement two key IT systems for facilitating verification of produced volumes of oil and gas from federal leases were behind schedule and years from widespread adoption.²¹ For example, Interior's efforts to

²⁰GAO, *Mineral Revenues: MMS Could Do More to Improve the Accuracy of Key Data Used to Collect and Verify Oil and Gas Royalties*, GAO-09-549 (Washington, D.C.: July 15, 2009).

²¹GAO-10-313.

provide its inspection staff with mobile computing capabilities for use in the field are moving slowly and are years from full implementation. Interior inspectors continue to rely on documenting inspection results on paper, and later reentering these results into Interior databases. Specifically, BLM and OEMM are independently developing the capacity for inspection staff to (1) electronically document inspection results and (2) access reference documents, such as American Petroleum Institute standards and measurement regulations, via laptops while in the field. BLM initiated work on developing this capacity in 2001, whereas OEMM is now in the preliminary planning stages of a similar effort. According to Interior officials, widespread implementation of a mobile computing tool to assist with production verification and other types of inspections, potentially including drilling and safety, is still several years away. Interior officials said having such a tool would allow inspection staff to not only easily reference technical documents while conducting inspections to verify compliance with regulations but also to document the results of those inspections while in the field and subsequently upload them to Interior databases. Similarly, BLM's efforts to use gas production data acquired remotely from gas wells through its Remote Data Acquisition for Well Production (RDWP) program to facilitate production inspections have shown few results after 5 years of funding and at least \$1.5 million spent. At the time of our review, we found that BLM was only receiving production data from approximately 50 wells via this program, and it had yet to use the data to complete a production inspection, making it difficult to assess its utility. To address these shortcomings, we made a number of recommendations to the Secretary including that BLM reassess its current commitment to the RDWP program in light of other commercially available software and to implement a mobile computing solution for the onshore inspection and enforcement staff and to coordinate with the offshore inspection and enforcement staff as appropriate.

In conclusion, over the past several years, we and others have found Interior to be in need of fundamental reform. This past work has found weaknesses across a wide range of Interior's oversight of onshore and offshore oil and gas development. Secretary Salazar has taken notable steps to begin comprehensive evaluations of leasing rules and practices as well as the amount and ways in which the federal government collects revenues. Interior is also currently implementing a number of our recommendations aimed at making improvements within the existing organization of Interior's functions.

As the Secretary and Congress consider what fundamental changes are needed in how Interior structures its oversight of oil and gas programs, we

believe that our and others' past work provides a strong rationale for broad reform of the agency's oil and gas oversight functions—at MMS to be sure, but also across other parts of Interior, including those responsible for oversight of onshore areas. If steps are not taken to ensure effective independent oversight, we are concerned about the agency's ability to manage the nation's oil and gas resources, ensure the safe operation of onshore and offshore leases, provide adequate environmental protection, and provide reasonable assurance that the U.S. government is collecting the revenue to which it is entitled. Reorganization and fundamental change can be very difficult for an organization. We believe that regardless of how MMS is ultimately reorganized, Interior's top leadership must also address the wide range of outstanding recommendations for any reorganization effort to be effective.

Mr. Chairman, this completes my prepared statement. I would be happy to respond to any questions that you or other Members of the Committee may have at this time.

**GAO Contact and
Staff
Acknowledgement**

For further information on this statement, please contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov. Contact points for our Congressional Relations and Public Affairs offices may be found on the last page of this statement. Other staff that made key contributions to this testimony include, Ron Belak, Glenn C. Fischer, Jon Ludwigson, Ben Shouse, Kiki Theodoropoulos, and Barbara Timmerman.

Appendix I: Data on Turnover of Key Department of the Interior Staff

Table 1: Total Turnover Rates for Bureau of Land Management (BLM) Petroleum Engineers, Fiscal Years 2004–2008

Field office	Turnover percentage FY2004-08	Total number of employees in position, FY2004-08	Total employees leaving position, FY2004-08	Total employees leaving position, FY2004-08 (of the number employed in that fiscal year)					Average number of employees in position, FY2004-08
				2004	2005	2006	2007	2008	
Buffalo	80	5	4	1 of 3	1 of 2	1 of 2	0 of 2	1 of 2	2
Carlsbad	75	4	3	1 of 1	0 of 0	1 of 1	0 of 3	1 of 3	2
Farmington	50	8	4	1 of 6	0 of 6	2 of 6	0 of 5	1 of 5	6
Glenwood Springs	50	2	1	0 of 0	0 of 0	0 of 1	0 of 1	1 of 1	1
White River	100	2	2	0 of 1	1 of 1	0 of 1	0 of 1	1 of 1	1
Pinedale	100	2	2	0 of 1	0 of 1	0 of 1	1 of 2	1 of 1	1
Roswell	80	5	4	0 of 5	0 of 5	2 of 5	0 of 3	2 of 3	4
Vernal	33	6	2	0 of 2	2 of 3	0 of 2	0 of 2	0 of 4	3

Source: GAO analysis of Interior data.

Note: We calculated the total turnover rate by (1) counting the number of individual petroleum engineers who separated from BLM, plus those who changed locations, plus those who changed from the petroleum engineer position to another position within that office; (2) dividing that by the number of individual petroleum engineers employed in each BLM office from fiscal years 2004 through 2006. For those individuals who changed jobs or locations, we did not determine whether they changed jobs or locations because of a management decision, as opposed to the employees' own decision.

Table 2: Total Turnover Rates for BLM Petroleum Engineer Technicians, Fiscal Years 2004–2008

Field office	Turnover percentage FY2004-08	Total number of employees in position, FY2004-08	Total employees leaving position, FY2004-08	Total employees leaving position, FY2004-08 (of the number employed in that fiscal year)					Average number of employees in position, FY2004-08
				2004	2005	2006	2007	2008	
Buffalo	30	20	6	1 of 12	0 of 12	2 of 13	2 of 14	1 of 15	13
Carlsbad	47	19	9	1 of 10	1 of 9	4 of 9	1 of 10	2 of 12	10
Farmington	54	37	20	1 of 22	3 of 25	7 of 24	3 of 21	6 of 22	23
Glenwood Springs	67	3	2	0 of 0	0 of 0	0 of 0	0 of 2	2 of 3	3
Hobbs	22	9	2	2 of 8	0 of 6	0 of 6	0 of 6	0 of 6	6
White River	55	11	6	1 of 2	2 of 3	0 of 1	1 of 2	2 of 7	3
Pinedale	83	12	10	1 of 2	1 of 6	2 of 6	3 of 5	3 of 5	5
Roswell	57	7	4	0 of 4	0 of 4	1 of 4	1 of 4	2 of 5	4
Vernal	17	18	3	1 of 13	1 of 14	1 of 13	0 of 15	0 of 15	14

Source: GAO analysis of Interior data.

Note: We calculated the total turnover rate by (1) counting the number of individual petroleum engineer technicians who separated from BLM, plus those who changed locations, plus those who changed from the petroleum engineer technician position to another position within that office, (2) dividing that by the number of individual petroleum engineer technicians employed in each BLM office from fiscal years 2004 through 2008. For those individuals who changed jobs or locations, we did not determine whether they changed jobs or locations because of a management decision, as opposed to the employees' own decision.

Table 3: Total Turnover Rates for BLM Production Accountability Technicians, Fiscal Years 2004–2008

Field office	Turnover percentage FY2004-08	Total number of employees in position, FY2004-08	Total employees leaving position, FY2004-08	Total employees leaving position, FY2004-08 (of the number employed in that fiscal year)					Average number of employees in position, FY2004-08
				2004	2005	2006	2007	2008	
Buffalo	75	8	6	0 of 2	0 of 2	0 of 2	3 of 4	3 of 5	3
Carlsbad	67	3	2	1 of 1	0 of 0	0 of 0	0 of 0	1 of 2	2
Farrington	63	8	5	0 of 3	1 of 4	0 of 3	2 of 5	2 of 5	4
Glenwood Springs	0	1	0	0 of 0	0 of 0	0 of 0	0 of 1	0 of 1	1
Hobbs	50	4	2	0 of 1	0 of 2	0 of 2	2 of 4	0 of 2	2
White River	50	2	1	0 of 0	0 of 0	0 of 0	1 of 2	0 of 1	2
Pinedale	100	3	3	0 of 0	0 of 1	0 of 1	1 of 1	2 of 2	1
Roswell	100	1	1	1 of 1	0 of 0	0 of 0	0 of 0	0 of 0	1
Vernal	50	2	1	1 of 1	0 of 1	0 of 1	0 of 2	0 of 2	1

Source: GAO analysis of Interior data.

Note: We calculated the total turnover rate by (1) counting the number of individual production accountability technicians who separated from BLM, plus those who changed locations, plus those who changed from the production accountability technicians to another position within that office; (2) dividing that by the number of individual production accountability technicians employed in each BLM office from fiscal years 2004 through 2008. For those individuals who changed jobs or locations, we did not determine whether they changed jobs or locations because of a management decision, as opposed to the employees' own decision.

Table 4: Total Turnover Rates for Offshore Energy and Minerals Management (OEMM) Petroleum Engineers who Approve Measurement, Fiscal Years 2004–2008

Regional office	Turnover percentage FY2004-08	Total number of employees in position, FY2004-08	Total employees leaving position, FY2004-08	Total employees leaving position, FY2004-08 (of the number employed in that fiscal year)					Average number of employees in position, FY2004-08
				2004	2005	2006	2007	2008	
Gulf of Mexico region	30	10	3	0 of 8	1 of 7	2 of 6	0 of 7	0 of 7	7
Pacific region	0	1	0	0 of 1	0 of 1	0 of 1	0 of 1	0 of 1	1

Source: GAO analysis of Interior data.

Note: We calculated the total turnover rate by (1) counting the number of individual petroleum engineers who separated from OEMM, plus those who changed locations, plus those who changed from the petroleum engineers to another position within that office; (2) dividing that by the number of individual petroleum engineers employed in each OEMM office from fiscal years 2004 through 2008. For those individuals who changed jobs or locations, we did not determine whether they changed jobs or locations because of a management decision, as opposed to the employees' own decision.

Table 5: Total Turnover Rates for OEMM Inspectors, Fiscal Years 2004–2008

District office	Turnover percentage FY2004-08	Total number of employees in position, FY2004-08	Total employees leaving position, FY2004-08	Total employees leaving position, FY2004-08 (of the number employed in that fiscal year)					Average number of employees in position, FY2004-08
				2004	2005	2006	2007	2008	
New Orleans	42	19	8	1 of 13	0 of 13	2 of 13	3 of 14	2 of 13	13
Lake Jackson	27	11	3	0 of 9	0 of 11	2 of 11	0 of 9	1 of 9	10
Lake Charles	41	17	7	2 of 15	0 of 13	0 of 13	1 of 13	4 of 14	14
California	44	9	4	0 of 7	2 of 9	0 of 7	1 of 7	1 of 6	7

Source: GAO analysis of Interior data.

Note: We calculated the total turnover rate by (1) counting the number of individual inspectors who separated from OEMM, plus those who changed locations, plus those who changed from the inspectors to another position within that office; (2) dividing that by the number of individual inspectors employed in each OEMM office from fiscal years 2004 through 2008. For those individuals who changed jobs or locations, we did not determine whether they changed jobs or locations because of a management decision, as opposed to the employees' own decision.

Appendix II: Related Prior GAO Reports

Oil and Gas Management: *Key Elements to Consider for Providing Assurance of Effective Independent Oversight*, GAO-10-852T, (Washington, D.C.: June 17, 2010).

Oil and Gas Management: *Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volumes*, GAO-10-313, (Washington, D.C.: Mar. 15, 2010).

Offshore Oil and Gas Development: *Additional Guidance Would Help Strengthen the Minerals Management Service's Assessment of Environmental Impacts in the North Aleutian Basin*, GAO-10-276, (Washington, D.C.: Mar. 8, 2010).

Energy Policy Act of 2005: *Greater Clarity Needed to Address Concerns with Categorical Exclusions for Oil and Gas Development under Section 390 of the Act*, GAO-09-872, (Washington, D.C.: Sept. 26, 2009).

Federal Oil and Gas Management: *Opportunities Exist to Improve Oversight*, GAO-09-1014T, (Washington, D.C.: Sept. 16, 2009).

Royalty-In-Kind Program: *MMS Does Not Provide Reasonable Assurance It Receives Its Share of Gas, Resulting in Millions in Forgone Revenue*, GAO-09-744, (Washington, D.C.: Aug. 14, 2009).

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Oil and Gas Management: *Federal Oil and Gas Resource Management and Revenue Collection in Need of Stronger Oversight and Comprehensive Reassessment*, GAO-09-556T, (Washington, D.C.: Apr. 2, 2009).

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Department of the Interior, Minerals Management Service: Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision, GAO-09-102R, (Washington, D.C.: Oct. 21, 2008).

Oil and Gas Leasing: Interior Could Do More to Encourage Diligent Development, GAO-09-74, (Washington, D.C.: Oct. 3, 2008).

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Mineral Revenues: Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk, GAO-08-893R, (Washington, D.C.: Sept. 12, 2008).

Oil and Gas Royalties: The Federal System for Collecting Oil and Gas Revenues Needs Comprehensive Reassessment, GAO-08-691, (Washington, D.C.: Sept. 3, 2008).

Oil and Gas Royalties: Litigation over Royalty Relief Could Cost the Federal Government Billions of Dollars, GAO-08-792R, (Washington, D.C.: June 5, 2008).

Strategic Petroleum Reserve: Improving the Cost-Effectiveness of Filling the Reserve, GAO-08-726T, (Washington, D.C.: Apr. 24, 2008).

Mineral Revenues: Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk, GAO-08-560T, (Washington, D.C.: Mar. 11, 2008).

Strategic Petroleum Reserve: Options to Improve the Cost-Effectiveness of Filling the Reserve, GAO-08-521T, (Washington, D.C.: Feb. 26, 2008).

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Production Levels Make Precise Estimates Impossible at this Time, GAO-07-590R, (Washington, D.C.: Apr. 12, 2007).

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Strategic Petroleum Reserve: *Available Oil Can Provide Significant Benefits, but Many Factors Should Influence Future Decisions about Fill, Use, and Expansion*, GAO-06-872, (Washington, D.C.: Aug. 24, 2006).

Royalty Revenues: *Total Revenues Have Not Increased at the Same Pace as Rising Oil and Natural Gas Prices due to Decreasing Production Sold*, GAO-06-786R, (Washington, D.C.: June 21, 2006).

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Mineral Revenues: *Cost and Revenue Information Needed to Compare Different Approaches for Collecting Federal Oil and Gas Royalties*, GAO-04-448, (Washington, D.C.: Apr. 16, 2004).

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Chairman TOWNS. Thank you very much for your statement.
Ms. Kendall.

STATEMENT OF MARY L. KENDALL

Ms. KENDALL. Mr. Chairman, thank you for the opportunity to testify today about the proposed reorganization of the Minerals Management Service. As you well know, we have identified in MMS programmatic weaknesses and some egregious misconduct.

In the report released in May of this year, we found more of the same. Although the misconduct is considerably less salacious than that in our report issued in 2008 about misconduct in the Royalty-in-Kind program, both highlight a challenge that the successor agencies to MMS face, that is, the potential conflicts of a regulatory body that is inherently tied to the industry it regulates.

I am concerned about the environment in which these Federal employees operate and the ease with which they move between industry and Government. I am also concerned about the conduct of industry representatives. That they should think it permissible to fraternize and provide Federal Government employees with gifts after all the media coverage about this practice is somewhat hard to fathom, but may be informed by the environment as well.

While not included in our May 2010 report, we discovered that the individuals involved in the fraternizing and gift exchange, both Government and industry, have often known one another since childhood. Their relationships were formed well before they joined industry or Government. MMS has relied upon the ability to hire employees with industry experience.

With the announcement that MMS will be reorganized, the Department is poised to reconsider some of our recommendations for programmatic improvement. These must, however, be bolstered with an emphasis on ethics to include controls and strong oversight.

Let me focus on the last element of strong oversight. In the fall of 2008, Inspector General Earl Devaney testified before the House Committee on Natural Resources, which is a correction to my written testimony, describing what was then a fledgling office within the Office of Inspector General, now called our Royalty Initiatives Group. Since that time, we have also established an investigative unit dedicated to energy issues and have expanded our oversight coverage beyond MMS to the energy and minerals programs at the Bureau of Land Management.

Until recently, these two offices have been dedicated to royalties-related oversight and improvements. Since the events of April 20th, however, it has become increasingly clear that we must expand their scope to provide oversight of the operational, environmental, safety, inspection, and enforcement aspects of energy production on Federal lands and in the Outer Continental Shelf.

We are also hopeful that the newly created Investigation and Review Unit will provide an additional element of oversight to the successor MMS agencies. The OIG is, to a significant degree, reactive in our investigative efforts. We hope that the IRU will provide continuous compliance review of the program offices to identify potential weaknesses before they become serious problems. We also rely on the bureaus to conduct internal investigations and reviews

of allegations which simply do not rise to the level of OIG attention. The IRU will be a dedicated point of contact to which we can refer such matters.

Presently, the Office of Inspector General is well into a multi-pronged effort to address multiple areas of concern relative to offshore drilling. We have dedicated most of our Central Region staff to this undertaking. We are also participating in the investigations being led by the Department of Justice into the events that led to the disaster on the Deepwater Horizon and the catastrophic events following. In addition to these efforts, we will continue building our oversight capacity beyond royalties, into the areas of safety and oversight of drilling operations both on- and offshore.

The ongoing OIG efforts regarding OCS safety and environmental concerns are also addressing a two-pronged request from Secretary Salazar. First, to the Outer Continental Shelf Safety Oversight Board, a body created by secretarial order on April 30th of this year, the Secretary requested that the Board make recommendations to improve and strengthen the Department's overall management regulation and oversight of OCS operations.

Second, the Secretary asked the OIG to address specific deficiencies in MMS policies or practices that need to be addressed to ensure that operations in the OCS are conducted safely, protective of human life, health, and the environment. Since these two requests were so similar in scope, the OIG effort will respond twofold to these requests by the Secretary. While we will provide the Safety Oversight Board our findings and recommendations by mid-August, we have already found several areas that call for further review and we will continue to pursue these to conclusion.

Mr. Chairman, that concludes my prepared testimony today and I would be happy to answer any questions.

[The prepared statement of Ms. Kendall follows:]

TESTIMONY OF MARY L. KENDALL
ACTING INSPECTOR GENERAL
FOR THE DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
JULY 22, 2010

Mr. Chairman and members of the Committee, I want to thank you for the opportunity to testify today about the proposed reorganization of the Minerals Management Service (MMS) at the Department of the Interior (Department or DOI).

As you well know, we have identified in MMS programmatic weaknesses and some egregious misconduct, the latter of which has received considerable coverage in the press and scrutiny by a number of Congressional committees.

In the report released in May of this year, we found more of the same. Although the misconduct is considerably less salacious than that in our report issued in 2008 about misconduct in the Royalty in Kind program, both highlight a challenge that the successor agencies to MMS face – that is, the potential conflicts of a regulatory body that is inherently tied to the industry that it regulates.

I am concerned about the environment in which these federal employees operate, and the ease with which they move between industry and government. I am also concerned about the conduct of industry representatives, something we also identified in our 2008 report; that they should think it permissible to fraternize and provide Federal Government employees with gifts, after all the media coverage about this practice, is somewhat hard to fathom, but may be informed by the environment, as well. While not included in our May 2010 report, we discovered that the individuals involved in the fraternizing and gift exchange – both government and industry – have often known one another since childhood. Their relationships were formed well before they joined industry or government. MMS has relied upon the ability to hire

employees with industry experience, and in my experience in this arena over the past three months, the MMS employees I have met who have come from industry are highly professional, extremely knowledgeable, and passionate about the job they do.

With the announcement that MMS will be split into two distinct bureaus under the Assistant Secretary for Land and Minerals Management and a third independent office for the collection of royalties under the Assistant Secretary for Policy, Management and Budget, the Department is poised to reconsider some of our recommendations for programmatic improvements. These must, however, be bolstered with an emphasis on ethics, to include controls and strong oversight.

Let me focus on the last element of strong oversight. In the fall of 2008, Inspector General Earl Devaney testified before this committee, describing what was then a fledgling office within the OIG, now called our Royalty Initiatives Group (RIG). Since that time, we have also established an investigative unit dedicated to energy issues, and have expanded our oversight coverage beyond MMS to the energy and minerals programs at the Bureau of Land Management. Until recently, these two offices have been dedicated to royalties-related oversight and improvements. Since the events of April 20th, it has become increasingly clear that we must expand their scope to provide oversight of the operational, environmental, safety, inspection and enforcement aspects of energy production on federal lands and in the OCS.

We are also hopeful that the newly-created Investigation and Review Unit (IRU) will provide an additional element of oversight to the successor MMS agencies. The OIG is, to a significant degree, reactive in our investigative efforts. We hope that the IRU will provide continuous compliance review of the program offices to identify potential weaknesses before they become serious problems. We also rely on the bureaus to conduct internal investigations

and reviews of allegations which simply do not rise to the level of OIG attention. The IRU will be a dedicated point of contact to which we can refer such matters.

Presently, the OIG is well into a multi-pronged effort to address multiple areas of concern relative to offshore drilling. We have dedicated most of our Central Region staff to this undertaking. We are also participating in the investigations being led by the Department of Justice into the events that led to the disaster on the *Deepwater Horizon* and the catastrophic events following. In addition to these efforts, we will continue building our oversight capacity beyond royalties, into the areas of safety and oversight of drilling operations, both off and onshore.

The ongoing OIG efforts regarding OCS safety and environmental concerns are also addressing a two-pronged request from Secretary Salazar. First, to the Outer Continental Shelf Safety Oversight Board, a body created by Secretarial order on April 30 of this year, to provide oversight, support and resources to MMS relative to its Joint Investigation with the Coast Guard into the *Deepwater Horizon* catastrophe, the Secretary requested that the Board make recommendations to improve and strengthen the Department's overall management, regulation, and oversight of OCS operations. Second, the Secretary asked the OIG to address specific deficiencies in MMS policies or practices that need to be addressed to ensure that operations in the OCS are conducted safely, protective of human life, health and the environment. Since these two requests were so similar in scope, the OIG effort will respond two-fold to these requests by the Secretary. While we will provide the Safety Oversight Board our findings and recommendations by mid-August, we have already found several areas that call for further review, and we will continue to pursue these to conclusion.

Mr. Chairman, this concludes my prepared testimony today. I would be happy to answer any questions that you or other members have.

Chairman TOWNS. Thank you very much. Appreciate your testimony.

Ms. Brian.

STATEMENT OF DANIELLE BRIAN

Ms. BRIAN. Thank you, Chairman, for inviting me to testify. I also want to thank Ranking Member Issa and Representative Maloney for their unrelenting oversight of this troubled agency. We have been working with Representative Maloney for about 15 years on this issue.

MMS was created in 1982 because royalty collections had been buried inside the USGS. Yet, the oversight functions again were buried in MMS, beneath their other mission of promoting oil and gas production. If there is any small silver lining to the Gulf disaster, it is that it has called attention to long-needed reforms. And while the reorganization is a good step, we have real concerns about its implementation and whether those who are planning it are really consulting the appropriate stakeholders.

We also have to fix the frequency with which officials have gone through the revolving doors, as has been discussed many times this morning, but I really think the egregious example of the two recent MMS directors going to become presidents of an offshore drillers association needs a little bit further discussion, because the MMS director was joining a trade association whose explicit mission was to secure "a favorable regulatory environment" for offshore oil and gas drillers; yet, they were the very regulators, when they had been working in the public sector. So you have to ask whose interests were they actually serving when they were the regulator.

There have been several major improvements to ethics at Interior, and further steps to slow the revolving door are in legislation passed by both the Senate Energy and House Natural Resources Committees. We do hope the House's stronger provision is soon passed into law.

The second problem is that MMS has always been dependent on industry for technical knowledge and allowed industry to operate largely on what the GAO described as an honor system. Representative Maloney's legislation will significantly help MMS gain back some of its upper hand.

When it comes to inspectors, it is hard for Interior to attract and keep the talent it needs when inspectors are starting as a GS-7, and this is a very important point. There is so much emphasis on the revolving door, which is very important for us to be focusing on, but if we only look at that and not on how we are compensating those who are working as inspectors, I think it is a huge problem. POGO has learned of one inspector, for example, who, after 3 years on the job, has still had no training.

So we need to be investing in these inspectors. The last inspection conducted on the Deepwater Horizon was performed by an inspector who was still in training. The Government must establish Federal training academies, like those for mine safety and the FBI, to ensure that inspectors, both on- and offshore, are receiving regular training not paid for or run by industry.

So changing the culture requires more than reorganization and it requires more than new leadership; they will need to dig deep

into the management of the agency. And no matter what reforms are put in place, they can only be effective with increased transparency about MMS's operations. Despite the administration's Open Government Directive, which has focused on each agency providing new information to the public, Interior, for example, has only focused on disclosures of things like the Nation's national treasures, which were already online anyway, rather than information about oil and gas leases.

The kind of information we all need to know coming from Interior are the kinds of things that policymakers would learn if we actually started investigating and talking to some of the people online. For example, even after the Deepwater Horizon explosion, inspector concerns are still being ignored. For example, an MMS inspector discovered that a deepwater production facility was operating days after he had issued a cease and desist order because he believed it was in dangerous noncompliance. When he contacted his supervisor for approval to issue another order, his supervisor overruled him. And this is in the wake of the Gulf crisis.

We have learned that this incident is not unique, but has become a common practice where inspectors feel they need to ask permission from their supervisors because they are more likely to get in trouble for issuing an incident of noncompliance than for not issuing one. This is where the real work will have to happen, changing that culture.

MMS inspectors are just beginning to speak out, despite the fact that they have no real whistleblower protections. And I can tell you with experience that MMS has been a hostile place for whistleblowers. If there is another takeaway from the disaster, it is that whistleblower protections for Federal employees are urgently needed and would be offered through the legislation sponsored by Representative Van Hollen and Platts, the Whistleblower Protection Enhancement Act.

Ultimately, MMS must reorganize its priorities to serve taxpayers and protect their resources, and not industry. As an important first step, Congress must enact H.R. 3534 and S. 3516.

Thank you again for your oversight of MMS, and I look forward to answering your questions.

[The prepared statement of Ms. Brian follows:]

Exposing Corruption Exploring Solutions
Project On Government Oversight

Testimony of
 Danielle Brian, Executive Director,
 Project On Government Oversight
 Before the
 House Committee on Oversight and Government Reform
 on
 Examination of The Department of the Interior's
 Oversight of Offshore Oil Drilling

July 22, 2010

I would like to thank Chairman Edolphus Towns for inviting me to testify today about the Department of the Interior's oversight of offshore drilling and the Minerals Management Service (MMS). I also want to thank Ranking Member Darrell Issa and Representative Carolyn Maloney for their unrelenting oversight of this troubled agency—for Representative Maloney, she has been pursuing accountability for this agency since 1996.¹ I would also like to thank the House Natural Resources Committee and the Senate Energy and Natural Resources Committee for the work they've done producing strong legislation to enact many of the recommendations I will make today. Since 1995, the Project On Government Oversight (POGO) has issued five reports about MMS's inadequate oversight of the major oil and gas companies, primarily with a focus on the loss of royalty revenue.² The Deepwater Horizon disaster in the Gulf is another direct result of MMS's failure to do its job. It is important that the Department of the Interior and Congress do what they can now to learn from this catastrophe and make sure the reorganization of MMS fully addresses the fundamental conflicts and weaknesses inherent to that agency.

MMS was created by the Department of the Interior by Secretarial Order in 1982 following the findings of the Linowes Commission that the U.S. Geological Survey (USGS) could not

¹ Carolyn Maloney (D-NY), "Oil and Gas Royalties." http://maloney.house.gov/index.php?option=com_issues&task=view_issue&issue=237&parent=11&Itemid=35 (Downloaded July 20, 2010)

² Project On Government Oversight, *Drilling the Taxpayer: The Department of Interior's Royalty-In-Kind Program*, September 18, 2008. <http://www.pogo.org/pogo-files/reports/natural-resources/drilling-the-taxpayer/nr-rik-20080918.html>; *Drilling For The Truth: More Information Surfaces On Unpaid Oil Royalties*, January 1, 1997. <http://www.pogo.org/pogo-files/reports/natural-resources/drilling-for-the-truth-more-information-surfaces-on-unpaid-oil-royalties/nr-oil-1997.html>; *Wait! There Is More Money to Collect... Unpaid Oil Royalties Across the Nation*, January 1, 1996. <http://www.pogo.org/pogo-files/reports/natural-resources/wait-there-is-more-money-to-collect/nr-oil-1996.html>; *With A Wink And A Nod: How the Oil Industry and the Department of Interior Are Cheating the American Public and California School Children*, March 1, 1996. <http://www.pogo.org/pogo-files/reports/natural-resources/with-a-wink-and-a-nod/nr-oil-19960301.html>; *Department of Interior Looks the Other Way: The Government's Slick Deal for the Oil Industry*, January 1, 1995. <http://www.pogo.org/pogo-files/reports/natural-resources/department-of-interior-looks-the-other-way/nr-oil-1995.html>.

effectively manage royalty collections.³ Royalty collections were a buried mission at USGS, and as a result, the Commission found that there was little accountability or reason for taxpayers to be confident that Interior was getting taxpayers their fair share for their natural resources. A lack of accountability will also likely be one of the final conclusions of the numerous investigations being conducted into the Deepwater Horizon disaster. It is remarkable how little has changed.

MMS was created because royalty collections were buried at USGS, yet royalty collections and inspections were buried again in MMS. The agency had two conflicting missions: to manage mineral resources on the Outer Continental Shelf (OCS) and to collect and distribute bonuses, rents, and royalties from companies that lease and produce minerals from Federal lands, both onshore and offshore, and from Indian lands.⁴ In both of these missions, the agency largely saw itself as a partner of industry, handling oil and gas companies with kid gloves. For instance, MMS gave a safety award to Transocean,⁵ the owners of the Deepwater Horizon rig. As more evidence of the problems presented by this close relationship with industry, the Interior Department Inspector General has testified that they question the enforcement program and whether civil penalties are in line with the seriousness of violations.⁶ Finally, the *Washington Post* found that the company from which MMS claimed to have received its largest fine between 2000 and 2009 could find no evidence that the fine had been levied.⁷ MMS's mistakes and anemic oversight have resulted in billions of dollars in uncollected royalties,⁸ and now its mistakes and poor oversight have contributed to the Deepwater Horizon disaster that has devastated the Gulf and is depriving many of their livelihoods.

If there is any small silver lining in the Deepwater Horizon disaster, it's that it has called attention to long-needed reforms. POGO supports proposed efforts to reorganize MMS into three bureaus and end the conflict of mission,⁹ and would like to see this reaffirmed statutorily. But

³ Commission on Fiscal Accountability of the Nation's Energy Resources "Fiscal Accountability of the Nation's Energy Resources," January 21, 1982. <http://pogoarchives.org/m/nr/linowes-report-19820121.pdf>; Department of the Interior, Bureau of Ocean Energy Management, Regulation, and Enforcement, "OCS Lands Act History." <http://www.mms.gov/aboutmms/OCSLA/ocslahistory.htm> (Downloaded July 19, 2010)

⁴ According to MMS's website, "The MMS's mission is to manage the ocean energy and mineral resources on the Outer Continental Shelf and Federal and American Indian mineral revenues to enhance public and trust benefits, promote responsible use, and realize fair value." <http://www.mms.gov/aboutmms> (Downloaded July 19, 2010)

⁵ "GoM Rig Teams Win MMS District SAFE Award, Transocean Nominated for National SAFE Award," *Beacon: Transocean in the Spotlight*, Summer 2009, Issue 2. <http://www.beaconmag.com/gomrigteamswinmm.html> (Downloaded July 19, 2010)

⁶ Testimony of Mary L. Kendall, Acting Inspector General for the Department of the Interior before the House Committee On Natural Resources Subcommittee on Energy and Mineral Resources, June 17, 2010, p. 3. <http://www.doi.gov/images/stories/KendallTestimony17June2010.pdf> (Downloaded July 20, 2010)

⁷ Marc Kaufman, Carol D. Leonnig and David Hilzenrath, "MMS investigations of oil-rig accidents have history of inconsistency," July 18, 2010. http://www.washingtonpost.com/wp-dyn/content/article/2010/07/17/AR2010071702807_pf.html (Downloaded July 19, 2010)

⁸ For example, MMS significantly cut back on its auditing staff. See: Project On Government Oversight, "POGO's Written Testimony for the House Government Reform Committee regarding the Interior Department: A Culture of Managerial Irresponsibility and Lack of Accountability?" September 14, 2006, <http://www.pogo.org/pogo-files/testimony/natural-resources/nr-oil-20060914.html>.

⁹ Project On Government Oversight, "Breaking up MMS and Kicking Industry out of Bed: POGO Applauds Sec. Salazar's Announcement," May 19, 2010. <http://www.pogo.org/pogo-files/alerts/natural-resources/nr-doi-20100519.html>

this restructuring must include building a robust infrastructure of expertise and ethics that will make this agency an effective custodian of the public's resources.

To understand the reforms necessary, it is important to understand MMS's failures.

Slowing the Revolving Door

One of the most problematic causes of the inappropriate closeness between MMS and industry is the frequency with which officials have gone through the revolving door. Several have been sentenced to prison for violations of conflict-of-interest laws or obstruction of justice.¹⁰ As long as the door continues to revolve between industry and Interior or MMS, the public cannot be sure their interests are being served.

The most egregious example of this problem is the last Director of MMS under the previous administration, Randall Luthi—who became the president of an offshore drillers trade association, the National Ocean Industries Association, 14 months after leaving MMS.¹¹ As a disturbing sidenote, his predecessor at the Association, Tom Fry, was also a former MMS Director.¹² These two cases are emblematic of what is wrong with the agency. When the Director of MMS joins a trade association whose explicit mission was to secure a “favorable regulatory and economic environment for the companies that develop the nation’s valuable offshore energy resources,”¹³ taxpayers have to question whose interests were actually being served when he was at MMS. In the case of Mr. Luthi—who joined the trade association approximately 14 months after leaving MMS—it’s unclear whether he was always ideologically opposed to the agency’s mission.

There have already been several improvements to ethics policies at Interior since our 2008 report. POGO applauds President Barack Obama’s Executive Order for Ethics Commitments by Executive Branch Personnel,¹⁴ and Secretary Salazar’s Memorandum to Employees on their

¹⁰ Department of Justice, “Former Interior Deputy Secretary Steven Griles Sentenced to 10 Months in Prison for Obstructing U.S. Senate Investigation into Abramoff Corruption Scandal,” June 26, 2007. http://www.usdoj.gov/opa/pr/2007/June/07_crm_455.html (Downloaded July 19, 2010); Department of Justice, “Former Department of Interior Official Pleads Guilty to Conflict of Interest Charge,” July 30, 2008. <http://www.usdoj.gov/opa/pr/2008/July/08-crm-672.html> (Downloaded July 19, 2010); Department of Justice, “Former Department of Interior Official Pleads Guilty to Felony Violation of Post Employment Conflict Law,” September 15, 2008. <http://www.usdoj.gov/opa/pr/2008/September/08-crm-818.html> (Downloaded July 19, 2010)

¹¹ National Ocean Industries Association, “Biography: Randall Luthi, President, National Ocean Industries Association.” <http://www.noia.org/website/download.asp?id=38559> (Downloaded July 19, 2010)

¹² National Ocean Industries Association, “Tom Fry Announces Retirement from the National Ocean Industries Association,” October 9, 2009. <http://www.noia.org/website/article.asp?id=35791> (Downloaded July 19, 2010)

¹³ Project On Government Oversight, “Oil Drilling Trade Group Slips the F-Word into Its Mission Statement,” June 11, 2010. <http://pogoblog.typepad.com/pogo/2010/06/oil-drilling-trade-group-slips-the-fword-into-its-mission-statement.html>

¹⁴ The White House, “Ethics Commitment By Executive Branch Personnel,” January 21, 2009. http://www.whitehouse.gov/the_press_office/Ethics-Commitments-By-Executive-Branch-Personnel (Downloaded July 19, 2010)

ethical responsibilities.¹⁵ Secretary Salazar has also worked to improve the ethical culture of the agency by urging employees to seek the guidance from bureau or office ethics officials to avoid even the appearance of impropriety,¹⁶ and to increase independence by splitting the agency into three bureaus, which should be reinforced statutorily.¹⁷ Furthermore, both the Senate Energy and Natural Resources Committee and the House Natural Resources Committee have approved legislation to slow the revolving door.¹⁸ We prefer the House's stronger provision, which would make the ban on going from Interior to industry two years instead of one as in the Senate version, and would establish civil and criminal penalties for all revolving door, financial conflict of interest, and gift ban violations. We fully endorse the House version and hope it is soon passed into law.

In addition to this important reform, which we hope the members of this committee will support, we also recommend that Interior and Congress consider the following recommendations:

- Require government officials to enter into a binding revolving door exit plan that sets forth the programs and projects from which the former employee is banned from working. Like financial disclosure statements, these reports should be filed with the Office of Government Ethics and available to the public. This requirement would benefit government employees who are unaware of or confused by post-government restrictions or who have multiple post-employment bans covering different time periods. It would also enhance public trust in the government.
- Require recently retired government officials and their new employers to file revolving door reports attesting that the former government employee has complied with his or her revolving door exit plan.

Ending Interior's Partnership with Industry

The second reason for MMS's closeness to industry is that, as Tyler Priest, clinical professor of business history and director of global studies at the University of Houston's C.T. Bauer College of Business, has pointed out, MMS has always been a "junior partner" to industry, dependent on

¹⁵ Department of the Interior, "Secretary Salazar Outlines High Ethical Standards for Interior Department in Memo to All Employees," January 26, 2009. http://www.doi.gov/archive/news/09_News_Releases/012609a.html (Downloaded July 19, 2010)

¹⁶ Department of the Interior, "Secretary Salazar Outlines High Ethical Standards for Interior Department in Memo to All Employees," January 26, 2009. http://www.doi.gov/archive/news/09_News_Releases/012609a.html (Downloaded July 19, 2010)

¹⁷ Department of the Interior, "Salazar Divides MMS's Three Conflicting Missions," May 19, 2010. <http://www.doi.gov/news/pressreleases/Salazar-Divides-MMSs-Three-Conflicting-Missions.cfm> (Downloaded July 19, 2010)

¹⁸ Outer Continental Shelf Reform Act of 2010 (S. 3516), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s3516is.txt.pdf (Downloaded July 20, 2010) and the Consolidated Land, Energy, and Aquatic Resources Act of 2010 (H.R. 3534). POGO and 12 other organizations sent a letter of support for the Wyden Revolving Door Amendment to S. 3516, the Outer Continental Shelf Reform Act of 2010: "POGO Letter of Support for Amendment to Slow Revolving Door between Industry and Interior," June 29, 2010. <http://www.pogo.org/pogo-files/letters/natural-resources/nr-doi-20100629.html>

industry for the technical knowledge MMS employees need to be able to do their jobs.¹⁹ President Obama has acknowledged that this dependence on industry has been a festering sore for MMS: “What’s also been made clear from this disaster is that for years the oil and gas industry has leveraged such power that they have effectively been allowed to regulate themselves.”²⁰ It is deeply concerning that MMS allowed industry to perform inherently governmental functions by allowing industry’s technical analysis to determine how to adapt or develop regulations.²¹

Looking at MMS’s decisions leading up to the Deepwater Horizon disaster, it’s clear that this dependence translated into MMS allowing industry to break the rules, or simply exempting industry from them. To list just a few examples, MMS allowed BP to delay a blowout preventer test and to perform the test at a lower level than originally planned,²² and went through a \$42 million lease sale without conducting a required environmental impact statement, against the advice of an MMS biologist.²³ And who can forget that MMS approved numerous companies’ emergency response plans that showed so little thought for the protection of the Gulf that they accounted for the welfare of walruses?²⁴

All of these problems are rooted in the belief that industry knows best. As a result, MMS has not been an effective enforcer of regulations, but instead has allowed industry to operate largely on what the GAO described as “an honor system.”²⁵ Billions of dollars in royalty underpayments,²⁶ and the oil disaster in the Gulf, have demonstrated that this honor system doesn’t work.

A large hurdle facing MMS is cultural: this is an agency that has been subservient to and dependent on industry for too long. Changing this requires more than reorganization; and it requires more than new leadership. POGO worries that Secretary Salazar’s well-intentioned split, creating smaller offices, could also diminish the effectiveness of auditing and inspections, and

¹⁹ Tyler Priest, “The Ties that Bind MMS and Big Oil,” *Politico*, June 9, 2010.

<http://www.politico.com/news/stories/0610/38270.html> (Downloaded July 19, 2010)

²⁰ The White House, Office of the Press Secretary, “Remarks by the President on the Gulf Oil Spill,” May 27, 2010. <http://www.whitehouse.gov/the-press-office/remarks-president-gulf-oil-spill> (Downloaded July 19, 2010)

²¹ Inherently governmental functions include “the determination of agency policy, such as determining the content and application of regulations, among other things.” Federal Acquisition Regulation Subpart 7.503(c)(5). https://www.acquisition.gov/far/current/html/Subpart%207_5.html#wp1078196 (Downloaded July 19, 2010)

²² Ian Urbina, “Documents Show Early Worries About Safety of Rig,” *The New York Times*, May 29, 2010.

<http://www.nytimes.com/2010/05/30/us/30rig.html> (Downloaded July 20, 2010)

²³ Mark Jaffe and David Olinger “Tracking Down Mineral Management Service’s Dysfunctional History of Drilling Oversight,” *The Denver Post*, June 6, 2010. http://www.denverpost.com/headlines/ci_15236764 (Downloaded July 20, 2010)

²⁴ Opening Statement of Rep. Henry A. Waxman, Chairman, Committee on Energy and Commerce, “Drilling Down on America’s Energy Future: Safety, Security, and Clean Energy,” June 15, 2010.

<http://energycommerce.house.gov/documents/20100615/Waxman.Statement.ee.06.15.2010.pdf> (Downloaded July 19, 2010)

²⁵ Government Accountability Office, *Testimony Before the Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, House of Representatives, on Mineral Revenues: Data Management Problems and Reliance on Self-Reported Data for Compliance Efforts Put MMS Royalty Collections at Risk* (GAO-08-560T), March 11, 2008, p. 18. <http://www.gao.gov/new.items/d08560t.pdf> (Downloaded July 19, 2010)

²⁶ House Oversight and Government Reform Committee, *Teapot Dome Revisited: Dereliction of Fiduciary Duty at the Interior Department*, October 7, 2009. <http://republicans.oversight.house.gov/images/stories/Reports/2009-10-07mmsreport.pdf> (Downloaded July 19, 2010)

make it difficult to attract high-quality people needed to really create change. But Interior can get the qualified officials it needs if it looks beyond industry, the Interior Solicitor's office, or MMS. For example, Secretary Salazar could appoint one of the state or tribe auditors who have been frustrated with MMS's lax royalty auditing to head up the new auditing bureau. Someone from the Government Accountability Office or the IG's office could be an effective head of the bureau charged with inspections. These loyal critics care about MMS's oversight mission and want it to succeed, and are exactly the kind of people MMS employees and industry need to see in the lead.

No matter what reforms are put in place, they can only be effective with increased transparency about MMS's operations. Interior should provide:

- Congress and the public easy access to non-proprietary information regarding leases, volumes of production, production costs, audits, Environmental Impact Statements, and safety assessments.
- Quarterly public reviews of inspection activities by MMS that would be sent to the Secretary, the IG, and Congress. It is important to note that Interior has not released information about oil and gas leases, despite being given several opportunities to do so by measures outlined in the Open Government Directive.²⁷ Interior's willingness to increase its openness in the wake of the Gulf disaster should be considered a real acid test as to how committed the Administration is to the kind of transparency measures that will help citizens hold the federal government and industry accountable.

We are concerned that Interior's reforms lack input from outside stakeholders, or even inside stakeholders such as the regional employees.²⁸ We hope that they will soon be seeking input from states and Indian tribes on the reorganization—particularly those states and tribes that have been conducting royalty audits and ostensibly partnering with Interior for over two decades.

At least as important, we hope the policymakers in Washington begin talking to, and learning from, the front-line inspectors policing the Gulf. If they did, they would learn that the Titanic will still be steaming towards the iceberg unless they reach far down into the remains of MMS and demand change. They would learn that even after the Deepwater Horizon explosion, inspector concerns are being ignored. For example, an MMS inspector was alarmed when he discovered that a deep-water production facility (or SPAR) was operating days after he had issued a cease and desist order during a congressionally mandated inspection. When the inspector contacted his Supervisor in order to gain approval to issue another cease and desist order and possibly forward the offense for Civil Penalty because the SPAR was operating in what he believed was in dangerous noncompliance, his Supervisor overruled him. And this is in the wake of the Gulf crisis. This incident is not unique, but has become the norm where inspectors feel they need to ask permission from their Supervisors because they are more likely to get in trouble for issuing an Incident of Noncompliance (INC), than for not issuing one. This is where the real work will have to happen -- changing that culture.

²⁷ The White House, "Open Government Directive," December 8, 2009. <http://www.whitehouse.gov/open/documents/open-government-directive> (Downloaded July 19, 2010)

²⁸ Department of the Interior, "Salazar Receives Implementation Plan for Restructuring the Department's Offshore Energy Missions," July 14, 2010. <http://www.doi.gov/news/pressreleases/Salazar-Receives-Implementation-Plan-for-Restructuring-the-Departments-Offshore-Energy-Missions.cfm> (Downloaded July 19, 2010)

Congress should also enhance oversight by establishing a Gulf of Mexico Regional Citizens Advisory Council to increase public participation in oversight. The Council should include representatives of groups disproportionately impacted by risks of energy production from each of the five Gulf states to conduct citizens' oversight.²⁹ The Council should be modeled after successful citizens advisory councils in Alaska authorized in the Oil Pollution Act of 1990 after the Exxon Valdez disaster.³⁰

Increasing Technical Expertise and Independence

It is important to make sure that the newly created Bureaus have the expertise and resources that they need. The Inspector General has reported that high staff turnover has contributed to weak oversight³¹ and that staff lack proper training, technological knowledge, and skills to do their job—Interior only provided onshore engineers training once in the past 10 years, for example.³² In addition to these problems, it is hard for Interior to attract and keep the talent it needs when Inspectors start as a GS-7.³³ That there are only 60 Inspectors in the Gulf region to cover nearly 4,000 facilities only compounds the retention problem.³⁴

As we stated before, POGO has long believed MMS suffers from a conflict of mission. The sole mission of a federal royalty management and collection program should be determining and enforcing revenue obligations of private companies operating on public and Indian lands. Prior to the proposed split, however, auditors and other compliance and enforcement personnel reported to officials within MMS whose responsibilities also include prioritizing leasing and development, and who may be more inclined to make the royalty management program *look* successful rather than *be* successful. As POGO discovered, in some instances MMS told their professional auditors to stop auditing, even when the auditors had discovered evidence that companies were underpaying royalties.³⁵ The Deepwater Horizon disaster has demonstrated that similar pressures may have undermined the effectiveness of MMS inspectors, especially given past GAO findings that management's focus on drilling meant that Interior was unable to meet

²⁹ Representatives on councils would be selected by peers.

³⁰ Prince William Sound Regional Citizens' Advisory Council, "About the Council." <http://www.pwsrca.org/about/index.html> (Downloaded July 19, 2010)

³¹ Government Accountability Office, *Offshore Oil and Gas Development: Additional Guidance Would Help Strengthen the Minerals Management Service's Assessment of Environmental Impacts in the North Aleutian Basin* (GAO-10-276), March 2010. <http://www.gao.gov/new.items/d10276.pdf>

³² Government Accountability Office, *Oil and Gas Management: Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volumes* (GAO-10-313), March 15, 2010, Executive Summary. <http://www.gao.gov/new.items/d10313.pdf> (Downloaded July 19, 2010)

³³ Project On Government Oversight, "The Starting Salary for an Offshore Operations and Safety Inspector at MMS is \$38K," June 4, 2010. <http://pogoblog.typepad.com/pogo/2010/06/the-starting-salary-for-an-offshore-operations-and-safety-inspector-at-mms-is-38k.html>

³⁴ Testimony of Mary L. Kendall, Acting Inspector General for the Department of the Interior, Before the House Committee on Natural Resources Subcommittee on Energy and Mineral Resources, June 17, 2010, p. 2. <http://www.doi.gov/images/stories/KendallTestimony17June2010.pdf> (Downloaded July 19, 2010)

³⁵ Testimony of Bobby Maxwell Before the Subcommittee on Energy and Mineral Resources United States House of Representatives, March 28, 2007, pp. 1-2. http://resourcescommittee.house.gov/images/Documents/20070328/testimony_maxwell.pdf (Downloaded July 19, 2010)

environmental and oil and gas production verification goals.³⁶ We believe that the proposed split of MMS would help to increase MMS's independence from industry.

In some cases, MMS lacks the rules and tools it needs to do its job. For example, the GAO found that Interior's measurement regulations are grossly outdated and fail to address current measurement technologies, and as a result, royalty payments may not be accurate.³⁷ Royalty collections are one of the largest sources of revenue for the government after taxes, and MMS has a fiduciary responsibility to taxpayers to ensure their accurate measurement and collection. Representative Maloney's legislation asking for the National Academy of Engineering to determine the need for improvements (H.R. 1462) would significantly help MMS accomplish this.

When it comes to the inspectors, we believe it is essential for the government establish federal training academies to ensure that inspectors both on and offshore receive regular training not paid for or run by industry. Similar permanent federal training academies already exist for mine and health safety, the Army, Air Force, Coast Guard, Maritime, Navy, and FBI.³⁸ To give some color to the IG's findings that training had not been offered in ten years, POGO learned of an inspector who after three years on the job still had NO training. According to testimony before the joint Coast Guard/MMS hearings in Louisiana, the last inspection conducted on the Deepwater Horizon was performed by an inspector who was still "in training" for drilling inspections.³⁹ Why was MMS sending inspectors to conduct inspections they were not adequately trained to conduct?

POGO is finding that MMS inspectors are just beginning to speak out -- despite the fact that they have no real whistleblower protections. And I can tell you with experience that MMS has been a hostile place for whistleblowers. If there is another takeaway from the disaster, it is that whistleblower protections for federal employees are urgently needed.

In addition to establishing these training academies, Congress and Interior should:

- Statutorily affirm the split of MMS.
- Ensure that there will be enough inspectors.

³⁶ Government Accountability Office, *Testimony Before the Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, House of Representatives, on Oil and Gas Management: Key Elements to Consider for Providing Assurance of Effective Independent Oversight* (GAO-10-852T), June 17, 2010, p. 5. <http://www.gao.gov/new.items/d10852t.pdf> (Downloaded July 19, 2010)

³⁷ Government Accountability Office, *Oil and Gas Measurement: Interior's Oil and Gas Production Verification Efforts Do Not Provide Reasonable Assurance of Accurate Measurement of Production Volumes* (GAO-10-313), March 2010, Executive Summary. <http://www.gao.gov/new.items/d10313.pdf>

³⁸ United States Department of Labor, "National Mine Health and Safety Academy." <http://www.msha.gov/PROGRAMS/EPD2.HTM> (Downloaded July 19, 2010)

³⁹ U.S. Coast Guard / MMS Marine Board of Investigation into the Marine Casualty, Explosion, Fire, Pollution, and Sinking of Mobile Offshore Drilling Unit Deepwater Horizon, with Loss of Life in the Gulf of Mexico, May 11, 2010, p. 315. http://www.deepwaterhorizonresponse.com/posted/3043/Deepwater_Horizon_Joint_Investigation_Transcript_May_11_2010.621903.pdf (Downloaded July 20, 2010)

- Consider increasing the pay and GS scale for inspectors to be comparable to MMS auditors and IG evaluators and criminal investigators. The disaster in the Gulf has demonstrated that rig inspectors perform equally important functions for Interior, and they should be adequately compensated for it.
- Provide oil and gas industry employees with best-practices whistleblower protections so that workers who face retaliation will have a fair review of their complaints by the Department of Labor and access to district courts, such as those included in the financial reform legislation for financial industry employees, and the protections established for manufacturing and transportation employees, Department of Defense contractors, and others.
- Consider creating an incentive program to encourage whistleblowers to come forward and disclose wrongdoing to the Department of the Interior. Such a program would allow for an award to whistleblowers whose information leads to the federal government pursuing successful sanctions on those regulated under the Outer Continental Shelf Lands Act.

Ultimately, the reorganization of MMS needs to make clear that the resultant bureaus are there to serve taxpayers and protect their resources, not industry. The reorganization effort should include a clear spelling out of the missions and goals of the various new bureaus, guidelines and rules for carrying out the various tasks of the bureaus, and an establishment of clear lines of communication between different offices within the bureaus and other agencies so that employees know who to confer with on particular issues and how to confer with them.

We are happy that Congress and the Administration are taking a serious look at MMS's problems, but it shouldn't have taken a disaster of this magnitude to fix the obvious and well-known problems at this agency. If we can learn from this disaster and ensure more safety and oversight and fewer conflicts of interest going forward, perhaps we can avoid another disaster like that in the Gulf. As a first important step, Congress must enact H.R. 3534 and S. 3516.

Thank you again for your oversight of MMS and for asking me to testify. I look forward to answering any questions you may have, and to working with your Committee on this issue.

Chairman TOWNS. Thank you very much for your testimony.
Ms. Randolph.

STATEMENT OF CHARLOTTE RANDOLPH

Ms. RANDOLPH. Thank you, Mr. Chairman.

On May 8th, oil first appeared on the shores of our parish from the Deepwater Horizon blowout, an event caused by reckless, tragic, disastrous decisions made by BP personnel who obviously did not follow established safety guidelines. We have now endured 74 days of relentless effort to protect our wetlands and our wildlife. Birds don't fly, fish don't swim, and fishermen can't make a living.

Then came the moratorium on deepwater drilling, literally adding insult to injury.

Research conducted by the LSU Center for Energy Studies has revealed that this moratorium, suspension, pause, ban, whatever the term du jour is, will not only impact a few parishes in Louisiana, 43 in Florida, 42 in Texas, Louisiana 32, and Mississippi 7. In the Department of the Interior's own report, DOI estimated about 120,000 jobs would be lost.

Nine of the top 10 taxpayers in Lafourche Parish are located at Port Fourchon, which services all 33 rigs singled out in the initial moratorium. The spill has decimated the fishing industry. The moratorium will essentially end life as we know it in our parish. No business can survive a 6-month pause and this much uncertainty.

Up to 40 percent of our property tax base could be lost by 2012 as a result of the drilling ban. Rig owners have stated in testimony to the President's Commission on the Oil Spill that they intend to leave the Gulf for other opportunities elsewhere in the world. Some service company employees have been offered transfers to locations in other States. Families are now making decisions as to whether the husband and father or the wife and mother will live elsewhere, with the rest of the family staying behind to finish schooling. These are the lucky ones; the rest will be terminated. In Lafourche, that could be 10,000 people.

This ban is sending a mixed message. In April 2010, the unemployment rate in our parish was 4.4 percent, the lowest in the Nation. By November 30th, the stated end of the moratorium, the number of unemployed will increase dramatically. In this country, a whole lot of money has been borrowed to create jobs to stimulate the economy. People in Lafourche Parish and those associated with the oil and gas industry and its support services are not expendable Americans; we fuel this country.

On May 28th, I had the opportunity to personally ask President Obama to reconsider his decision based on the devastating economic blow we would suffer. He declined, but he did offer to send down an economic team to assess the moratorium's impact on our parish. Again, that was May 28th. The team will arrive July 26th.

President Obama, in early May, announced that no permits for drilling new wells will go forward until the 30-day safety and environmental review I requested is complete. That was the first intense scrutiny of the industry. Some of these commissioners disagreed with the moratorium decision; yet it was established anyway. The President formed another commission, with its members

asked to restudy this for at least 6 months. We will die a slow death.

Statistics indicate that an oil tanker has a four times greater chance of spilling its cargo than an oil well has of blowing out. Tankers from around the world carrying up to 3 million barrels of oil traverse the Gulf all the way to Port of Houston daily. Eleven thousand tankers traversed the Gulf last year. The moratorium's own language emphasizes a shortage of resources available to respond to another spill in the Gulf as a reason for pause. In order to resume activities, operators must submit evidence that they have the ability to respond effectively to a potential spill.

There are those who call for an immediate halt to oil and gas. What is being overlooked in the rationale behind the suspension is that all of these tankers traverse the Gulf.

Based upon the rationale behind the new moratorium on deep-water drilling, issued July 13th by the Secretary of the Interior, I am today challenging the President, Secretary Salazar, and the Federal Government to protect all Gulf States from another spill as completely as possible. Stop all oil tanker traffic in the Gulf of Mexico.

Mr. Chairman, I await your questions.

[The prepared statement of Ms. Randolph follows:]

Charlotte Randolph
President, Lafourche Parish, Louisiana
Testimony before the Oversight and Government Reform Committee
“Offshore Drilling: Will Interior’s Reforms Change Its History of
Failed Oversight?”

Thursday, July 22, 2010

Mr. Chairman, Ranking Member Issa and members of the Committee, thank you for the opportunity to testify today on the impact that decision made by the Department of Interior and the Minerals Management Service have had on my community.

On May 8, oil first appeared on the shores of our parish from the Deepwater Horizon blow out, an event caused by careless, tragic, disastrous decisions made by BP personnel who obviously did not follow established safety guidelines. We have now endured 94 days of relentless effort to protect our valuable wetlands and our wildlife. Birds don't fly. Fish don't swim. And fishermen can't make a living.

Then came the moratorium on deepwater drilling, literally adding insult to injury.

Research conducted by the LSU Center for Energy Studies has revealed that this moratorium, suspension, pause, ban – whatever the term du jour is - will not only impact a few parishes in Louisiana. It will impact some 132 parishes/counties in four states: 43 in Florida, 42 in Texas, Louisiana 32 and Mississippi 7. In the Department of the Interior’s own report, DOI estimated about 120,000 jobs would be lost.

Nine of the top 10 taxpayers in Lafourche Parish are located at Port Fourchon, which services all 33 rigs singled out in the initial moratorium. The spill has decimated the fishing industry, the moratorium will essentially end life as we know it in our parish. No business can survive a 6 month pause and this much uncertainty.

Up to 40% of our property tax base could be lost by 2012 as a result of the drilling ban. Rig owners have stated in testimony to the President’s Commission on the Oil Spill that they intend to leave the Gulf for other opportunities elsewhere in the world. Some service company employees

have been offered transfers to locations in other states. Families are now making decisions as to whether the husband and father or the wife and mother, will live elsewhere, with the rest of the family staying behind to finish schooling. These are the lucky ones; the rest will be terminated. The rest, in Lafourche, could be 10,000.

This ban is sending a mixed message: In April 2010, the unemployment rate in the Lafourche -Terrebonne area was 4.4%, the lowest in the nation. By November 30, the number of unemployed will increase dramatically. In this country, a whole lot of money has been borrowed to create jobs to stimulate the economy. People in Lafourche Parish and those associated with the oil and gas industry and its support services are not expendable Americans. We fuel this country.

On May 28, I had the opportunity to personally ask President Obama to reconsider his decision based on the devastating economic blow we would suffer. He declined. But he did offer to send down an economic team to assess the moratorium's impact on our parish. Again, that was May 28; the team will arrive July 26.

President Obama in early May said: "We've announced that no permits for drilling new wells will go forward until the 30-day safety and environmental review I requested is complete." That was the first intense scrutiny of the industry. Some of those commissioners disagreed with the moratorium decision, yet it was established anyway. The President formed another commission, with its members asked to restudy this for at least 6 months. We will die a slow death.

Statistics indicate that an oil tanker has a four times greater chance of spilling its cargo than an oil well has of blowing out. Tankers from around the world carrying up to 3 million barrels of oil traverse the Gulf all the way to the Port of Houston daily. The moratorium's own language emphasizes the shortage of resources available to respond to another spill in the Gulf as a reason for pause. In order to resume activities, operators must submit evidence demonstrating that they have the ability to respond effectively to a potential oil spill in the gulf, given the unprecedented commitment of available oil spill response resources that are now being dedicated to the BP oil spill.

There are those extreme environmentalists who advocate for an immediate halt to all oil and gas exploration. What is being overlooked in the rationale behind this suspension is, just 18 miles off of our coast, lies the Louisiana Offshore Oil Port, the only oil super-port in this country. Oil tankers from around the world –remember the repeated call for energy independence – offload 1 million barrels of oil each day. That bears repeating: One million barrels of oil 18 miles off of our coast every day. In the preferred measurement of the media, that’s 132 million gallons of oil a day.

Based upon the rationale behind the new moratorium on deepwater drilling issued July 13 by the Secretary of the Interior Ken Salazar, I am today challenging the President, Secretary Salazar and the federal government to protect all Gulf States from another spill as completely as possible.

Stop all oil tanker traffic in the Gulf of Mexico.

Secretary Salazar has stated that there is a clear path to ending this moratorium. I agree.

- The National Association of Counties, comprised of some 3000 US counties, has just overwhelmingly approved a resolution to end the moratorium.
- China has surpassed the US in oil consumption, adding to the potential of higher fuel prices. Reducing the output from US waters will only exacerbate this.
- The placement of MMS inspectors on these rigs will lessen the chances of another blowout. The guidelines are established and clear. Make MMS do its job.
- And finally, House Bill 5626, from the Energy and Commerce Committee sponsored by Chairman Waxman and approved Friday 48-0, the Blowout Prevention Act of 2010, addresses this issue and halts the suspension of deepwater drilling.

Mr. Waxman’s words:

“I introduced this bill with Chairmen Markey and Stupak. Since introduction, we have worked closely with Mr. Barton, Mr. Upton, Mr.

Green, Mr. Melancon, Mr. Scalise, and others to refine the legislation. I thank and commend them for their many valuable suggestions. As a result of their leadership and hard work, we now have a bill that deserves strong bipartisan support in our Committee.

The bill is designed to make sure that the problems that caused BP's Deepwater Horizon blowout in the Gulf can never happen again. This legislation is our response to the Committee's investigations into the oil spill. These investigations were led by Mr. Stupak, the chairman of our Oversight and Investigations Subcommittee, and Mr. Markey, the chairman of our Energy and Environment Subcommittee. They have done tremendous work exposing the causes of the blowout and the inadequacies of BP's response.

This tragedy, which is the greatest environmental catastrophe in American history, can be termed an "accident" in name only.

BP made a series of reckless decisions before the blowout. When drilling the well, BP took one shortcut after another in order to save time and money. BP relied on a blowout preventer that was anything but foolproof. And when the blowout occurred, BP was unprepared to deal with the consequences. Under this legislation, neither BP nor any other company would be able to make these same mistakes again.

We found that the blowout preventer failed to perform its critical function. The bill addresses this by establishing new standards for redundancy, testing, and third-party certification on blowout preventers.

We found that BP made serious well design and cementing mistakes. The bill addresses this by establishing new requirements and third-party certification for safe well design and cementing.

We found that BP failed to use a lock-down device to secure the wellhead. The bill requires a lock-down device.

We also found that there was no CEO involvement in the well operations, despite the serious consequences of a potential loss of control of the well. The bill requires that the company CEO attest to the fact that the company will use a safe well design, have a blowout preventer that actually works, and have an appropriate and effective spill response plan.

In sum, this bill ensures that the Congress is doing everything it can to prevent this from ever happening again.”

Thank you for the opportunity to present this testimony. I would be pleased to answer any additional questions you may have.

Chairman TOWNS. Thank you very much. I really appreciate your testimony.

Let me begin with you, Ms. Brian. You said something I want to make certain I understand. You said "dig deep into the management." What do you mean by that?

Ms. BRIAN. I am concerned that what we are dealing with right now is really sort of the top layer, and what we have learned over the many years of looking at MMS is that a bulk of the problem is still there just because you change the people at the top. We have known for years about the auditors who had been stifled by their supervisors, and now we are learning about inspectors with the same kinds of problems, where the mid-management is still in line and nothing has really changed from that perspective.

Chairman TOWNS. So changing the name doesn't get us there?

Ms. BRIAN. Breaking it apart and changing the name is just not enough.

Chairman TOWNS. OK.

Ms. Randolph, before I move any further, I want to know in terms of how big is a parish. How many people?

Ms. RANDOLPH. We have 95,000 people, sir.

Chairman TOWNS. How many?

Ms. RANDOLPH. We have 95,000 people, sir.

Chairman TOWNS. Is that an elected position?

Ms. RANDOLPH. Mine? Yes, sir.

Chairman TOWNS. OK. That sounds like mine. You have to run for it.

Mr. Rusco and Ms. Brian, I want to ask, and you too, Ms. Kendall, do you think that the proposed reorganization plan can successfully reform MMS?

Mr. RUSCO. I am sorry, the current proposed plan?

Chairman TOWNS. Yes.

Mr. RUSCO. Well—

Chairman TOWNS. And get us where we need to go. I sort of heard Ms. Brian on it, but—

Mr. RUSCO. Yes. Our position on that is that there have been, in the last 5 years, dozens, over 100 recommendations to address specific deficiencies that have been identified, and we have looked deeply at the process and found deficiencies everywhere we look. So all of those must be addressed for Interior to effectively manage oil and gas program. But that is true no matter what the organization is. Changing the organization will not implement automatically those needed reforms, so they are going to have to do both. If they are going to reorganize, they are also going to have to implement all of the reforms.

Chairman TOWNS. Ms. Kendall.

Ms. KENDALL. I share the sentiment of both Mr. Rusco and Ms. Brian that reorganization, in and of itself, is not an answer to resolving profound management challenges. It will be in the implementation and the other reforms that the Department makes relative to the management of oil and gas, leasing, oversight, and royalty collection.

Ms. BRIAN. If I could add a little more meat to my overall comment on that. While we certainly agree that splitting up that conflict and mission is an essential change, it also could create more

problems, because what we now have are three smaller agencies inside a bureaucracy and, as we know, we are all sort of students of government, it is all about how big you are in the government and how powerful you are. So now you have smaller entities.

And we are particularly worried from the audit perspective. We have been thinking for some time that there may be some efficiencies created by looking at those small audit shops across the Federal Government and thinking about housing them in one place, where you would actually create an efficiency and have them actually be an entity where there is more value placed on their role as auditors, for example.

The other thing that worries us is that some of the people who really need to be at the table as we are talking about this reorganization aren't there. The States and tribes that MMS is responsible for collecting royalties from are not adequately being consulted and participating in the process, and that is of great concern to us as well.

Chairman TOWNS. Does the Department of Interior have the expertise to be able to do the kind of monitoring and oversight that we are really expecting? Because I am looking at a GS-7. That is, what, \$38,000 a year?

Ms. BRIAN. Isn't that awful, yes, to think of the responsibility that we are placing on them and we are so undervaluing them by how much we are paying them.

The other part of what we think is important that hasn't been on the table at all yet is BLM at Interior also is conducting these inspections, and we are not talking about them. So shouldn't there be some conversation about at least merging those missions in one entity as well?

So I think there are a lot of important things that should be part of the conversation that haven't been yet.

Chairman TOWNS. Right.

Do you think they have the expertise?

Mr. RUSCO. No. We have found many cases in which the level of expertise, the level of training, and just the sheer number of people to do the job are inadequate, especially in the inspection area and in the area of petroleum engineers to evaluate drilling plans and to evaluate processes.

Chairman TOWNS. I guess my 5 minutes is up. I don't think they started the clock.

Mr. ISSA. Mr. Chairman, I would ask unanimous consent you have all the time of the other Members here on your side.

Chairman TOWNS. I would be delighted to take it, but I will yield 5 minutes to you before we do that.

Mr. ISSA. Thank you, Mr. Chairman.

Like the chairman, I think there is no limit to the amount of questions we would like to ask each of you. I will start with Ms. Randolph. I asked Secretary Salazar, a moment ago, an hour ago, now, about why an arbitrary 6 months, rather than when the existing well, which is certainly a danger until it is killed, once it is killed, why he couldn't reconsider, at that moment, changing; and he gave me an answer that, over the next 6 weeks, 8 weeks, he was going to have all these studies come back.

You have seen the President make a personal promise to you. You have sat there watching people be laid off in an industry that is not being compensated at all for being laid off; they are not like the fishermen. The oilmen themselves are just on their own if they get laid off; they cannot go to Mr. Feinberg to ask for any money because they are not part of the “affected directly.”

What do you need to see from this administration in order to have the confidence that they care enough about Louisiana to actually put people back to work?

Ms. RANDOLPH. Well, the immediate response would be to lift the moratorium and—

Mr. ISSA. But do you agree with the premise that if Secretary Salazar were to reconsider a date shorter, that when the well is actually killed, which hopefully will be in a matter of weeks, that might be the appropriate time to say, OK, it no longer is a danger; therefore, resources could be available; therefore, we could lift the ban? Would you be satisfied if he used that instead of 6 months and then we will re-look at it with no expectation that would be a hard reopening?

Ms. RANDOLPH. We would be very satisfied with that. There would be a finite date. The industry itself could make decisions based upon that date and, therefore, we would not lose all the service company jobs that are associated with it. Yes. But my concern this morning is Mr. Bromwich talked about another study that begins or additional hearings that begin on August 4th and end on September 15th, with a report due on October 31st. So it is another study that doesn't provide us any direction.

Mr. ISSA. Well, unfortunately, that will be 2 or 3 days before the mid-term elections. I suspect no one is going to look at them until after that date, too.

Ms. Brian, you and I have worked together on transparency, and we will continue to. Ms. Randolph particularly has experience about ghost assets, all the parishes do, where there are claims in writing that X amount of skimmers, X amount of various assets are brought to bear, and then we find out they actually weren't there; and we, to be honest, do not know if the total number of skimmers that each were claimed is greater than the total number of skimmers ever contracted.

Do you have any better transparency at all? Have you been able to get any better information on what the real assets that brought to bear were? And if not, why do you think you are not seeing it?

Ms. BRIAN. We have not had any better access to information and we do think that there is a tremendous problem with the lack of transparency in this entire cleanup operation. I think part of the problem is there has been an acceptance that BP was in charge for a long time, and sort of leaving it to the private sector, which we really believe this is something where the Government should be in charge and making all information public to the general public, and that just hasn't been the case.

Mr. ISSA. Well, you know, one of the interesting things that I discovered with the chairman when we went down there is that they run consensus management, which is a nice way of saying one group is in charge except, really, they are not in charge; it takes everyone to have a decision. Therefore, nobody is really account-

able. Therefore, the decision to release is probably beyond the expertise of everybody. It is no way to run a railroad.

I guess I am going to sort of pose to both of you for a second, and I think Mr. Rusco, because of your past studies I think you see it, but you both have been asked. This reorganization, if you will, moving the deck chairs on the Titanic, doesn't it inherently delay the ability of the organization, while they are busy reorganizing, from getting to the various failures that both of you have seen in past inspections and studies?

Mr. RUSCO. That is a concern that we have. We know that organizational change is very difficult; it is disruptive and it takes a lot of agency resources. At the same time, they are dealing with this catastrophic oil spill. They are also dealing with trying to do the work that they feel they need to before they can lift the moratorium, and then they have this backlog of recommendations that they are trying to address to improve their systems. It is a concern.

Mr. ISSA. Ms. Kendall, the same for you. I assume that it is very hard for your various IGs and so on, the people that work for you, to actually figure out who you are supposed to look at and what you are supposed to oversee if the chairs are moving around. I am assuming that one of the problems right now is you really don't know which one of these three entities to focus on. Is that correct? Just during the reorganization.

Ms. KENDALL. During the reorganization?

Mr. ISSA. Yes, ma'am.

Ms. KENDALL. What we are really trying to do is focus on issue areas. But following those issue areas as they are being moved around has not yet become a challenge because the actual movement hasn't taken place, but I imagine it would be in the future.

Mr. ISSA. One quick last question, if I could, Mr. Chairman.

The chairman and I enjoy the title of Oversight and Reform, and the theory of that is that Congress has an absolute right to, if you will, intervene in the organization of Government. Congress actually authorizes who gets to be a cabinet or not; we created the cabinet position for Homeland Security and so on. If the GAO were tasked, in combination with this committee, to look at the various revenue entities, not just in the Department of Interior, but primarily in the Department of Interior, well, maybe include the IRS, they would clearly be outside, the various parts of inspection that go on throughout the Government, but particularly Department of Interior.

And, of course, contracting, and ask the bigger question of should this entity really be truly consolidated with other areas of, if you will, cultural excellence by comparison, do you believe that is something you could deliver at least a preliminary report back to us during this Congress? In other words, are the basic facts of these other entities, their existence for consideration by this committee, something that we could begin working on before the lights go out at the end of December?

Mr. RUSCO. I think it is something we would be willing to talk to your staff about. I would hate to commit at this point to anything without further information.

Mr. ISSA. Well, Mr. Chairman, there is more than enough if there is a second round, but that would be something that I would like

to have our staffs explore, is whether we could take an active role in looking at a much larger reorganization, particularly when it comes to the following, which is I heard the GS-7, and I appreciate that, but I happen to know that the inspectors go up to about \$100,000, GS-13s and 14s. So there are some that are paid relatively well and, in fact, paid better than their counterparts in the Corps of Engineers who oversee public construction, including NASA.

So, with that, I yield back, Mr. Chairman.

Chairman TOWNS. And I would also like to add maybe we need to look in terms of stability, in terms of how long people actually stay with the agency. I think that is another issue that we need to consider as well.

Mr. ISSA. Absolutely.

Chairman TOWNS. At this time, I would like to recognize the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

All of you were here for the first panel; you listened in on the questioning. I wanted to ask Secretary Salazar some questions, but just because of votes was unable to get back in time before he was dismissed. But I was intrigued by Congressman Turner's time line prior to the terrible accident in the Gulf with the Deepwater Horizon. So I want your thoughts.

Obviously, BP is at fault here, and we understand that, but do you believe—well, let me go back to this. In Mr. Turner's time line he referenced four different occasions where standard inspections were not performed. So I want your thoughts. Do you believe that this accident could have been prevented if MMS would have done those inspections? And we will just go down the line.

Mr. RUSCO. It is difficult to say, but I think that there is a bit of a misconception about what these inspections are about. Most of the inspections that take place on the rigs offshore are dealing with safety of equipment, such as railings, stairways, slippery surfaces; they are dealing with environmental issues, such as any noticeable leaks of hydrocarbons; and they are dealing with production verification issues, looking to make sure that the metering is done correctly and that there are no bypasses of meters and that everything is accounted for.

Mr. JORDAN. So you are saying, those inspections, people aren't actually out on the facility, in the equipment itself?

Mr. RUSCO. They are out there and they also do look at records; they look at records to ensure that the approved plans are being followed and they have—

Mr. JORDAN. Well, but certainly the fact that if those inspections would have been done, there would have been a better chance to detect those problems. Fair statement?

Mr. RUSCO. I can't argue with that.

Mr. JORDAN. Ms. Kendall.

Ms. KENDALL. I would echo everything Mr. Rusco said, but I would also add that, based on what I know, and I am far from a petroleum engineer, but I believe that what is coming sort of to the fore is that things like the well design and review and approval of that, the actual practices of when to pull the mud and replace it were the kinds of things that there are any number of sort of deci-

sion points along the way that may have prevented what we are dealing with now. But I don't know that inspectors are the answer to that sort of issue, that there has to be some much more careful review of those kinds of issues.

Mr. JORDAN. Not disagreeing. We are talking about restructuring and reorganization. That all is probably necessary, but the law said do these inspections and they were not done, and a bad thing happened that could have been maybe prevented if in fact those inspections had been done. It seem pretty logical to conclude maybe we would have caught something. They didn't even do their job.

Ms. KENDALL. I think maybe is certainly reasonable.

Mr. JORDAN. And you can cut to the chase. They didn't do their job, and because now we have this terrible incident where lives were lost, where economies are affected, Ms. Randolph knows that firsthand, people's lives, families' lives, small business owners, and now we have the President saying because our people screwed up and didn't do what they are supposed to do and now we have this terrible accident, we are going to stop drilling everywhere, and make a bad situation even worse. That is where we are at, and maybe it could have been prevented if in fact they would have done what they were supposed to do.

Ms. Brian.

Ms. BRIAN. I also don't really know enough about those inspections. I think in general there is no question that MMS has been not doing its job for many, many, many, many years. So I think there is no doubt that if MMS was held accountable, these are issues that have been raised by the Congress, by the GAO, by the IG, by POGO for 15 years, so there is no question that if MMS had reformed in the many times it was told it needed to, then we wouldn't have seen what we have in this accident.

Mr. JORDAN. Thank you.

Ms. Randolph.

Ms. RANDOLPH. I think it is a shared responsibility. Not only did MMS not do its job; BP didn't do its due diligence.

Mr. JORDAN. I yield back.

Thank you, Mr. Chairman.

Chairman TOWNS. I thank the gentleman for yielding.

I now yield to the gentleman from California, Congressman Bilbray.

Mr. BILBRAY. Thank you, Mr. Chairman.

Chairman TOWNS. I am sorry. I am sorry. I yield to Congressman Welch.

Mr. WELCH. [Remarks made off mic.]

Chairman TOWNS. I now yield to you.

Mr. BILBRAY. Thank you.

Mr. Rusco, I would like to talk about the response to the crisis. Does anybody have any information at all, did the Army Corps use the spillways upstream from New Orleans to divert water into the Pontchartrain to try to get that flow to keep the oil out of the Pontchartrain and Lake Borgne?

Mr. RUSCO. I am sorry, that is something we have not studied.

Mr. BILBRAY. OK.

Madam President, I was a county chairman myself, so I kind of relate to the frustration that when you want to do things, those

who are always saying no continue to say no, even though things need to be done.

Do you have a clip of what happened? Does staff have a clip of that piece about the berm in Grand Isle? Can we play that?

[Video played.]

Mr. BILBRAY. Madam President, I married a girl from your part of the world and the fact of the frustration of the people down there when they want to do something, being told, no, no, we have to study it. Grand Isle is over where Jean Lafitte used to hang out. It is not your part of the world, but did you have any kind of situations like that where you basically ran into this issue where everybody said stop, we have to study something, don't do things, and basically we are always telling the locals no; or did we get a lot of support saying, go ahead and we will work it out later?

Ms. RANDOLPH. It was very similar to what David was describing in this video. They are our neighbor, so these berms are very important to us. And now I am watching a storm that may be coming into the Gulf. Our response in those situations is from the bottom up. We do what we know best. We respond naturally, instinctively, as humans should, with plans in place. This has been a very unique situation and a very frustrating one, yes.

Mr. BILBRAY. I mean, I really related to the fact that the Army Corps always love to say we need to study the environmental impact of building a sand berm, and not realizing that there are times that you have to call an audible. Leadership means dropping the rule book and doing what you can, where you can, in the best common sense way, and this one was really kind of an interesting one of, well, we have to make sure that a berm doesn't hurt the environment while the oil is coming in over the top of it; and it is almost as if inaction is justifiable and less of a concern to bureaucracy than the possibility of possibly doing something wrong. And I guess that is the part that I really think we have to talk about. We have to not only empower people to make those calls.

I have spent a lot of quality time over in Coca Tree on Bayou Terrebonne at the camp there, so the family loves that area. But to sit there and have somebody that basically the system rewards those for inaction, and it is safer for a bureaucrat to say no than to say yes, we accept that most of the time, but during a crisis there should be a way of burning a fire that says, look, if you don't call an audible, if you don't do extraordinary things, if you don't throw the play book away and use innovation, you are going to get in more trouble than if you do something wrong. I think we have to figure out how do that.

Ms. Brian, do you have any comments or any concerns about that? I have been waiting to call on you, anyway, just for your name.

Ms. BRIAN. I know, you love my name.

Well, what you are describing is very similar to what we saw happening with these inspectors, where their supervisors are making them scared to actually assess noncompliance orders, because they are afraid if they do something they are more likely to get in trouble than if they don't do something, and that is even after this incident. So it is really insight to me.

Mr. BILBRAY. Mr. Chairman, I will just tell you I personally witnessed the results of Hurricane Katrina; I was in Louisiana and I was in Mississippi, and I saw the difference between the mind-sets. The feeling seemed to be in New Orleans of don't do anything because you may do something or not have something done approved, and when I went over to Picayune, just on the other side of the Pearl River, it was, look, do what you can do, we will worry about whose jurisdiction it is later, and I saw a real difference.

I just hope, somewhere down the line in our Federal responses, we can sort of adopt that Mississippi mentality that I saw during that disaster, rather than what I saw down south. And no offense, Madam President, but there was a distinct difference; it was astonishing that two different political jurisdictions could respond so absolutely different to crisis, and I think there is a lot to learn there.

So thank you very much for your testimony.

Chairman TOWNS. I thank the gentleman from California for his statement.

Just before I call on Congressman Welch, I would like to ask unanimous consent that I include Mr. Luetkemeyer's statement in the record.

[The prepared statement of Hon. Blaine Luetkemeyer follows:]

Blaine Luetkemeyer
Statement for the Record
Oversight and Government Reform Committee - July 22, 2010

Chairman Towns and Ranking Member Issa, thank you for calling this important hearing today. Ranking Member responsibilities on the Small Business Committee prevented me from being in attendance when this hearing was convened. However, I feel we must determine the failure to effectively manage, oversee, and reform the troubled Minerals Management Service and address the economic devastation of the job-killing moratorium on offshore drilling. In addition, I am interested in learning more about the administration's overall failure to effectively manage the oil spill response, including the lack of critical assets deployed, due to a poorly designed command-and-control structure.

I am aware that the minority staff has conducted a 3-month investigation into the events surrounding the Deepwater Horizon explosion. This included a careful examination of statements made by this Administration and how they correlate with accounts given by Federal and local officials on the ground. The results of this investigation dispute a number of White House assertions about the number and timeliness of assets deployed in the Gulf, note the failure of Administration officials to quickly waive laws and regulations that hampered efforts to clean-up the damage from the oil spill, and strongly dispute President Obama's insistence that the Federal government - and not BP - has been in control since day one.

While we examine the Department of the Interior's oversight of offshore oil drilling, I think we must understand that cap-and-trade legislation is not the answer to our energy needs and will be devastating to our nation's economy. Unfortunately, the Majority in Congress and the President are seeking to use the devastating BP oil spill as a political bargaining chip to try and push this costly legislation. This disaster should not become a political football while thousands

of Americans along the Gulf Coast, and potentially beyond, struggle to defend their livelihoods in the wake of this environmental disaster. This latest political maneuvering is an unfortunate distraction to the cleanup efforts and will do little if anything to improve cleanup of the Gulf or prevent future spills. I am confident that with continued, thoughtful oversight we can work to ensure that any future disasters of similar proportions are handled in a more effective, cooperative manner.

Thank you again and I look forward to today's testimony.

Chairman TOWNS. Now I yield to Mr. Welch.

Mr. WELCH. Mr. Chairman, thank you.

I am concerned about a lapse in the royalty collection for the period of leases between 1996 and 2000, and I just want to ask a few questions about that.

Ms. Kendall, the Department of Interior, you probably have become aware of this, there was a set of leases that were issued between 1996 and 2000. They were under a law that was passed by Congress that was intended to try to encourage domestic drilling, but it was when oil was under \$25 a barrel.

As I understand it, the law said there would be no royalties until a trigger price of, I think, \$26 a barrel was hit. Oil now is, I don't know, \$75 or \$80 a barrel; at one point it was \$140 a barrel. According to the report that I have seen from the GAO, unless we change this so that we can collect the royalties on what would be due on these leases for the oil that is above the trigger price, the taxpayers could be out about \$60 billion. Are you familiar with that?

Ms. KENDALL. Yes, sir, I am.

Mr. WELCH. And are there any specific actions? The question of the loophole was litigated by Anadarko Petroleum. They argued that the way the law was written, there was not explicit authority to charge the regular royalty rate above the trigger price. Many Members of Congress who voted on that legislation had no idea that there was going to be an exemption no matter how high the price went. But the court decision was that the law has to be changed in order for the taxpayers to collect the royalties that was the intention of that act. Is that your understanding?

Ms. KENDALL. Yes, sir.

Mr. WELCH. So is it your understanding that in order for there to be a collection on these royalties, we would have to pass a law to make that permissible?

Ms. KENDALL. Congressman, I am familiar with the case that you are talking about and I am familiar with the act generally. I am not familiar specifically to any degree. I don't know if—and this is just my thinking off the top of my head—whether Congress could successfully go back and pass a law that addressed those years specifically retrospectively. I would just guess that there would be a challenge for that as well.

Mr. WELCH. Well, we would have to get our legal advice and do it right, but I think all I am asking you to indicate is whether there appears to be any administrative remedy to what appears to be essentially a loophole by which the companies that are drilling on public lands are doing so without paying royalties to the public for that profit-making privilege.

Ms. KENDALL. I am going to have to rely on fairly limited memory, but I don't believe that there are administrative remedies when there was a fundamental flaw in the law as found by the court.

Mr. WELCH. All right, then I think, Mr. Chairman, Congressman Markey and I will be introducing legislation that would be designed to remedy that loophole and provide to the public the royalties that they are due for drilling on the public lands.

Ms. Brian, are you aware of this?

Ms. BRIAN. I am certainly aware of the problem, and I think it would be terrific if legislation were passed to correct it.

Mr. WELCH. You do?

Ms. BRIAN. I do.

Mr. WELCH. All right.

Ms. RANDOLPH, I just want to welcome you. I think all of us are heartbroken. I went down to the Gulf, and as heartbreaking as it was for me to fly out over that magnificent, beautiful marshland at the Delta, what was the hardest was coming back and meeting people who were fishermen in the oil industry and just seeing how lives down there have been turned upside down. So I just want to express to you my heartfelt sadness about what the people of the Gulf Coast are enduring, and will long after Congress has moved on to other things. So thank you for coming and all you do down there.

Ms. RANDOLPH. Thank you, sir. And as a recipient parish of some of those royalty revenues, I look forward to you increasing that.

Mr. WELCH. All right, thank you.

Mr. Chairman, I yield back. Thank you very much.

Chairman TOWNS. I thank the gentleman for yielding back.

Let me just sort of, I guess, again, Mr. Rusco and, of course, Ms. Brian, and Ms. Kendall, how has this cozy relationship between the industry and MMS impacted oversight and safety standards? Do you think it has interfered with it?

Mr. RUSCO. I would like to just second what Ms. Brian said, that there are sort of two problems. There is one that you could describe as a revolving door issue. That may be a bigger problem at higher levels of management than it is at the level of inspectors and engineers. But there is a second problem, and that is that they, by and large, don't pay a competitive wage with industry.

So when the industry is in good shape, they can pay a lot more than what Interior is paying the people with comparable skills; then, when times are bad, Interior can hire people. So there is sort of a structural problem that could be dealt with by addressing the amount that they can pay people; and there are other compensations as well. But I think that is part of the problem. It does, though, the lack of the proper number and amount of expertise that they can bring to bear does affect their ability to do their job.

Chairman TOWNS. Ms. Kendall.

Ms. KENDALL. I would also say that some of the exceptions in the ethics regulations have allowed folks to kind of get away from the intent of the regs, for instance, the acceptance of gifts because of a personal friendship. These people are all friends. The folks in industry and in MMS that grew up together, they married each other's sisters or cousins, they have been playing on the same teams since they were in high school. So the exception to the gift rule, which says if it is based on a personal friendship, could be exploited.

On the other hand, if someone were to say I am accepting this on the basis of a friendship, they should also be prohibited or recused from inspecting the rigs or the facilities of the people who they have this friendship with.

I go back to the ethics regs. These are the floor, not the ceiling of conduct, and I think MMS has an opportunity to make stricter

rules apply to a very unique and a very specific problem that they have.

Chairman TOWNS. They could do it administratively; they don't need us.

Ms. KENDALL. They could do it administratively.

Chairman TOWNS. Ms. Brian.

Ms. BRIAN. Mr. Chairman, I have the benefit of having looked across the Federal Government for many years, and I continue to think MMS is probably the worst in the Government when it comes to its coziness between the regulator and the regulated. As I mentioned when the Congress people were voting, Mr. Issa certainly has known that, he has been working on this for years, and Mrs. Maloney, I have been working with her for 15 years on this issue. I mean, I think that there is no question that the coziness in this particular agency has been sort of extraordinary across the Federal Government. There is no comparison, in our experience.

Chairman TOWNS. Right. Even in the Congress, when you leave, you have to stay out a certain amount of time before you can come back and lobby the Congress. That is the Congress. So I am wondering if maybe something along those lines shouldn't be instituted here.

Ms. BRIAN. Oh, there is absolutely no question we need to change the rules when it comes to the revolving door, and there is strong legislation that has been worked through the House Natural Resources Committee that would be addressing this particular issue, and I certainly hope the committee members support that legislation.

Chairman TOWNS. I notice you didn't start the clock, so that is good.

I now yield to—

Mr. ISSA. Mr. Cao hasn't gone.

Chairman TOWNS [continuing]. Mr. Cao, the gentleman from Louisiana, who is really familiar with this subject.

Mr. CAO. Thank you very much, Mr. Chairman.

I want to focus on the issue of shallow water permitting. I was reading one of the articles from Louisiana today, and they were saying about the slow process of shallow water permitting, and this is the question to President Randolph of Lafourche: How has this permitting process affecting the shallow drilling industry in your parish?

Ms. RANDOLPH. The Department of the Interior and MMS's ability or charge to issue permits can create a defacto moratorium, and MMS has done so because the response to the request for permits has been very, very, very slow in the shallow waters. In the deep waters what has been addressed in media, but shallow waters, there is a defacto moratorium there as well.

Mr. CAO. And how has this defacto moratorium affected some of the industry in your parish, how has it affected the people who are being employed by this industry, some of the businesses that are directly or indirectly related to this industry?

Ms. RANDOLPH. The shallow water defacto moratorium essentially has put independent contractors out of business. The fact that they cannot get permitted or re-permitted under the new guidelines affects a lot more the small business owners in the com-

munity. We talk about the four or five major companies in this country, the oil companies.

But when we talk about the shallow water, that is where the independents are, and the majority of the exploring companies are independents; they don't have the resources or the resources to sustain any type of long-term moratorium. They cannot survive that long and, therefore, they have begun to lay off people, yes.

Mr. CAO. Well, do you know of any rigs or any low drilling companies that either have moved rigs or have shut down because of this slow permitting process?

Ms. RANDOLPH. In the shallow waters?

Mr. CAO. Yes.

Ms. RANDOLPH. Yes, sir.

Mr. CAO. Do you have the names of them?

Ms. RANDOLPH. No, I don't have the names for you, but I can—

Mr. CAO. But based on your knowledge, there have been rigs that have moved out of Louisiana or companies that have shut down because of this moratorium, or at least defacto moratorium?

Ms. RANDOLPH. Yes, sir.

Mr. CAO. Ms. Kendall, are there ways under the new rules and regulations implemented by MMS that would allow greater speed of permitting to some of the shallow water rigs?

Ms. KENDALL. I am sorry, I couldn't hear much of your question.

Mr. CAO. Are there ways or procedures to expedite some of the permitting process through the MMS within the new rules and regulations that were implemented after Deepwater Horizon?

Ms. KENDALL. I simply don't know the answer to that question. I am not familiar with the newly implemented regulations; I can just speak to sort of in general terms. I know, in having discussions with people, I think part of the contributing factors MMS has now become a little gun-shy and is being extraordinarily cautious in their review and their processing. Not that excuses them. And I know that it puts a toll on the folks who are reliant on those permits, but I just don't know if there is anything in the new regs that would speed that up.

Mr. CAO. Thank you, and I yield back.

Chairman TOWNS. The gentleman's time has expired.

I now yield to the gentlewoman from New York who has done a lot of work in this area, Congresswoman Carolyn Maloney.

Mrs. MALONEY. I want to thank the chairman for focusing on this important area of Government, an area that clearly needs reform and I believe an area that would not have had this focus if we hadn't had the catastrophe in the Gulf with BP, and it is long overdue.

I wanted to mention that earlier today in our hearing with Commissioner Salazar we were talking about a recent GAO report that was really developed for this committee on the revenue share the Government collects from the oil and gas produced in the Gulf, and this report ranked our country 93rd, one of the lowest of the 104 revenue collection regimes around the world. I find this absolutely scandalous. He also testified that the revenue royalty collection system had not been changed since 1920. I would like to ask Ms. Brian to respond to this.

I know that we worked together to end the Royalty-in-Kind program and have been trying to have one set of books, not two or three, and to really get a fair deal for the taxpayer. Could you comment on this? With our technology, our expertise, why do we rank 93rd? We should be first. Ms. Brian.

Ms. BRIAN. I absolutely share your outrage, Mrs. Maloney. It is ridiculous and there is certainly no excuse for it. I think this has, for reasons I have never been able to understand, as we have said, we have been working on this for so many years, this is not news to us. This is an agency that has been sort of left to fester by itself, without really breaking it open and fixing it, and I am hope that, as I mentioned before, if there is a small silver lining in the catastrophe, it is that the long-needed reforms will finally happen.

Mrs. MALONEY. How will this change take place and how long will it take before the royalties increase and we have more of an accurate reflection of the value that is extracted from publicly owned lands?

Ms. BRIAN. Well, at the moment there is nothing pending that will actually change the collection of royalties at all. None of the reforms that we are hearing about today will actually fix that; that is something that is still up to the Congress to tackle.

Mrs. MALONEY. Well, also in the GAO report that we have had, it found that the MMS area should do more to improve the accuracy of data used to collect and verify oil royalties, that it really hasn't been changed or updated. And I have put in a bill, H.R. 1462, and this bill would require a National Academy of Engineering study regarding improving the accuracy of collection of royalties on production of oil.

Literally, the first panel testified that they need better indicators, and I feel personally that this would be an important step forward. I would like to make sure that all of the panelists have a copy of the bill, and if you would get back in writing whether or not you support it, it might be a way to move this legislation forward so that we actually can increase the royalties from these publicly owned lands.

Exactly what will the reorganization do to help improve the accuracy of this data? Is there anything that will improve the accuracy of the data that is taking place now?

Mr. RUSCO. The reorganization itself says nothing about that. There are many, many things that need to happen in order to improve the accuracy of the data, including rationalizing data bases across the many units of the oil and gas management program so that they are actually compatible; fixing the functionality of these data bases so that they are collecting the data they need to do audits and oversight. And all of this needs to be done with some sort of central vision of bringing the IT system up to date, because it is horribly behind what the industry uses.

Mrs. MALONEY. Well, why in the world aren't we updating it? I would invite all panelists to submit in writing ways that we can update it.

Another important GAO report said that there are no audits of the oil and gas company royalty numbers, that the audits are done by the companies themselves; and in so many cases MMS is probably under-collecting by hundreds of millions of dollars. Can you

comment on the lack of audits of the oil and gas company royalty program?

Mr. RUSCO. We found that there were problems with the self-reporting of data and the fact that there weren't automatic and very quick checks of that, or the use of third-party data as one would expect in a system like this. For example, the IRS, you voluntarily provide your tax return, but your employer sends in information and your bank sends in information, and the IRS looks at that and compares them. In the case of royalties, often there is an absence of third-party verification.

Now, what the industry does is they use metering technology that reports every 1 second on volumes and they look at each other's data when there is a dispute between a pipeline company, say, and an oil producer, they look at each other's data and they resolve it based on data. However, Interior has not adopted the kinds of technology it would need to collect those sorts of data, and they could; they could collect it directly from lessees.

Mrs. MALONEY. Mr. Chairman, we need to look at that, we need to move into the 21st century, and we need to protect the taxpayers in this area. I find it scandalous that we haven't moved to modernize, to have audits, to have third-party verification, and that we haven't updated this law since 1920.

Chairman TOWNS. I agree with the gentlelady from New York, and her time has expired.

I now yield 1 minute to the ranking member.

Mr. ISSA. Thank you, Mr. Chairman.

Very quickly, in closing, for Mrs. Maloney, we did publish, last October, something on this with the GAO's help on this absence of audit.

Ms. Kendall, you were mentioning the too cozy and the various rules related to these friends, but in the case of Colorado, where, you know, these people didn't know each other before they got there, but they got to know each other so well that one of the women ended up pregnant. They very clearly exchanged gifts at a very high level with people that were not their friends, completely in violation, and then felt that they needed even more leniency. To a great extent, isn't this really simply an organization who justifies that somehow, because they do the revolving door, they are all friends and, therefore, they have a special relationship? Isn't that a culture that has to be changed, period?

Ms. KENDALL. Oh, absolutely.

Mr. ISSA. OK. I think we have made our point on that. I will mention that Mr. Waxman, when he was chairman, held an interesting hearing, and that was the analysis of the difference between fuel at temperature and wanting to hold our retailers accountable for the differences in the temperature of the fuel being delivered to the retail point, because on a 90 degree day versus a 60 degree day, the amount of fuel you get, the BTUs available expand or contract. And the amazing thing was that the technology does exist to do this sort of comparison to ensure that the density that you buy equals the density that you agree to pay for BTUs.

So I would suggest strongly that if we get an organization that cares about the American people getting the revenue they deserve, getting the safety they deserve, we will get there.

And I would like to close by, Ms. Brian, I appreciate your wanting to have the transparency, and Ms. Randolph, but for the GAO and the IG, I want to personally thank you for time and time and time again doing the studies, doing the reports, pointing out these failures and staying with it even when administration after administration, at least three that I have been around for, failed to do what you asked them to do, and I am glad to see that we are all united getting it done today. But I want to thank you for sticking with it. Probably, if there is anyone who has pay should be increased, perhaps it should be the people who did their job during this period of time, rather than those who didn't.

Thank you, Mr. Chairman. I yield back.

Chairman TOWNS. Thank you very much.

Let me thank all the witnesses for their time.

It is not every hearing where the witnesses and the Members on both sides of the aisle agree on the issues, but I think this is one of those rare days in the U.S. House of Representatives. Federal oversight of offshore oil drilling has for decades been inadequate and ineffective. The agency formerly known as MMS suffered from an institutional conflict of interest, and repeated regulatory and ethical failures, as my colleague from California just described some of the things that went on.

All that has to change. The recipe for reform is not complicated at all: Offshore oil drilling can no longer be regulated on the "honor system." That is No. 1. There must be rigorous Federal oversight and effective enforcement.

Conflicts of interest must be eliminated. The royalty collections must be separate from regulation and enforcement.

Sham environmental reviews cannot be tolerated any longer. I don't want to see environmental assessments that talk about protecting, but the point is we have to make certain that from this point on that we do that.

Oil spill response plans must be realistic and we must understand that. The entire world now knows that we were not prepared for the BP oil spill.

There must be an effective and proven technology available to prevent blowouts in deepwater before we allow deepwater drilling to resume.

I want to thank you again for your testimony. You have been extremely helpful.

And let me just say to the Department of Interior we want to help them in terms of their reorganizing the Department, and I think that sessions like this, where we can extract information from people who have worked on these issues for so long, I think would be very, very helpful to the Department.

So thanks again for your input.

I want to thank the Members who attended today and on that note the hearing now adjourns.

[Whereupon, at 1:37 p.m., the committee was adjourned.]

[The prepared statement of Hon. Gerald E. Connolly follows:]

Opening Statement of Congressman Gerald E. Connolly

“Will Interior’s Reforms Change its History of Failed Oversight?”

Congressman Gerald E. Connolly

There is a simple, accurate answer to this question: If the Administration in power perceives sound regulation to be a higher priority than industry profits, then Interior’s reorganization will almost certainly improve oversight compared to the failure of the Bush Administration’s Minerals Service (MMS). On the other hand, if the Bush Administration finds itself reincarnated, then its officials will find ways to circumvent thoughtful regulations just as Bush officials undermined National Environmental Policy Act rules and other provisions designed to protect the environment and worker safety. The Obama Administration’s proposed reorganization of MMS is certainly logical, but its long term success will rely on an Administration that believes in its mission and won’t sacrifice safety for profits.

The Deepwater Horizon oil spill did not occur by chance, but was the direct result of an assault on offshore oil drilling regulations. As documented in a 2009 GAO study, the Bush Administration used an unprecedented amount of “categorical exclusions” to avoid subjecting offshore oil drilling to any environmental review. Instead, in 2003 the Minerals Management Service determined that only 4,600 barrels of oil total could spill from the rig and that it would never reach shore. Based on this transparently inaccurate finding, MMS concluded that Deepwater Horizon did not need to undergo an Environmental Impact Statement or Environmental Assessment under NEPA. It is ironic that the Bush Administration exempted offshore drilling from NEPA, since NEPA passed partially in response to the 1969 oil spill off the coast of Santa Barbara.

I introduced the Oil Pollution Environmental Review Act, H.R. 5506, to ensure that offshore oil exploration be subject to environmental review and to preclude agencies from exempting it with categorical exclusions. This bill was incorporated in the CLEAR Act, H.R. 3534, which has been reported from the Natural Resources Committee. The CLEAR Act also makes statutory the reorganization of the Minerals Management Service to avoid the conflicts of interest created by its structure as conceived by James Watt, President Reagan’s Interior Secretary. Not a single member of the minority supported this legislation in the Committee vote. The same party that employed bumper sticker slogans to dismantle environmental protections to expedite offshore drilling, apologized to BP for having to clean up its mess, now opposes the reforms that could reduce the likelihood that another Deepwater Horizon magnitude spill will occur in the future.

Those who oppose offshore drilling regulation will blame BP for failing to follow industry best practices. This represents an implicit endorsement of the voluntary environmental standards that Republicans have touted in the past. The problem with voluntary standards is that even one failure can be catastrophic, if they affect an activity as potentially destructive as oil drilling. We cannot trust the oil industry to regulate itself any more than Wall Street can be trusted to self regulate. If we do fail to pass stronger regulations, once again property owners and taxpayers will be at risk from the actions of even a single irresponsible company.

The House of Representatives has already passed bills to close oil company liability loopholes and ensure sufficient resources are available to clean up the Gulf. We must enact in statute the reforms in the CLEAR Act and other pending legislation from the Energy and Commerce and Transportation and Infrastructure Committees. If we are fortunate enough to continue having an Administration that prioritizes the public welfare then these policy reforms have a good chance of success.