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Before the House Energy and Commerce Subcommittees on
Energy and Environment and
Oversight and Investigations
July 20, 2010

I am deeply saddened and appalled by the Deepwater Horizon disaster. It is vitally important that Americans determine the causes of the accident, and that we take steps to ensure offshore production can continue safely. The explosion and oil spill have been a tragic disaster, with unprecedented impact on the affected families, communities, regional economy, and ecosystems. It is disturbing to watch the damage unfold, and my thoughts have been with the people of the Gulf Coast region.

I served as Secretary of the Interior from January 2001 until March 2006. The following information summarizes some of my experiences and observations regarding offshore energy production¹. Although I have reviewed many publicly available documents in preparation for this hearing, I am not as conversant about offshore issues as I was when I was being regularly briefed by those with expertise and direct responsibility.

As I consider the Deepwater Horizon disaster, I am constantly reminded of my earliest exposure to accident investigation. My father, who devoted his career to aviation, was occasionally involved in investigating the cause of small plane accidents. I remember going with him a few times to see aircraft wreckage and hearing how the subtle details of shattered metal could unveil what happened. The National Transportation Safety Board has a well-established process for unraveling the mysteries of accident causation, then feeding that information back to manufacturers, airlines and pilots to avoid a repeat of the same mistake.

Just as occurs with a devastating aircraft crash, we need to objectively seek the truth of what happened in the Gulf of Mexico so we can learn lessons that may prevent future tragedies. The Deepwater Horizon took 11 lives and has slowly unfolded to impact the lives and livelihoods of many, many more people. All the individuals and families affected deserve an objective, systematic analysis of the problems. Emotional and hasty reactions should not form the basis for long-term policy. Whether we are talking about flying in airplanes or tapping offshore

¹ This testimony represents my own perspective, and does not necessarily reflect the views of any other person or organization. It has been over four years since I left the Department of the Interior. This testimony has been prepared based on my recollections, but without benefit of documents and staff at Interior. It is quite possible that I do not fully recall the details of events or policies, or the exact sequence of events.

resources, getting the balance right between risk and benefits requires knowledgeable, professional inquiry.

Offshore energy issues are emotionally charged. On the one hand, the media coverage of BP's spreading brown muck of oil, coating wildlife and marshes and once-pristine beaches, creates a powerful argument against future drilling. On the other hand, the economy of the Gulf Coast, as well as the rest of our country, and America's energy security all rely on continued development of offshore energy.

The oil industry people involved with offshore production and the government officials involved with offshore regulation have long recognized that a significant accident could threaten human life, challenge the financial future of any company involved, and risk loss of the fragile political consensus allowing offshore energy expansion. This widely understood need for caution led to a decades-long record of safe performance. But even with that understanding, when the dreaded spill finally came, it was a worst case far beyond expectations. It has been a "perfect storm."

During my time at Interior, I observed many challenges for managing offshore production. Some were rare events like hurricanes Rita and Katrina, while others were ongoing aspects of providing meaningful oversight in a time of rapid technological change. The following discussion highlights some of my key experiences.

When the Bush Administration took office, we were faced with "the most serious energy shortage since the oil embargoes of the 1970s" with many families paying energy bills two to three times higher than a year previously.² We recognized the need for a comprehensive energy policy. I was part of the National Energy Policy Development Group, which recommended that America pursue a three-part strategy of enhancing energy conservation, expanding renewable energy opportunities, and developing traditional energy sources. The recommendations of this group formed the backbone of the Energy Policy Act of 2005. The energy task force report included recommendations on Outer Continental Shelf development that included addressing regulatory delays and uncertainties, completing the next 2002-2007 OCS Lands Act five-year plan, and holding lease sales on a predictable basis. The report noted that "exploration and production from the OCS has an impressive environmental record. For example, since 1985, OCS operators have produced over 6.3 billion barrels of oil and have spilled only 0.001 percent of production."³

We did not pursue an uninterrupted expansion of offshore development, however, as exemplified by our actions on Lease Sale 181. The Clinton Administration, in its five-year OCS

² National Energy Policy Development Group, National Energy Policy Report, May 2001, at viii.

³ Id. at 5-7.

plan for 1997-2002, had scheduled Lease Sale 181 as the first lease sale in many years in the eastern Gulf of Mexico. This sale would have allowed drilling within 16 miles of the Florida Panhandle. On July 2, 2001, I announced that the Bush Administration was reducing the area available in that sale, so that all eastern Gulf leasing would remain at least 100 miles from the Florida coastline. President Bush also took formal action to prevent leasing in the Straits of Florida. We incorporated this reduced Gulf acreage into the 2002-2007 OCS five-year plan. The Gulf of Mexico Energy Security Act of 2006 later expanded this area southward, while maintaining the setback from the Florida coast.

Similarly, we addressed the issue of long-standing leases in the Destin Dome OCS region, an area near the Florida coast expected to be rich in natural gas. The state of Florida objected to those federal leases as inconsistent with their Coastal Zone Management Act plan, and the lease-holding companies filed suit in 2000 to force drilling to progress. We resolved the litigation by buying out leases for \$115 million so that exploration and production would not occur in an area where the state was so strongly opposed.

The importance of domestic energy production was brought shockingly into focus by the terrorist attacks of Sept. 11, 2001. Until then, it had been risky to rely on unstable and unfriendly nations as the source of so much our oil supply, but the profound geopolitical implications of the attacks on New York and Washington transformed that risk into a matter of grave national security. Our strategies for improving domestic energy production did not change significantly, but they had a new urgency on all fronts. Over the next several years, we streamlined onshore energy permitting, added staff to handle the increased workload, and issued ten times as many permits for renewable energy development as the previous administration.⁴

As to offshore petroleum, its role as the source for roughly a third of domestic oil production gave it an important focus. The Minerals Management Service⁵ was the agency responsible for offshore leasing and regulation under the Outer Continental Shelf Lands Act, as well as onshore and offshore mineral revenue management. During my term, MMS had slightly over 1700 employees. In preparation for this hearing, I briefly reviewed the annual executive branch budget requests for MMS funding. The funding levels remained relatively steady from 2001 to 2006, with some targeted increases in the Gulf of Mexico regulatory program.

⁴This calculation, done by Interior staff circa 2005, was based on onshore wind, solar and geothermal permits. In addition, the Energy Policy Act of 2005 gave the Minerals Management Service authority to regulate offshore renewable energy projects. I welcomed this opportunity and MMS published an Advanced Notice of Proposed Rulemaking in December 2005.

⁵ Secretary Salazar recently reorganized and renamed the MMS. However, because this testimony focuses on Interior's activities from a historical perspective, for clarity and consistency I will refer to the organization as MMS.

The MMS action most relevant to today's hearing was the adoption of final rules in 2003 addressing, among other things, blowout preventers ("BOPs") and cementing processes. 68 Fed. Reg. 8402 (Feb. 20, 2003).⁶ These rules were proposed in 2000, 65 Fed. Reg. 38453 (June 21, 2000), and several studies were done to provide the scientific and engineering basis to determine whether the rules were adequately protective. Based on the final Federal Register notice, it appears that only 11 entities submitted comments, all from within the energy industry. The final rules differed little from the originally proposed version. MMS rejected several energy industry requests to change the rules from those originally proposed. See 68 Fed. Reg. at 8404-8405. The rule required the BOP system to include at least four remote-controlled devices. The 2003 rule added a provision requiring operators to show that the blind-shear rams must be capable of shearing the drill pipe that would be used. 30 C.F.R. 250.416 (e) and 250.441 (b). A 2004 study specifically addressing performance of shear ram blowout preventers with the heavier pipes used in deepwater situations reinforced the need for the 2003 regulation.⁷ The regulation also included a broad performance based standard that operators must design, install, maintain, test and use the BOP system to ensure well control. 30 C.F.R. 250.440. It is my understanding that these 2003 rules were still in effect at the time of the BP blowout. From media reports, it appears these rules may have been violated in the days leading up to the accident.

Without question, the most powerful OCS experience for me was the 2005 hurricane season. Over 4000 offshore platforms were operating in the Gulf of Mexico when hurricanes Rita and Katrina pummeled the area. Safety and spill prevention measures were put to a severe test. As

⁶ I did not recall the specifics of these regulations before I began preparing for this testimony, and I am certainly not an expert in the technical aspects of petroleum technology, so this paragraph is based on a reading of the Federal Register notices.

⁷ Secretary Salazar's report to President Obama following the Deepwater Horizon incident specifically addressed these regulations and studies:

These studies have examined, among other things, blind shear ram capabilities, back-up BOP systems, and drilling and cementing design and operations, which have informed the setting of Department regulations. For example, the 1999 *Reliability of Subsea BOP systems for Deepwater Applications* (study number 319) recommended modifying testing regulations to ensure that the testing of variable pipe rams appropriately account for the diameters of all the sizes of pipe used in a given drilling project. The Department used this recommendation in revising its 2003 final drilling regulations.

The 2002 *Review of Shear Ram Capabilities* (study number 455) identified issues associated with the cutting power of shear rams The Department adopted the report's recommendation that the BOP must be capable of shearing pipe planned for use in current drilling programs

The 2004 *Evaluation of Shear Ram Capabilities* (study number 463) expanded on the analysis The results of this study confirmed the regulatory decision to require operators to submit documentation that shows the shear rams are capable of shearing the pipe in the hole under maximum anticipated surface pressures.

Increased Safety Measures for Energy Development on the Outer Continental Shelf (May 27, 2010) at 8.

one important precaution, all of the platforms in each storm's path were evacuated in advance, and there was no loss of human life. I remember hearing reports that platforms clocked winds at over 170 miles an hour. Fish were later found lodged in platform structures far above the waterline. A number of mostly older platforms were destroyed by the storm's fury. Amazingly, despite the strength of the hurricane, the amount of oil spilled from wells and platforms was quite small. The shut-off valves located at the sea floor operated as intended. They prevented oil from leaking into the ocean even when the platforms were severely damaged. The spill prevention techniques upon which industry and government relied passed the hurricane test.

There was one weakness in the industry's strong hurricane performance. The hurricanes' forces were enough to dislodge 19 mobile drilling rigs from their moorings.⁸ Once cut loose, they drifted for miles, dragging pipelines behind them and endangering other platforms with which they might collide. The amount of oil released was still relatively small, but a significant problem had been revealed. Shortly thereafter, I convened a conference of industry and agency regulators to discuss how drilling rig moorings could be strengthened. My recollection is that there was agreement on the need for action and the industry participants supported more stringent standards. After my departure from Interior, MMS completed this process and significantly strengthened its mooring standards to avoid future occurrences.

MMS Employees

There has been a great deal of media attention to the ethics of MMS. It pains me to see the vilification of MMS and its employees. I want to speak in defense of the vast majority of hard-working and professional men and women of the Minerals Management Service.⁹ As revealed by Inspector General reports after I left the department, a handful of employees blatantly violated gift limitations and other conflict of interest requirements. Their actions were wrong and unacceptable. These employees were disciplined, and I join in condemning their misconduct. But MMS has over 1700 employees. The very few misbehaving employees have been blown out of proportion to create a public image of the MMS as a merry band of rogue employees seeking favors from industry. The public servants I encountered were entirely different from that impression.

The International Regulators Forum, composed of government offshore regulators from around the world, named its global offshore safety award for Carolita Kallaur, who headed MMS

⁸ This problem occurred on a smaller scale during Hurricane Ivan in 2004, and MMS had already started studying mooring systems of mobile offshore drilling units.

⁹ Whether individual MMS employees made mistakes in approving BP plans or actions is a separate question. My point is to address the broad-brush mischaracterization of MMS conduct.

offshore programs until her death in 2003. This shows the high regard internationally for MMS professionalism and safety leadership.

Even Earl Devaney, the Interior Inspector General who investigated and reported on misconduct in MMS offices, said that “99.9 % of DOI [Department of the Interior] employees are ethical, hard-working and well-intentioned.” Devaney Testimony before the House Committee on Natural Resources, September 18, 2008.

I will never forget meeting with MMS employees after hurricanes Rita and Katrina had devastated the Gulf Coast. The New Orleans staff had relocated to a temporary headquarters, with dozens of employees in a few rooms, sharing makeshift desks of folding tables and any other flat surface they could find. They were working around the clock to fulfill their role in hurricane recovery -- compiling damage and repair information, addressing safety issues and environmental concerns, approving pipeline repairs, expediting requests for temporary barging of oil, and applying common sense to regulate appropriately in incredibly difficult circumstances. These employees told me of coping with submerged homes, families in limbo and essentially homeless, friends who were missing, shattered lives. But they were working out of dedication, serving the country, serving their Gulf Coast communities. These are the people who represent the MMS to me.

Future

Based on media reports, it appears that decisions made by BP in the last days and hours before the blowout were the primary cause of the blowout. If regulations on the books and industry best practices had been followed properly, there may not have been a blowout. But that is clearly an open question at this point, and one that deserves to be thoroughly examined.

As someone who was not personally involved in those last few hours, or even those last few years, but who was involved with the regulatory program, perhaps I can provide some longer term perspective. As I noted above, industry and offshore energy supporters were always conscious of the political reaction and industry setback occasioned by the 1969 Santa Barbara oil spill, reinforced by the Exxon Valdez. No one wanted to repeat those failures, so industry had an incentive to maintain strong environmental protections. Santa Barbara's example of the fragility of support for offshore production, coupled with regulation, was expected to be enough incentive to assure careful planning and adequate safety precautions. That formula worked well. Three months ago and for the many years preceding, the regulatory and response structure was based on a past history of success. Since 1980, the largest spill from a blowout in

federal waters was 800 barrels.¹⁰ All of the plans under both Republican and Democratic administrations were adopted against this backdrop of safety.

Unfortunately, human activity is not prone to perfection. Now the federal government must establish future policies in the aftermath of a worst case scenario beyond anything most people contemplated. What we can do is recognize and learn from our mistakes. I hope Congress will follow the process that has served us so well in the aviation field: study what caused the accident and then adopt new or additional procedures, standards, laws and regulations, if needed, on that basis. I urge you to use the National Transportation Safety Board as a model to objectively investigate and learn from this accident. Investigators should be people with true technical expertise and relevant experience.

I urge Congress and regulators to respond in a balanced way: take strong action to ensure safety measures are in place and that industry complies. Devote more resources to research and preparedness for oil spill response. But do not impede America's energy security or destroy processes that have worked well in the past.

Offshore regulators need to have a working relationship with industry to understand what they are regulating and to avoid imposing one-size-fits-all rules that may ultimately decrease safety. Industry is at the technological cutting edge, and it will take a great deal of skill and a good flow of information for regulators to find the right balance. Government regulators must also have the relevant skills and capacity to provide proper oversight and enforcement.

Pollution-control regulation has evolved from an approach of mandating specific equipment to a more flexible performance-based model. Policymakers should be mindful in reevaluating offshore regulation to continue encouraging innovation. The best safety and environmental protection improvements will come with technological development.

Policymakers should make sure standards are clear and predictable so companies can invest the billions of dollars needed for each new offshore platform. Companies must contract many months and even years in advance for the personnel and equipment for a major project. Delays can undermine financing, resulting in lost jobs and higher energy costs. Our country needs action that will solve the problems while recognizing the importance of offshore production to our nation's economy.

America has been at the leading edge of offshore safety and environmental protection. We have suffered a devastating setback. Lives have been lost. Whole communities have been affected. The environment has been seriously impacted. We should strive to learn from the mistakes and make sure they never happen again.

¹⁰ American Petroleum Institute, Analysis of U.S. Oil Spillage, API Publication 356, August 2009, at 25.

