

SENATOR BOB GRAHAM: Good morning. This past May, President Obama appointed a Commission to study the *Deepwater Horizon* disaster. We were given several charges:

First, to answer the question, what happened? Second, to answer the question, what can we do to mitigate the prospects of it happening in the future? Third, what is the future of offshore oil and gas drilling in the United States?

I am very pleased that today we are submitting our Report. We are submitting it on time, under budget, and with the unanimous vote of the seven members of the Commission.

We began our efforts six months ago with a trip to the Gulf. We thought it was important to hear the voices of those who had been most affected by this tragedy.

I would like to recognize the distinguished service and extraordinary work of the Commission's staff, led by Mr. Richard Lazarus, and with Mr. Fred Bartlett as the head of our investigative team.

This staff, which was composed of scientists, lawyers, engineers, policy analysts, and more, performed under a very tight schedule a great public service, for which we, as the Commission, are extremely proud.

I would like to give a brief overview of our Report and some of its findings, and then I will turn the podium over to my colleague and co-chair, Mr. Bill Reilly, who will address the implications for the industry practice and the future of offshore drilling.

There is a fundamental fact that the oil and gas off our shores is an American asset; it belongs to the people of the United States of America. And thus, the federal government has a dual role – it is a regulator for things such as safety and environmental protection,

but it is also the landlord. In a very real sense, we own this property and have an obligation to respond when the public trust is abused.

A fundamental finding of our six months' investigation is that the *Deepwater Horizon* disaster did not have to happen. It was both foreseeable and preventable. That fact alone makes the loss of the 11 lives, the serious injury to others on the rig, and the enormous damage that the explosion caused even more tragic.

For the past 20 years, there's been a rapid movement by the oil and gas industry to deeper and deeper, riskier and riskier areas of the Gulf of Mexico. This movement has generated abundant revenues for the private companies and for the federal Treasury. Industry has been justifiably proud of its technological advances, which have frequently been compared in sophistication to those of the space program. The federal government has benefited by the increase in revenues.

What happened during that 20-year period, however, was that we became lulled into a sense of inevitable success, an illusion which masked the dramatic increase in risk which accompanied the *Deepwater* move. On April 20th, after a long period of rolling the dice, our luck ran out.

Our investigation found significant errors and misjudgments by three major oil drilling companies – BP, Halliburton, and Transocean. These culminated in the disaster. These errors and misjudgments are described in detail in the Chief Counsel's presentation, which was made in November, and which will be the subject of a separate report soon to be issued.

They ranged from failures to properly interpret warning signals. They resulted in key test flaws not being properly understood, and late-stage design decisions. Taken together, we conclude that these mistakes amounted to a significant failure of management.

It is important to emphasize these errors, mistakes and management failures were not the product of a single rogue company. We believe they unveiled systemic failures within the oil and gas industry, and within the regulation by the federal government of that industry.

How did such a situation come to pass? How could it be that such questionable practices could take place when the stakes were so high? I'm sad to say that part of the answer is the fact that our government let it happen. Our regulators were consistently outmatched. The Department of Interior lacked the in-house expertise to effectively enforce regulations.

There was also an internal conflict of interest within the Department of Interior's old Minerals Management Service. It was a service that had the responsibility both for collecting revenues – in fact, the second-largest source of revenues into the federal government, second only to the income tax – and it had the responsibility of providing an effective management of safety and protection of the environment. Those two conflicting responsibilities, as we heard from three former directors of MMS, consistently led to revenue trumping safety as a priority of the Department.

We recommend, therefore, that Congress and the Administration create an independent safety agency within the Department of Interior with enforcement authority to oversee all aspects of offshore drilling safety. We believe this agency should be headed by an individual with a background in both science and management, who should serve a fixed term in order to be insulated from the inevitable political influences that will attempt to affect decisions.

We also recommended bringing our offshore drilling regulations into the 21st century. It's not asking too much that our approach in the United States be at least the equivalent of the best practices in the world. They are not that today, and, sadly, the United States has one of the lesser records in terms of the safety of its offshore drilling practices.

The second piece of this monitorization approach is called risk-based regulatory orientation. This requires all offshore drilling companies to demonstrate that they have thoroughly evaluated all of the risk associated with drilling a particular well.

One of the realities of Macondo is that it was a thought-to-be, and turned out in fact to be, an unusually risky area in which to drill – high pressures, many unknowns about the geology. And yet, a company with one of the worst safety records received the lease, and therefore the entitlement for access to that area. April 20th was the consequence of the convergence of those two unfortunate facts.

Our investigation has also demonstrated that science has not been given a sufficient seat at the table. Actually, I think that is a considerable understatement. It has been virtually shut out. We need broader consultation with those who have the expertise. Scientists both in and out of government, experts at agencies like NOAA and the Coast Guard, these are the kinds of people who should play a major role in evaluating specific permit requests and the operation of drilling rigs.

It is disturbing to learn that the March 2010 decision to expand areas to additional drilling in the Atlantic and eastern Gulf were made without appropriate scientific input about the potential consequences of those expansions. We hope that the changes that will flow from our recommendation will avoid a repetition of that.

I will conclude my remarks by making a simple and obvious point that is often forgotten when we talk about offshore drilling. And that is, again, that these properties belong to all of us. They belong to the people of the United States of America. It is our government's responsibility to assure that exploration and extraction occur in ways that are beneficial to the country.

Drilling offshore is a privilege to be earned, not a right to be exercised by private corporations. The American people have a say in how it is carried out and that they want it to be done safely and effectively. Our recommendations offer a path to that destination.

Much has changed in the months since the Macondo blowout. We've learned a great deal about how to contain spills at deep water. Industry has a new appreciation of the risk associated with offshore drilling, and the federal government has initiated significant reforms in how it oversees this risky industry.

The Commission applauds all of these efforts. But they are not enough. Drilling offshore is inherently risky and we will never reduce the risk to zero. But as a nation, we can take concrete steps that will mitigate the chances of another Macondo, and reduce the consequences should another event such as that occur.

The Commission believes that these steps are vitally necessary. Without such a response, we will continue to place safety to the workers, the environment and the economy and the Gulf region at unacceptable risk. If dramatic steps are not taken, I'm afraid that at some point in the coming years, another failure will occur and we will wonder why did the Congress, why did the Administration, why did the industry, why did the American people allow this to occur again.

The people of the Gulf have suffered so much that they deserve to know that their government and the industry are going to do, and that they are committed to the highest standards of safety and protection of the environment.

Thank you.

WILLIAM REILLY: Thank you, Bob. I want first to recognize that one of our distinguished members, Cherry Murray, Dean of Engineering at Harvard, is ill today in Cambridge, and very unfortunately could not be with us. She understood in ways that

none of the rest of us probably here do the specific technologies and the engineering realities that helped us explain what happened on April 20th.

I want also to emphasize, as Bob just did, that this Report is unanimous, came in under budget, and also on time. I understand that's the first time in the history of commissions that anybody has not asked for more time. I was told by one member of Congress that this is something we should tout and advertise and take credit for, and another to say we've set a terrible precedent for Washington. [Laughter]

Well, we are very proud of it. I am very proud of the Commissioners I served with, none more than my longtime friend, statesman and Co-Chair Bob Graham. This has been an enormously satisfying enterprise. That the Report has the quality it has and did get completed on time is a tribute to a marvelous interdisciplinary staff, as good as any I have ever worked with, led by and recruited by Professor Richard Lazarus.

Senator Graham has characterized what happened on April 20th. He's explained the proximate cause, the bad decisions, the blunders, the unexplainable choices that we have now documented have been made. And he also talked about the root cause, as the President, in his Executive Order, directed us to do, a culture of complacency that affected by government and industry.

I think the reality is that none of us were prepared for this. Obviously, government and industry certainly should have been; if not for a catastrophe of the size that occurred, then of a major spill. The early response to that spill is evidence of the degree of unpreparation, and this Commission is critical, even harsh, about some of the faulting early efforts to get a grip on the problem, to identify the flow rate, to contain the blowing well.

Having said that, having visited the Gulf, I have to say there's something very impressive about the response to this spill. Tens of thousands of people worked day and night to try

to clean it up. They may have incurred cost of time and energy, and even health, but they did the job. And our own leadership of the government, I think, after a slow start, responded quite effectively to this spill, and, even in the case of finally determining the flow rate, with considerable ingenuity.

So make no mistake about it: Despite some allegations, this was not Obama's Katrina.

However, we have identified gaps that lead us to make recommendations, important recommendations to the Congress, to the Administration and to industry.

To Congress we say, it is time to exercise serious oversight over the Department of Interior and the Bureau of Oceans Management there that has succeeded MMS. Oversight that has not been characterized by previous Congressional responses and attention to that agency.

We recommend, as a first priority, that resources be allocated by the Congress to ensure that this agency is capable, is a match for the people that they're inspecting and regulating every day. They have not been; they have been overmatched. They have been underresourced, underfinanced and undertrained.

Money is going to be necessary to add to the efforts under way by Secretary Salazar and Michael Bromwich, both of which we are admiring and respectful of. They're going to have to get resources from the Congress. They're going to have a compensation system that allows more recruitment of able people who, unlike so many who revealed to us in the course of investigations, they did not understand key technologies, like centralizers and negative pressure tests.

The Congress, therefore, needs to act. I must say that given— we get a lot of questions about whether Congress will pay attention to us. Clearly, one Congressman was paying a

lot of attention yesterday when I briefed him, based upon the verbatim leaks that later came from him. So we can take some encouragement from that, I think. [Laughter]

The fact that the building operation at Interior, now underway, and quite effectively so, is going to take time, points to an important reason why industry, which cannot wait, which is going to continue to drill in the deep waters of the United States and around the world, needs to pick up its own game.

We make a very important recommendation, and the recommendation is based upon the experiences of other high-risk industries which acted after their own catastrophes. One thinks of the chemical industry after Bhopal, and it established Responsible Care. One thinks of the nuclear industry after Three Mile Island, and it established the Institute for Nuclear Power Operations. There are other examples.

The oil and gas industry, which may not have been a high-risk industry when it was in shallow waters has become so as it has moved into deeper waters. It needs to draw the obvious consequences.

We have characterized the problem that confronts industry and that we have identified and documented as a systemic problem of industry. Now, that deserves some explanation. I am aware, personally I have heard from CEOs of companies who dislike, who are revolted by the idea of being painted with the same brush, companies that have exemplary records for safety and environmental protection. I fully understand that; I served on the board of such a company, Conoco-Phillips.

We do not say those companies have been remiss. What we say is that the likelihood that dependency upon contractors who operate in virtually every one of the world's oceans where hydrocarbons are mined are mostly likely at risk as a result.

In order to believe that this is not a systemic problem, one has to believe also that Halliburton would only have supplied faulty cement to BP. Or that Transocean, on any other rig but a BP rig, would have detected gas rising in the drill pipe.

Irrespective of whether industry accepts our analysis that this is a systemic problem, that Halliburton and Transocean are operating in all the world's oceans for all of the oil and gas industry, even if you don't accept that, it seems to be indisputable that the solution to the problem must be industry-wide. Industry has got to stop thinking that it is sufficient to have a state-of-the-art best practice safety and management system, and that's the end of the story.

Several companies, quite outstanding companies, presented their safety and management systems to the Commission staff, meetings at which I was present, multi-hour meetings – Chevron, Exxon Mobil, Shell. At the conclusion of each of those meetings, I don't think it occurred to any of us to suggest what they weren't doing, what should be done now. Nevertheless, I asked the question, Well, how did you adjust, how did you manage the risk that your rigs might all be shut down in the Gulf? To that, they had no question. Going forward in the future they need such a question.

And therefore, a safety institute, which is entirely controlled and managed by industry, which enforces best practice, which evaluates, which audits, and which grades the performance of the various companies is what we recommend. And I strongly encourage the leaders in this industry, the most exemplary practitioners of good safety and environmental protection, to lead the rest of the industry – which I know is a complicated industry and a more complicated one than the nuclear industry; it's also a technologically very capable and well-financed industry – to follow that course.

I guess one of the real tragedies, but also the opportunity presented by this experience – and a tragedy like this does lead us to be open to new directions – is the poor condition of the Gulf of Mexico. We have long known that the resources there, ecological resources

are of profound value in consequence. Two-thirds of the fish life in the sea are nurtured at some point in their lifecycle in wetlands. Louisiana has something like 30% of all of the country's wetlands. They are silently eroding away. They're disappearing because of sea level rise, but also floodworks, dredging and generations of oil and gas activity.

For a long time, we have known what needed to be done there. There are many projects, many of them authorized, that are standing by for support. For the first time in my career a conservationist, we have the prospect of serious money to do what needs to be done, if the fines and penalties that are to be assessed under the Clean Water Act are deployed, 80% at least, to their restoration.

The country owes that to the Gulf. And I very much hope Congress will agree to appropriate those funds and direct them toward the Gulf. As the Secretary Mabus, in his report, also recommended.

Finally, the problems that we confront in energy, in the oil and gas industry, are like so many of environmental problems. We cannot solve them alone, as a country even. The Gulf of Mexico is shared, to a very large degree, with Mexico, which has indicated intentions to go into deep water within the next two years. Cuba has also expressed interest in possibly drilling 14 wells, some of them 50 miles off the coast of Florida.

I have already opened conversation with the Mexicans, as has Secretary Salazar, about their need to enter in agreements with the United States. And one hopes that Cuba can be drawn into this conversation as well. So that all of us practice the same level, have the same standards, the same protections as our industries go about mining those resources.

The same is true of the Arctic. The Arctic is a punishing environment. It is beset by weather the like of which one does not see in the Gulf, except perhaps maybe in the occasion of a hurricane. It's going to require special care and attention, and the kinds of standards and regulations that are effective in the Gulf will not be sufficient in the Arctic.

Russia, Canada, Norway – Denmark's already begun last summer to drill two wells – all will want to develop those resources, and so will the United States.

We need to have special care as we do so. And we recommend that the State Department engage those countries in a common standard of Arctic protection and management going forward.

Those are some of the highlights of our recommendations. They're by no means all of them. We believe that if these recommendations are followed and that the course we have set out is taken, we will go a long way toward restoring the faith of the country in a vital enterprise.

Thank you. Questions? Sir?

___: As you pointed out, Mr. Reilly, the oil and gas industry, when it operated in shallow waters, was not a particularly high-risk industry. Some in the energy industry have complained that the reason they're drilling in 5,000 feet of water in the Gulf is that successive federal governments over nearly 30 years have barred drilling in shallow water areas off the Atlantic and Pacific coasts.

Would the Commission recommend, or did you discuss the possibility of getting those shallow areas open so that they don't have to go into deeper waters?

WILLIAM REILLY: We understand fully that the notices to leases 5 and 6 are requiring some attention, and that certification of equipment has a back-up. There are necessarily some adjustments that are going to take some time before full resumption of drilling occurs in the shallow waters, as well as in the deep waters.

Senator Graham and I have both been critical of the moratorium, which we thought was excessive and lasted too long. But that aside, I think the real reason that we're in deep

water is because that's where the oil is. If you look at the reserves that are estimated to exist, they are not only in the deep water, they're in the deeper and deeper water. And we are aware now of plans to go down 10,000 feet. Macondo, you may recall, was 5,000 feet down.

So I think to the extent that the oil and gas is in the deep water, that's where the industry will go. Not just here, but off Brazil and in other parts of the world as well. Alaska, the Arctic is not deep water, it's shallow water; I think 140 feet or so, where Shell wants to drill. And that presents its own set of problems.

But our view, I think, fundamentally this is a hopeful message. We believe that this is a problem that can be managed, and it's in the interest of everybody – government, industry – to manage it.

Sir?

MATT COVER: Matt Cover with CNS News. You hinted in your speech, you said this was an industry-wide, these problems that caused the spill are industry-wide. Do you have any evidence that you could share with us that these same mistakes are being made right now? Are they being made in US waters? And where are they being made?

WILLIAM REILLY: The Commission did not document these problems in other places. We're perfectly aware of blowout preventers that didn't work in other environments, and what loss of well control that occurred. But I would cite just one statistic that I think is indisputable:

The fatality rate per 100 million hours worked in the United States is five, in United States waters, in the Gulf. In the North Sea and in Europe, it's one. That needs an explanation and it points to a problem. I think it points to a system-wide problem.

Sir?

GARY GENTILE: Thank you. Gary Gentile with Platts. As early as last week, Jack Gerard, the president of the American Petroleum Institute, said that he felt that the American people believe that the Macondo was an isolated incident. And as you know, there is significant resistance of the part of industry to creating the kind of safety institute that you've called for. And on the government side, Congress last year tried to pass an oil spill legislation that contained a lot of the things that you've called for. That legislation went nowhere.

What are you going to do to make sure that your Report, as thorough as it is, isn't ignored by both Congress and industry?

WILLIAM REILLY: Well, we're going to make a lot of noise. We're testifying, Senator Graham and I are testifying before Senator Bingaman on the 26th of January in the morning, and Doc Hastings in the afternoon. We expect that there will be more attention, I think, to the kind of thing that we've suggested, which really is a very detailed research, and I think carefully thought-through set of findings and recommendations, well documented. We don't say really what we don't know here. We do know that this is a systemic problem, given the pervasiveness of the contractors, the rig manager/owner, which is the largest in the world, Halliburton, which is operating virtually everywhere, servicing the oil and gas industry.

The only thing I would say to correct what you said, I don't think one should assume that industry will not support a safety institute. Based upon the private conversations I have had, they are seriously deliberating on the possibility. And I have every hope and expectation that they will in fact establish one.

All the way over here.

JOHN RICKMAN: Hi, I'm John Rickman with the *Energy Daily*. A week or so ago, the Interior recently relaxed environmental reviews for a number of offshore deepwater drillers who had already had their permits, their operations permitted prior to the accident. What was your response to that?

WILLIAM REILLY: Well, immediately after the spill occurred, all of the companies I'm aware of stood down and assessed their own exercise, their own activities for vulnerabilities. I think MMS, I know MMS or BOEMRE then investigated, inspected each of the companies; certainly of the 33 that were shut down. The exploratory rigs found seven or nine violations. Those were corrected for.

So I think one can have confidence that the Secretary's decision is defensible and one can go ahead on those specific rigs.

SENATOR BOB GRAHAM: If can just supplement what Bill said. I think one of the underlying themes of our Report is particularity. We're recommending that drilling on specific sites be evaluated in terms of the riskiness and preparation to deal with the consequences of that risk in that particular field. As it relates to the moratorium, it was our feeling that rather than throw a blanket over all of the 33 who were affected by the moratorium, that it should be evaluated on a company-by-company, rig-by-rig.

When a company and its mechanics were shown to be in compliance with the higher standards that had now been established, that they should not be held back because there were others that had failed to comply with those new standards. And I believe that's essentially the policy that the Administration is now taking.

WILLIAM REILLY: All the way back here, ma'am?

JENNIFER DePAUL: Hi, my name is Jennifer DePaul. I'm with the *Fiscal Times*. You talked about the idea to create an independent safety agency within the Interior

Department. You talked about funding and compensation. Can you tell me where the funding is coming from and if you have sort of a timeline or specifics on how quickly you want this established?

SENATOR BOB GRAHAM: Well, one of the areas where I think the funding should come is through the lease itself. What is special about offshore drilling, as compared to onshore, where much of the drilling takes place on privately owned land. All of the land in the Gulf of Mexico is public land that belongs to the people of the United States, or for those near-shore areas that belong to the people of the five Gulf states.

So we believe that it's appropriate that in the decision to allow a company to have access to that public land, there should also be a provision requiring that company to pay a fee sufficient to cover the regulation as it executes that lease.

This is not a new concept. In fact, the offshore oil industry is almost an outlier. The other major regulated industries pay for the regulations through some form of fee. We think that should be the case with the oil and gas industry. And we believe that the lease is one of the means of doing so, and doing so in a way that would assure a sustained, predictable source of funds for regulation, so that the kind of competencies that Bill has just described can be met.

WILLIAM REILLY: Over here, ma'am, yes.

JULIET EILPERIN: Juliet Eilperin with the *Washington Post*. Can you talk about how the lack of subpoena power might have affected the Commission's ability to look into particularly accountability high up in some of these companies.

WILLIAM REILLY: Terry Garcia.

TERRY GARCIA: We were able to, through the very able efforts of our chief counsel, to obtain all the information that this Commission felt that it needed to produce the answers that the President had requested, both in terms of determining the root causes of the explosion, but also in making recommendations on how to prevent something like this in the future. That doesn't mean that there weren't people that we would have liked to have interviewed, but we were able to, very effectively, obtain the information that was necessary for us to do our work.

I also wanted to just follow up on something that both the Senator and Bill had said about the question of whether this was an industry-wide issue. What was not in doubt, and what is not disputed is that the industry was not prepared for this. What is not in doubt is that, industry-wide, R&D efforts had not been undertaken to address this sort of event. And what was very clear was that there was an utter lack of ability, when this occurred, for the industry to effectively respond, and then to contain this event.

So it was industry-wide in that sense.

TOM ICHNIOWSKI: Tom Ichniowski, *Engineering News Record Magazine*.

Gentlemen, one of your recommendations deals with the liability cap for offshore oil spills, saying that the current 75 million is totally inadequate, should be increased substantially. Do you have a figure in mind? Or a range? Double? Triple? And why did you not, say, lift the cap altogether as some in Congress have proposed.

WILLIAM REILLY: Frances Beinecke.

FRANCES BEINECKE: We looked at the question of liability, and the recommendation is that the cap be lifted. We did not recommend that it be lifted to an unlimited liability; we couldn't reach agreement on that. But we did identify that it has to be lifted, and the per-incident cap should be lifted as well.

This is also a recommendation, I believe, that the Administration has made, and it's really up to Congress to address this. And this is one of the things that does require Congressional action.

Just to put a point on one of the earlier questions, too. There are many recommendations in this Report that can be enacted by the Administration. The agencies do have authority. So as we call on Congress to act and call on industry to act as well, there are actions that can be taken by the federal government, using existing authority, to strengthen oversight and regulation. And we're calling on the Administration to do that as well.

WILLIAM REILLY: Madam, all the way back.

LIBBY CASEY: Thank you. I'm Libby Casey with Alaska Public Radio. I'm wondering if you can elaborate more about the Arctic and what specifically needs to happen. Should there be a moratorium until oil spills in icy water can be cleaned up with proven technology. Can you speak about that, please.

WILLIAM REILLY: Fran Ulmer.

FRAN ULMER: The Commission is not asking for a moratorium in Alaska. Recognizing that there are very important questions still ahead for us, to be answered through additional research and additional investment in Arctic-specific technology, we feel as though research that has a specific timeline and very focused research that will help answer essential questions for both the private sector and the public sector is what is really required.

Another very important recommendation of the Commission as it relates to Arctic development is, we are asking Congress to fund the Coast Guard so that they are adequately prepared for, God forbid, an oil spill, but also for search and rescue in the Arctic. As the ice retreats and we see more and more traffic in the Arctic, whether it's for

tourism or a navigation of any kind, it's essential that the Coast Guard, and for that matter the Navy, have the assets necessary to be able to respond in the Arctic.

For us to be able to move forward, whether it's with oil and gas development, or any other development, we need to be prepared as a nation. And a number of studies have indicated that the Coast Guard does not have adequate capability to be able to respond appropriately in the Arctic.

So there are a number of things – additional research in terms of the environment; the international protocols that Bill mentioned earlier with other Arctic nations; additional investment in the Coast Guard and, I would add, something that we haven't talked a whole lot about at this point, empowering local people to be part of the decision-making process.

After the *Exxon Valdez* oil spill, regional citizens advisory committees, or RCACs, were created in Alaska. Our Commission recommends doing something very similar in the Gulf of Mexico to empower the people of the Gulf to be active participants in the planning of oil and gas development; in reacting to proposals; in reviewing oil spill response plans; in training, so that if there is an oil spill, they're able to be part of the workforce in a better-prepared way. We recommend the same thing for the Arctic.

We think all of these things will better position the United States to be able to take advantages of the resources of the Arctic. But we don't feel as though we should sit back and wait indefinitely for that to happen. We are challenging Congress to put funding into both the research and the capabilities for the Coast Guard and other agencies so that we can move forward.

WILLIAM REILLY: Yes, sir.

RANDY SHOWSTACK: Randy Showstack, reporter with *EOS*, newspaper of the American Geophysical Union. I'd appreciate if you could explain and elaborate on why science has not had a significant seat at the table, as Senator Graham indicated, and what may or may not be the relationship, if any, between that and, for instance, the initial difficulties in determining oil flow rates and other problems where science perhaps might be helpful.

WILLIAM REILLY: Professor Boesch.

DONALD BOESCH: Thank you. The lack of understanding of basic environmental processes in the Gulf of Mexico was striking as a result of this incident. For example, there was lack of confusion about whether there were these submersed deepwater plumes of droplets of oil. There was a lack of understanding of where those plumes were going and what the effects may be.

Science can answer these questions. Indeed, some of the first results of science that have been conducted on this have been very revealing in a number of very important publications. However, the science, to be most effective, should be done in advance so we understand this in an operating environment, in a comprehensive way.

In the past, the investments in science related to support the offshore development program have been oriented towards completing the minimum, identifying potentially sensitive environments for development of environmental impact statements, rather than comprehensively understanding the fate and effect of oil and gas that might be released in the system.

So our recommendations are to beef up that environmental studies program, to elevate it in terms of its independence so that it's led by prominent, effective scientific leadership, so that can bring the fruits of the research to bear on the environmental assessments to support the leasing decisions. And then, as part of that process, to involve two other very

important, powerful science agencies, both NOAA and the USGS, to work with BOEMRE, the new agency, to bring the best science to bear on this environmental decision making.

The second area where science is going to be very important, as Mr. Reilly indicated, we are recommending substantial investments of the penalties from the Clean Water Act violations to go to environmental restoration. These restoration investments can only be effective if they're guided by the best science, to direct it to the priorities of restoring resilience to the system, and to making sure that we're using the best methods to assess the outcome.

So in both of those areas, we think, both in terms of the assessments of the risk going forward with respect to oil and gas development, as well as our investments in restoration, we think a solid scientific program is absolutely essential.

RUSSELL MOKHIBER: Russell Mokhiber from *Corporate Crime Reporter*. Nowhere in your Report do you question whether a crime was committed. David Uhlmann, who's a former head of environmental crimes prosecutor in the Justice Department, currently with the University of Michigan Law School, says that a crime was committed under the Clean Water Act; there will be a criminal prosecution of BP, Halliburton and Transocean.

I'm wondering if you believe that there should be increased resources to criminal environmental enforcement to help deter this kind of behavior.

SENATOR BOB GRAHAM: When we first met with the President and he gave us our assignment, there was an understanding that our purpose was to develop the factual record upon which this event occurred, that it would be for others, specifically the Department of Justice, to determine if those facts constituted a criminal act, and if so, for what specific purpose.

So we did not undertake the issue of attempting to determine criminal liability. I will leave it to the readers of the Report as to whether they believe they can find it in our factual program. Nor did we look specifically at the question of the resources necessary to reach a judgment as to whether a crime had been committed.

WILLIAM REILLY: Madam, all the way back there.

AMY HARDER: Amy Harder with *National Journal*. I want to ask another question about the liability. You said that you did not recommend unlimited. And I know there's been some proposals in Congress that would sort of seek a compromise that would pool the liability across the industry. But I understand that the Oil Spill Liability Trust Fund sort of already does that.

So two questions: Why did you not recommend an unlimited liability, removing the cap entirely? And did you consider this pooled concept, where the companies producing in the Gulf would all pool into that?

WILLIAM REILLY: We do recommend a significant increase in the liability. We, frankly, are sensitive to what we don't know. We know that Canada has a much lower liability maximum; I think \$35 million. The United Kingdom has one that's not much more. We don't really know how the insurance company would address issues of liability were we to propose just straightforward some kind of industry or insurance pool.

We have a lot of sympathy for the fact that there are, I think we characterized, 185 independent operators in the Gulf. So the truth is we did not have time to get in conversation with the insurance industry. We assume, though we do not know, that probably some kind of, over time, insurance pool can deal with the special problems of the independents. And we've been clear in meetings with them that, on the one hand, we respect what they do, have a concern to ensure that they continue to be operating competitive for all of the economic and cultural reasons that they represent.

And it's also unreasonable to expect that if they can inflict billions of dollars of damages, that that bill not be sent to the public. So some kind of compromise has to be worked out on that, and our position on this one is close to the Administration's I understand, in that we recommend a significant increase in the liability cap without specifying exactly what it ought to be.

SENATOR BOB GRAHAM: If I could just supplement what Bill has said. The question infers that there should be a single number that covers all instances. If there's one thing we have learned, is that there is a dramatic difference in the risk and the consequences of that risk the deeper and deeper you drill into more dangerous, higher-pressured, more geologically challenging areas.

So one approach that I would suggest be considered, if there is to be a liability cap, that it ought to be variable based on the actual risk that a particular site could impose. And thus, it could be dramatically different for well-known shallow waters, as opposed to the unknown or the ultra-deep into which we are about to commence exploration.

WILLIAM REILLY: That raises the issue that Senator Graham raised in his remarks, of the safety case as a new mode of regulation. I don't expect that that will become familiar very rapidly in this country, where it's not been the practice before. Though a couple of companies do already use it in the Gulf, and it's required, as a matter of law, to be used in the North Sea.

What that says is that on the foundation of prescriptive regulations, each company goes beyond that to assess those dangers and threats that are inherent in a specific well formation or rig design situation. The advantage of that is it puts a lot of initiative on the industry to focus specifically – not just to get the boxes checked for compliance – specifically on a given place with its particular challenges.

And one thing we hope that it will do is avoid the prescriptions, which may be perfectly applicable today and next year and the year after that, but given the rate at which the industry progresses and develops technologically, become obsolete within three to five years.

So the safety case would guard against that. And we're recommending that the Interior Department promote that, and that the industry, which we know can operate according to it in the North Sea, begin to do it in our own waters as well.

Yes, ma'am.

___: What are the top priorities for Congress that you'll be recommending when you testify?

FRANCES BEINECKE: Well, I think the top priority is to, first of all, give resources to the Interior Department to enable it to provide the oversight job that it has. Secondly, to ensure that the majority of Clean Water Act penalties go to the Gulf restoration, which I think is a top priority of ours. And third, to lift the liability cap and really address that issue so that any future spill that happens in US waters, the public is protected.

WILLIAM REILLY: You, yes, ma'am.

KATE SHEPPARD: I'm Kate Sheppard,, *Mother Jones Magazine*. One of the proposals was calling for more time to assess the applications. And there's some argument about whether the DOI can do that now within their existing authority, or whether that's something Congress has to act on to expand that 30-day window that they currently operate under.

I'm wondering specifically whether there's any determination reached about whether that's existing authority, or whether Congress actually has to act for that to happen.

FRANCES BEINECKE: Our conclusion is that Congress has to act, and there's a specific recommendation to extend that from 30 to 60 days, and that the clock starts running once the application is complete.

WILLIAM REILLY: Yes, sir.

JONATHAN TILOVE: Jonathan Tilove from the *Times-Picayune*. Co-Chairman Reilly said that both he and Senator Graham thought the moratorium was excessive. I didn't know if that was the consensus of the rest of the Commission.

SENATOR BOB GRAHAM: The Commission never took a position on that.

JONATHAN TILOVE: And how do you square that with the finding that the disaster was a result of systemic problems that could repeat?

WILLIAM REILLY: The way that I would square it is that the companies that had not been implicated in the specific spill, and that had been specifically and carefully inspected by MMS immediately following the spill were judged to be in compliance with all known requirements and to have had also exemplary safety records already.

Over here.

EDWARD FELKER: I'm Edward Felker with *Energy Guardian*. Did the Commission discuss whether, based on the evidence, that the Macondo well was an inherently unsafe formation and should not have gone as far as it did in any case?

SENATOR BOB GRAHAM: That it should not have gone as far as it did.

EDWARD FELKER: That at some point they should have abandoned the Macondo well, that that well could not be completed safely.

SENATOR BOB GRAHAM: I don't think that we did conclude that. I'm sure we did not conclude that. And I know that's not the opinion of the industry. Don't

DONALD BOESCH: As the well was drilled, the operator, BP, recognized that there were inherent dangers to go farther in drilling the well. And so, they stopped short of their ultimate target and decided to complete the well there then at that point.

There's every reason to think, in terms of the investigations, that the well could have been completed and abandoned safely at that point. There were, however, a chain of mistakes, errors in judgment made as they went about that process, each of which could have been easily prevented.

So I think our assessment of our investigative team was that this well could have been completed and abandoned safely, and come back and produced at some future time.

There is, however, a recognition that as one drills the well, even with the best geological reconnaissance information available, that the company will find unusual risks and challenges as they go deeper down the well.

And so, part of that, the safety case, is to state that and assess that in advance in a comprehensive way, rather than being surprised as one goes down and drills the well.

WILLIAM REILLY: Yes, ma'am?

NEELA BANERJEE: Hi, I'm Neela Banerjee with the *LA Times*. Your recommendations are coming out at a time when there is a very serious anti-regulatory

sentiment in Congress, and you've been good enough to share some of the insights members of industry have given you in private conversations.

So I was wondering if you could tell us, given the priorities that you have, that you're going to present to Congress, what kind of reaction you've gotten so far privately from members of Congress to the recommendations that you're making. And we'll obviously ask them ourselves today, but I wanted to get some insight from you, given this climate, where you expect the pushback.

SENATOR BOB GRAHAM: I would say the answer is – as there are 535 members of Congress, or close to that, in terms of their response to your question – I believe that this issue and the searing impact that *Deepwater Horizon* has had on the conscience of Americans is such that it will override an ideological preference for less government, less government intrusion, less government cost.

What makes that level of optimism, I think, credible is the fact that the members of Congress understand that this is not just a typical example of government regulating a private enterprise. This is government regulating land that the government and the people of the United States own, and that it must be treated as we are stewards of public assets, invaluable public assets, the Gulf of Mexico. And that that recognition will cause, in spite of the reticence to accept additional regulation, this to be an exception.

Second, as has been said, we think a substantial amount of the recommendations that we're proposing can be adopted without Congressional action; that is that it's in the hands of particularly the Department of Interior and the Administration to execute. And from the comments that we have had thus far from the Obama Administration, I am very hopeful that they will take advantage of that opportunity.

WILLIAM REILLY: Let me just add two things. You can reorganize, the Congress can reorganize the Department of the Interior to create an environment and safety enterprise,

totally walled off from revenue generation and leasing, without any money. That can be done. And it doesn't involve a lot more regulation.

So that's a simple initiative that they could take, and that we think will be a guarantor in the future against revenue driving this program, which historically through several administrations, we document that it has.

The second thing I would just mention is that Chairman Upton and Chairman Hastings and Chairman Bingaman have all indicated enthusiasm for inviting us to testify before their committees, and have expressed great interest in what we have to say and to recommend.

So we're encouraged to believe that the Congress will give this the kind of hearing it deserves.

Yes, sir.

NICK JULIANO: Thanks. I'm Nick Juliano with *Inside EPA*. I wanted to ask you guys to talk a little bit about the recommendations you make with regard to EPA. It seems like new dispersant regulations and new response plan as lead federal agency seems to keep them sort of after an event happens. Was there any discussion of giving them a more robust, upfront role, rather than leaving sort of everything within DOI?

WILLIAM REILLY: Well, EPA, as you know, is head of the National Response Center and has a central role in organizing for any response. We believe there are some structural changes that need to be done with respect to the area-wide councils, and so forth. And those are detailed in the Report.

One of the real surprises here, to me, is having overseen much of the response to *Exxon Valdez* in 1989, in Prince William Sound, the status of the dispersant question was still

unresolved. I did not permit dispersants to be used in many parts of the sensitive areas – around the fish hatcheries, for example, in Prince William Sound – because of fear that getting into the water column would have contaminated the fish.

Remarkable to me that we finally have a spill – and spills are predictable; they're going to happen from time to time – that we then have the argument about, Well, is it toxic, what's proposed to be used here corrects it? Does it persist in the environment? Does it depend how deep it's injected or how much is used?

So we make strong recommendations that EPA seriously begin to test the toxicity of dispersants and their effectiveness, and to do so in real-time situations.

Now, I can perfectly well understand why, when an application may go into EPA, to deposit some oil on the water and see whether something works to contain it or to dissolve it, that's probably not left at the top of the inbox of the permitter.

Nevertheless, we think that needs to be done. We think it needs to be done in specific situations, and particularly we recommend that it be done in the Arctic, to find out how dispersants would work in very icy water.

DONALD BOESCH: Also, I should point out that EPA, in addition to the issues that Chairman Reilly mentioned related to dispersant application and the role in oil spill response, has a major role to play in the restoration efforts, the recommendations that we've made and Secretary Mabus made.

As you're aware, the President's asked Administrator Lisa Jackson to head the task force. So she's been set up to make progress in this area in the interim basis. And she is leading that effort involving the other agencies in the states. They will have a major role to play in the restoration program.

And specifically, for example, one of those areas that we point out is the alleviation of the so-called dead zone in the Gulf of Mexico, the hypoxia in the Gulf of Mexico, which has to involve management and regulation of up-basin pollution sources. It affects an area much larger than was actually affected by this oil spill on an annual basis.

So if we're going to restore the resilience of the Gulf ecosystem, this is one of the things that we should be undertaking in this restoration effort. And EPA has a leadership role in that regard.

WILLIAM REILLY: And to be clear, and contrary to my initial assumption going into the dispersion issue, we believe that Administrator Jackson made a quite sound and defensible professional decision with respect to her permission to use dispersants in the way that she did.

Yes, ma'am?

KATARZYNA KLIMASINSKA: Thank you. Katarzyna Klimasinska, Bloomberg News. The MMS, the organization that you recommend, how does this compare to what Secretary Salazar has said he will do?

WILLIAM REILLY: Secretary Salazar has, we think, made decisions that are directionally correct and responsive to the kinds of concerns that we have. He has now separated safety and regulation and leasing and revenue generation and receipt. And they report to two different assistant secretaries. That is a move to the good. We support that and respect it.

We think it's not enough. Those two assistant secretaries still report to a single deputy Secretary, and that deputy secretary reports to the secretary. What we are proposing is that there be a walled off enterprise that is headed by someone who's appointed for a

term, someone who has industry knowledge or experience, engineering capability and training, and cannot be removed or politically interfered with.

We think for the long term that is the only way to ensure that revenues do not, again, become excessively influential in decisions relating to non-revenue items, such as safety and environment.

Yes, ma'am?

AYESHA RASCOE: Ayesha Rascoe with Reuters. I was wondering, with all the additional regulations you're calling for, and things of that nature, is there any concern about further delays in the Gulf? Already there are complaints that there hasn't been a new deepwater drilling permit, and that drilling could be delayed until next year. Is that something that you took into consideration when you were planning your Report? And is that a concern now?

SENATOR BOB GRAHAM: Yes, we did take it into account. As Commissioner Beinecke just mentioned, we recommended an increase in the amount of time that the Department of Interior agency should have to review permit applications. But it was not an indefinite amount of time; it was from 30 to 60 days. So we are sensitive to the fact that there are costs, both financial costs and time costs, involved in these decisions.

But think of the enormous liability that the industry has just brought upon itself as a result of the failure to attend to the basic safety, and thus *Deepwater Horizon*. We think that the long-term viability of the industry in the Gulf and its economic successes in the Gulf are very closely tied to a new standard of safety and environmental protection, which is what our Report will, I think, establish a path towards achieving.

WILLIAM REILLY: We'll take a couple more. Yes, sir.

JOHN KINGSTON: John Kingston from Platts. How do you deal with the fact that the BOEM hires a regulator, somebody who understands the industry, the compensation package paid by the federal government is never going to be on the level that the private industry can pay for and then presumably take that person away from BOEM. So you've got a constant revolving door among the regulators.

WILLIAM REILLY: I'll tell you two things I think. One, we've got to get the compensation up for those highly trained, specially formed technical people who operate within BOEMRE. It is possible there are other agencies, like NASA, that have a pay scale that permits that.

Whether we can get it up to a level comparable to that of industry remains to be seen. But that is one thing that I think the regulator can be helped by having a safety institute with industry people who are evaluating, auditing and inspecting, and who do have comparable compensation. As in the nuclear power industry and INPO, the people in the non-profit entity that the industry has set up are every bit the equivalent in terms of pay also as the people on the reactors that they're inspecting.

That can be done, and it needs to be done, and I think that combination together, the institute to supplement reinforced regulator will give us much more protection.

SENATOR BOB GRAHAM: In fact, I think the United States is the exception to the rule. The fact is that most of the countries where there is a substantial amount of oil and gas exploration do compensate their professional regulators at a level that will allow them not to be outmanned. And interestingly, in Great Britain, it has been said that if there's one issue that unites the industry, it is the desire to have strong, effective, professional regulation, because the industry understands that its continued success, particularly in the North Sea, is a direct function of how well it performs, which in turn is affected by the quality of regulation.

WILLIAM REILLY: One final question.

BILL GIBSON: Bill Gibson with the *Sun-Sentinel*. Please forgive me if you've covered this. I'd like to know, especially from Senator Graham, what are the lessons learned from this experience in terms of allowing areas in which oil drilling should be expanded, should it be brought closer to Florida shores?

SENATOR BOB GRAHAM: Well, you're now asking me both a policy and a parochial question. I believe that one of the issues that this has raised is the issue of the future of energy policy in the United States.

At the current level of proven reserves and at our annual consumption of petroleum, if America were to go to a "drill, baby, drill" philosophy, we would exhaust our reserves by approximately 2031. If we continue at the current level of using 48% domestic and 52% imported, we'll stretch that to the year 2068.

I think that those numbers indicate the imperative of having as part of our energy policy, that we need to be holding back some areas that have potential for future generations; and the absolute imperative of moving aggressively towards reducing America's almost insatiable appetite for petroleum, an appetite which today is consuming 22% of all the petroleum from the North Sea, Africa, Australia, as well as the United States; we're using 22% of it.

Those numbers are not sustainable, and I believe that our policy towards reaching out to areas that are not currently being exploited has to be within that context.

WILLIAM REILLY: An effective summary and conclusionary statement, as ever.

Thank you all, very much.

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