

**MINERALS MANAGEMENT SERVICE  
REORGANIZATION**

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**HEARING**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES SENATE  
ONE HUNDRED ELEVENTH CONGRESS  
SECOND SESSION

**SPECIAL HEARING**  
MAY 26, 2010—WASHINGTON, DC

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## MINERALS MANAGEMENT SERVICE REORGANIZATION

WEDNESDAY, JUNE 23, 2010

U.S. SENATE,  
SUBCOMMITTEE ON THE DEPARTMENT OF THE  
INTERIOR, ENVIRONMENT, AND RELATED AGENCIES,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 11:03 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Dianne Feinstein (chairman) presiding.

Present: Senators Feinstein, Dorgan, Tester, Alexander, Cochran, Murkowski, and Collins.

### OPENING STATEMENT OF SENATOR DIANNE FEINSTEIN

Senator FEINSTEIN. This hearing will come to order.

I would like to say good morning and welcome, everyone, to the Interior, Environment, and Related Agencies Subcommittee's oversight hearing on the proposed reorganization of the Minerals Management Service (MMS).

On May 19, as part of his overall response to the ongoing environmental disaster in the Gulf of Mexico, the Secretary of the Interior issued an Order, the purpose of which was to ". . . separate and reassign the responsibilities that had been conducted by the Minerals Management Service into new management structures that will improve the management, oversight, and accountability of activities on the Outer Continental Shelf (OCS), ensure a fair return to the taxpayer from royalty and revenue collection, and provide independent safety and environmental oversight and enforcement of offshore activities."

Our principal witness this morning, the person who will walk us through the proposed reorganization, is the Secretary of the Department of the Interior, Ken Salazar. So thank you, Mr. Secretary, for finding time in what I know is an incredibly busy schedule.

We are also joined by Michael R. Bromwich, a former Inspector General at the Department of Justice, who has been appointed by the President to implement the reorganization and reform effort. From my work on the Judiciary Committee, I have come to respect Mr. Bromwich. I welcome him to this effort. I believe he has a herculean task, and so we look forward to hearing his thoughts as well.

In addition to reviewing the reprogramming, our purpose here is to focus on the performance of the MMS to try to understand what went wrong, to hear from the Secretary the details of his proposed

reorganization and why he believes this proposal is the right way to go.

The key question for me underlying everything that is discussed here today is this: How does the proposed reorganization, a changing of the organizational chart, change the culture of the MMS to protect the Gulf of Mexico and the people who live and work there?

I want to be clear that by law the Department of the Interior is responsible for ensuring the safe and clean production of oil and gas on the OCS. No one else. This responsibility cannot be delegated.

BP, Transocean, Haliburton, and the rest of the companies operating in the gulf and elsewhere are required to obey the law, abide by the decisions of the Interior Department, and clean up any mess they create.

But they are not responsible for setting the safety standards, promulgating the rules, and ensuring full compliance with those rules.

Ultimately, at virtually every juncture leading up to the Deepwater Horizon explosion and fire, the MMS failed in its duty.

The MMS gave BP a categorical exclusion from an environmental impact analysis that in my opinion never should have been allowed.

The MMS allowed BP to run a drilling operation without the demonstrated ability to shut off the flow of gas and oil in an emergency.

The MMS allowed BP to operate without remote shut-off capability in case the drilling rig became disabled.

The MMS did not have an inspector on the rig to settle the heated argument between BP, Transocean, and Haliburton officials on how they would stop drilling and plug the well.

The MMS did not have and did not require the industry to have emergency equipment stationed in the Gulf of Mexico that could respond immediately to an emergency.

The MMS did not have a plan for responding to disasters.

And the MMS did not, in fact, have a real inspection and compliance program. It relied on the expertise and advice of the industry on how and how much they should be inspected.

Mr. Secretary, I understand that you intend to reimpose the moratorium on new drilling in depths more than 500 feet that was set aside yesterday by a Federal district court judge. Until you reimpose the moratorium, drilling will resume at 33 wells in deep waters of the United States, some of which may not have adequate safety equipment, backup technology, or sufficiently trained personnel. This to me is deeply troubling. I want you to know that I fully support the moratorium and hope you do reimpose it as quickly as possible.

The last 64 days have clearly demonstrated that the technology in use for deep water drilling is not sufficient to prevent or stop environmental disasters. Prior to the BP spill, containment and termination of oil leaks at depths of 5,000 feet had never been tried before.

I have outlined in this—and I will put in the record—the specific failures of the technology, the blowout fail-safe, the remotely operated vehicles that failed, the coffer dam that did not work, the soda

straw that had to be removed, the top kill and junk shot that failed. And the only method that appears to have had some limited measure of success is the top hat which is in place on top of the wellhead, but it still allows oil to escape into the ocean because the method for applying it, diamond shears, failed to cut a clean edge on the pipe and the capping device does not fit well.

#### PREPARED STATEMENTS

Senator FEINSTEIN. So we know that we have problems and we know this is difficult because this is without precedent. And yet you, Mr. Secretary, and the Department you so ably represent clearly have a mandate to see that the safety measures are in place and that the environmental decisions are correct ones.

Senator Leahy will not be able to be present at today's meeting, but has submitted a statement which will be included in the official record.

So with those words, I welcome you here today.  
[The statement follows:]

#### PREPARED STATEMENT OF SENATOR DIANNE FEINSTEIN

Good morning ladies and gentlemen and welcome to the Interior, Environment, and Related Agencies Subcommittee's oversight hearing on the proposed reorganization of the Minerals Management Service (MMS).

On May 19, as part of his overall response to the ongoing environmental disaster in the Gulf of Mexico, the Secretary of the Interior issued an Order, the purpose of which was to:

“ . . . separate and reassign the responsibilities that had been conducted by the Mineral Management Service into new management structures that will improve the management, oversight, and accountability of activities on the Outer Continental Shelf;  
ensure a fair return to the taxpayer from royalty and revenue collection; and  
provide independent safety and environmental oversight and enforcement of off-shore activities.”

Our principal witness this morning—the person who will walk us through the proposed reorganization—is the Secretary of the Department of the Interior (DOI), Ken Salazar. Thank you, Mr. Secretary for finding time in what I know has been an incredibly busy schedule.

We're also joined by Michael R. Bromwich, a former Inspector General at the Department of Justice who has been appointed by the President to implement the reorganization and reform effort. You have a Herculean task in front of you Mr. Bromwich, and we look forward to hearing your thoughts as well.

The purpose of today's hearing is twofold.

First, as members of the Senate Committee on Appropriations, we have a responsibility under the Constitution to provide for the use of taxpayer funds. Once we've done that—as we did through the 2010 Interior, environment, and related agencies appropriations bill—we then have a responsibility to ensure that those funds are used by the agency they were directed to, and for the purposes specified in the law.

In short, it's our job to make certain that the legislative contract established between the Congress and the President is honored.

There are times, however, when that contract needs to be altered and taxpayer dollars need to be reprogrammed. This is clearly one of those times.

In addition to reviewing the reprogramming, our second purpose is to focus on the performance of the MMS; to try to understand what went wrong; and to hear from the Secretary the details of his proposed reorganization and why he believes this proposal is the right way to go.

The key question underlying everything that's discussed here today is this: How does the proposed reorganization address the manifest failure of the MMS to protect the Gulf of Mexico and the people who live and work there?

I want to be clear from the outset about who is responsible for ensuring the safe and clean production of oil and gas on the Outer Continental Shelf. That responsibility, which is stated in law and cannot be delegated, lies with the DOI.

BP, Transocean, Halliburton, and the rest of the companies operating in the gulf and elsewhere are required to obey the law, abide by the decisions of the Interior Department, and clean up any mess they create.

But they are not ultimately responsible for setting the safety standards, promulgating the rules, and ensuring full compliance with those rules.

Unfortunately, at virtually every juncture leading up to the Deepwater Horizon explosion and fire, the MMS failed in its duty:

- The MMS gave BP a categorical exclusion from an environmental impact analysis that, in my opinion, should never have been allowed;
- The MMS allowed BP to run a drilling operation without the demonstrated ability to shut off the flow of gas and oil in an emergency;
- The MMS allowed BP to operate without remote shut-off capability in case the drilling rig became disabled;
- The MMS did not have an inspector on the rig to settle the heated argument between the BP, Transocean, and Halliburton officials on how they would stop drilling and plug the well;
- The MMS did not have—and did not require the industry to have—emergency equipment stationed in the Gulf of Mexico that could respond immediately to an emergency;
- The MMS did not have a plan for responding to disasters; and
- The MMS did not, in fact, have a real inspection and compliance program. It relied on the expertise and advice of the industry on how and how much they should be inspected.

Mr. Secretary, we look forward to hearing how the reorganization will prevent future disasters and how it will position the agency to quickly and effectively react if such a disaster should happen again.

I turn now to the distinguished Ranking Member, Senator Alexander, for any comments he may wish to make.

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PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Two months have passed since the explosion on the Deepwater Horizon rig, and more than 35,000 barrels of oil a day continue to gush into the Gulf of Mexico. Within weeks of the explosion, it was among the biggest oil spills in our Nation's history. Although we have seen heart-breaking photos of oil drenched marine life and birds and heard reports of the steady creep of oil outwards from the spill, it is clear that the worst environmental and economic damage is yet to come.

In the aftermath of the most colossal environmental disaster in our Nation's history, it must be a priority to mitigate the impacts of the spill on both the delicate and vital gulf ecosystem, and on coastal communities where fisheries and tourism provide jobs for millions of Americans. However, it is also important that we continue to examine how this disaster was allowed to occur. I am particularly concerned by the close relationships that have developed between powerful oil interests and Government agencies such as the Minerals Management Service (MMS) at the expense of environmental safety and public well being.

I am encouraged by President Obama's directive to restructure the MMS in order "to build an organization that acts as the oil industry's watchdog—not its partner." Sadly, the concerns about corruption and bribery within the MMS—the agency charged with the responsibility of managing our Nation's oil and natural gas reserves—are not new.

In 2008, then Senator Salazar and I sent two letters to then Attorney General Michael Mukasey expressing our concerns over a report by then Interior Inspector General Earl E. Devaney detailing abuses within the MMS. Inspector General Devaney's report found that many MMS employees, including a former director, accepted gifts and bribes from the very energy companies they were supposed to regulate and engaged in a culture of "substance abuse and promiscuity" with employees of these energy companies. We were also concerned about uninvestigated allegations of sexual assault against MMS employees. I remain deeply concerned that a climate of such serious and pervasive wrongdoing and cronyism continue to characterize such an important regulatory agency.

I had hoped that with the change of administrations, and the appointment of Secretary Salazar, that the Department of the Interior (DOI) would take serious steps to confront the pervasive corruption in the MMS. However, as the Congress now begins to investigate the events leading up to the Deepwater Horizon disaster, it is clear that little has changed at the MMS.

A June 20 New York Times article explains how the MMS ignored its own advice about the importance of a blind shear ram as a final stopgap measure in the event



of a spill. Over the past three decades, the MMS has commissioned many studies that demonstrated weakness in the blind shear ram, which, in the event of blowout, is supposed to slice through the drill pipe, sealing the well. Since 2003, the MMS has required that companies submit test data proving that their blind shear rams are capable of sealing wells in practice. This regulation was not enforced on the Deepwater Horizon rig. The MMS engineer who approved BP's permit did not even require test data because he had not been trained to look for it. It appears that despite all the research on the importance of blind shear rams, the MMS was not enforcing its own regulation, which could have prevented the BP disaster.

If nothing else, this catastrophe will force us to make long-overdue reforms to the MMS, in order to prevent future disasters. I applaud the plan to restructure the MMS, but am concerned by the comment of Acting Interior Inspector General Mary Kendall that "the greatest challenge in reorganizing and reforming MMS lies within the culture—both within MMS and the industry." Her recent testimony before the House Subcommittee on Energy and Natural Resources highlighted the need for increased inspectors, particularly in the resource-rich gulf, technological training to keep up with advances in an ever changing field, and stronger regulations within the industry. I am concerned that the meager increase in appropriations that the administration has requested for fiscal year 2011 will not be inadequate to address the challenges the MMS faces, especially this need for increased inspectors and training. This disaster is a frightening lesson about what can happen when regulations on energy companies are not enforced; this is not an area where we can afford to cut corners.

Reports that the MMS also may have over-ruled or ignored other agencies within the DOI are equally disturbing. The DOI needs to ensure that U.S. Fish and Wildlife Service and other agencies charged with protecting our ecosystems and wildlife are given at least equal footing with the MMS, and are funded at levels that allow them to perform their regulatory and oversight functions. The Secretary needs to oversee the entire Department in a way that protects our ecosystems, and does not see one agency run roughshod over the other. We cannot have agencies of the Federal Government, especially within the DOI facilitating the energy industry as they end-run the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and other keystone environmental policies.

While the gulf oil spill is the ongoing disaster that requires our focus today, we need to learn from this painful lesson and look at whether the MMS or other agencies may be catering to resource extraction industries in other locations such as the mountain top removal coal mines of Appalachia. Might we find that the Gulf of Mexico is not the only place where our own Government agencies are creating cover for industry to flout the NEPA, the ESA, the Clean Water Act, and other important protections?

The DOI needs to be funded at a level, and with appropriate guidance, to investigate all of the potential abuses and correct the problems where they occur.

I thank Chairman Feinstein for holding this important hearing today and I hope that Secretary Salazar will remember our efforts to investigate MMS corruption while he was in the Senate, and will work with the Congress to do more to improve the culture and functionality of the MMS.

Senator FEINSTEIN. I would like to call on my very distinguished ranking member, Senator Alexander for any remarks he may care to make.

#### STATEMENT OF SENATOR LAMAR ALEXANDER

Senator ALEXANDER. Thank you, Madam Chairman.

Mr. Secretary, Mr. Bromwich, welcome.

I know Secretary Salazar well and I know these last few weeks have been terribly difficult on the gulf coast but also for him and all of his other responsibilities. My purpose here today is to try to be constructive in helping you discharge those responsibilities in the best possible way.

I agree with the Chairman. I think accountability may be the area I would like to explore as we take time. I think about the commander of the Navy nuclear sub and how they have had no nuclear incidents since the 1950s. Most people think it is because the commander can ruin his career if there is a single accident in that re-

actor. Everybody knows who is on the flagpole. So both in terms of the responsible party such as the person doing the drilling and the regulator, who is on the flagpole?

Second, I think we should explore whether a single regulatory agency like the Nuclear Regulatory Commission does for nuclear power might be better than the multiplicity of agencies that we have. I wonder whether a Price Anderson type insurance program that involves all of the oil companies who might be drilling and sharing best practices and cleaning up—so you would have Chevron and Exxon not just sitting on the sidelines watching BP, but in the middle of trying to do whatever they could.

Those are some of the questions I have. And as we hear more about the proposal to change the structure of the MMS, I share the chairman's question. We do not want to just move organizational boxes around. We want to make sure that whatever is done on an interim basis is consistent with whatever might be done long-term. There is apparently going to be an organic law passed that will have long-term consequences.

And in this year's budget, we need to know what the cost is because we have a specific amount of money for very important projects, all the way from national parks to forest fires, that we have to deal with. And this could be a very expensive change, and we need to understand what we are talking about and know whether the administration is going to request a sufficient amount of money to do what needs to be done in the interim while we are waiting for the organic act to pass to create a long-term structure.

So we welcome you and I welcome you.

Now, I have one other question I would like to ask, and maybe you can comment on it and I will come back to it when the question time comes. And that is the question of the moratorium.

I was struck by the data from the Department of the Interior report on May 27 about what an unusual event this tragedy in the gulf is. Your data says that the oil spilled from offshore drilling rigs, OCS rigs, and platforms over the past 30 years totals about 27,000 barrels. That is less than this oil spill is producing every single day. In other words, during the last 30 years, there has been less oil spilled than this one produces every single day. The Santa Barbara spill was more than 30 years ago. It was in 1969. It was 80,000 or 100,000 barrels of oil in total. That is a tragedy. But this oil spill produces that every 2 days.

So this is a real anomaly, it seems to me, and a situation where we have the Gulf of Mexico providing 97 percent of Federal offshore production—nearly 7,000 active leases. There have been 50,000 wells drilled since 1947. And we have this incredibly unusual event, it would seem, producing more spilled oil every day than all of those thousands of wells have spilled in the last 30 years, according to your data.

So that makes me wonder why—think about Judge Feldman's decision where he said, are all planes dangerous because one was? Are all oil tankers like *Exxon Valdez*, all trains, all mines? That sort of thinking seems heavy-handed and rather overbearing.

And as you fashion a new moratorium—and I agree that the prudent thing to do if you have a terrible plane crash is to say, whoa, let us stop. Let us see what happened to make sure it does not hap-

pen again. But we do not stop 1.6 million people from flying every day after for an indefinite period in the same way one-third of the oil that the United States gets comes from the Gulf of Mexico, 25 percent of the natural gas.

So I would like to hear from you during this testimony at some point what you are doing as you think about a moratorium, as you think about taking these safety steps to make sure that the economic consequences of a moratorium are not more damaging than the environmental consequences of the oil spill.

Thank you, Madam Chair.

Senator FEINSTEIN. And I thank you, Senator Alexander.

Mr. Secretary, we will turn it over to you now. Please take whatever time you require, and then we will hear from Mr. Bromwich, and then open the floor to questions.

**STATEMENT OF HON. KEN SALAZAR, SECRETARY OF THE INTERIOR,  
DEPARTMENT OF THE INTERIOR**

Secretary SALAZAR. Thank you, Madam Chair Feinstein and Ranking Member Alexander, as well as the distinguished members of this subcommittee.

Let me say, the way I look at the challenge facing the United States and the Department of the Interior is that there is a problem and obviously we have seen that problem and we have been living the problem and working at it very hard since the Deepwater explosion occurred on the evening of April 20. The President has directed us to be relentless and to work on this matter until we get it resolved.

Our job is to make sure we are learning the lessons from this horrific incident which happened on the gulf coast and we will learn those lessons.

Let me also say, Senator Feinstein and distinguished Senators, that today I am confident and resolute that we will get through this, and at the end of getting through this period, what I see happening is the creation of a catalyst that will have us move forward with a safer set of standards and enforcement mechanisms for oil and gas production in the OCS. I see this incident as being a catalyst for moving forward with a gulf coast restoration program that will finally bring about an ecosystem restoration program that is so important. I hopefully will be able to join with all of you as we move forward on a conservation agenda for the United States of America because I think that is one of the lessons to be learned.

**CONTAINMENT STRATEGY**

I wanted to give you a very quick update on the latest information we have in terms of the leak containment strategy. From day one, it has been "Let us fix that problem, let us stop the pollution, let us stop the leak, and let us kill this well."

For the last 24 hours, the number of barrels of oil that were picked up through containment mechanisms was 27,097 barrels. That is a new high and a record for the amount of oil that has been picked up.

By the end of June, the additional mechanisms we have pushed BP to put into place will have the capacity of containing somewhere between 40,000 and 53,000 barrels of oil, and by mid-July,

as a result of the efforts of Energy Secretary Chu, U.S. Geological Survey Director Dr. Marsha McNutt, the science team, and myself, BP will be in a position where they will be able to catch between 60,000 and 80,000 barrels of oil, if that should be necessary. The exact flows are yet not known.

We have pushed for additional capacity and have been able, through the assistance, Senator Alexander, of some of the other companies in the gulf, to identify additional options for expanded leak containment capacity. We now have identified of up to 90,000 barrels a day for leak containment capacity.

But short of that and ultimately what is hoped for is this well will be killed. The relief wells are down very far now. The first of those relief wells will start its ranging operations to start to interface and try to find the location of the Macondo well. The kill operations hopefully will begin and that will ultimately control the source.

That is what is going on with respect to the efforts to fix the problem at source control.

#### PERSONNEL IN THE GULF

Under the leadership of Homeland Security Secretary Napolitano and the leadership of Admiral Allen and others in the Cabinet who have been involved, who have been fighting the oil on the sea and who have been fighting the oil near and on the shore, we have more than 25,000 personnel deployed to the region that are working on it very hard.

For us in the Department of the Interior, for which this subcommittee has oversight with respect to our budget, you should know that the 43 national wildlife refuges on the gulf coast and the seven national parks units, including the Gulf Island National Seashore, are some of the crown jewels of the United States of America. We have nearly 1,000 people who have been deployed there to protect the wildlife refuges and national parks, and to work with our partners in the States to make sure that everything is being done to protect those treasured natural resources.

#### BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION, AND ENFORCEMENT (BOEMRE)

Let me turn quickly and most importantly to the issue that is before this subcommittee today, and that is the BOEMRE. The MMS, which has existed by virtue of Secretarial Order since Secretary Watt was in the office under President Reagan, is no more. We have moved that agency into a new configuration now called the Bureau of Ocean Energy Management, and that Bureau of Ocean Energy Management, Regulation, and Enforcement and that bureau will be overseen by Michael R. Bromwich and Assistant Secretary for Land and Minerals Management, Wilma Lewis.

Responding to some of the questions, Senator Feinstein, that you raised concerning the MMS and its functions, we put together a team. We have Assistant Secretary for Land and Minerals Management Wilma Lewis, who is a former prosecutor for the United States in the District of Columbia and former Inspector General, coupled with Michael R. Bromwich, who is also a former Inspector General for the Department of Justice and who has worked on a

number of issues, including the Iran-Contra scandal and the prosecutions involved in that case. You will see that what we are doing is attacking the issues which have been front and center on the issues of corruption with the MMS. I am confident that with their leadership, and with the support of this subcommittee, that we will be able to see the day where the BOEMRE can have the standards in place and the enforcement to be able to do the job it needs to do.

It is, frankly, not a good thing that we have 62 inspectors essentially in charge of overseeing 4,000 production wells in the Gulf of Mexico and the Pacific and up in Alaska. That will have to significantly be expanded. We have, in front of this subcommittee for the last several years, included significant additional requests for inspectors for the MMS. We will have additional requests for all of you as we stand up the BOEMRE.

#### ETHICS

Let me finally say, before I turn it over to Michael, that first, ethics have been important for the Department of the Interior from the time that I started there. We have issued ethics orders. We met with the employees. We have ethics requirements that are on the performance plans of people. Most of the conduct that the Inspector General (OIG) has looked at is conduct from years ago, but we will continue to ride the ethics program and make sure that we have high ethical standards followed by all our employees.

#### OCS

Second, a major place of reform, which many of you saw and witnessed and asked questions about, had to do with the new plans for the OCS. There were very significant and broad-ranging reforms that we took on with respect to the new OCS plan. Many of you were participants and we had discussions with all of you on what you saw moving forward with the plan, which we announced at the end of March. That was a major change from what we had inherited when I came on board.

#### RENEWABLE ENERGY

Third, we have moved forward to stand up renewable energy, especially along the Atlantic Coast because we believe that is part of a new energy future for the United States of America.

#### PREPARED STATEMENT

Finally, the reorganization of the MMS. I have long believed it is important to have organic legislation for the organization simply because of the fact that the mission is too important. It has a mission, first, to produce energy resources which fuel the economy and power America. Second, it also produces a very significant amount of money for the United States of America, an average of about \$13 billion a year. An agency that has that kind of important mission assigned to it is also the kind of agency that should be backed by congressional legislation. We welcome the opportunity to work with all of you as we move forward on that agenda.

[The statement follows:]

## PREPARED STATEMENT OF KEN SALAZAR

Thank you, Chairman Feinstein, Ranking Member Alexander, and members of the subcommittee for the opportunity to be here today. I want to thank you for holding this hearing to review reforms of offshore energy activities that have been underway since I arrived at the Department of the Interior and the aggressive reforms we are now taking including reorganization of the Outer Continental Shelf (OCS) Program. I want to underscore our efforts to change the direction of the Department of the Interior and restore the confidence of the American people in the ability of their Government to carry out the functions under my charge. Last, I will review our continuing efforts to respond to the Deepwater Horizon oil spill and answer your questions.

Before we begin, I want to introduce Michael R. Bromwich, the new Director of the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE). His impressive background includes time as the Inspector General of the Department of Justice, as an Assistant U.S. Attorney, and since 1999, as an attorney in private practice. His extensive experience in Government and the private sector in improving the way organizations work make him an ideal choice to lead the restructuring and reform of the Department's offshore energy program.

For the same reason I chose Michael R. 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 OCS, 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 Minerals Management Service (MMS) toward a new future.

*Offshore Energy Reforms Completed*

This is the first opportunity I have had to appear before this subcommittee since the April 20, 2010 explosion and fire on the Deepwater Horizon and the ensuing oil spill that has consumed our attention. Although this unprecedented disaster, which resulted in the tragic loss of life and many injuries, is commanding our time and resources, it has also strengthened our resolve to continue reforming the OCS program.

The reforms we have embarked on over the last 16 months, and upon which we will continue to build, are substantive and systematic, not just cosmetic. The kind of 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. We believe, however, that they 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.

To review the reforms we have undertaken:

First, we focused our efforts on ethics and other concerns that had been raised in the revenue collection side of the MMS. We began changing the way the bureau does business and took concrete action to:

- Upgrade and strengthen ethics standards throughout the MMS and for all political and career employees;
- Terminate the Royalty-in-Kind program to reduce the likelihood of fraud or collusion with industry in connection with the collection of royalties; and
- Aggressively pursue 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 started reforms of the offshore oil and gas regulatory program, which included actions to:

- Initiate an independent study by an arm of the National Academy of Engineering to examine how we could upgrade our inspection program for offshore rigs;
- Procure substantial increases in the MMS budget for fiscal year 2010 and fiscal year 2011, including a 10 percent increase in the number of inspectors for offshore facilities; and

—Develop a new approach to on-going oil and gas activities on the OCS aimed at promoting the responsible, environmentally sound, and scientifically grounded development of oil and gas resources on the OCS.

In that effort, we cancelled the upcoming Beaufort and Chukchi lease sales, removed Bristol Bay altogether from leasing under the current 5-year plan, and removed the Pacific Coast and the Northeast entirely from any drilling under a new 5-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- and 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 the MMS beyond conventional oil and gas 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 took action to:

- Finalize long-stalled regulations that define a permitting process for off-shore wind—cutting through jurisdictional disputes with Federal Energy Regulatory Commission in the process and ultimately approving the Cape Wind project;
- Announce the establishment of a regional renewable energy office, located in Virginia, which will coordinate and expedite, as appropriate, the development of wind, solar, and other renewable energy resources on the Atlantic OCS; and
- Commence discussions and enter into an memorandum of understanding 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 OCS through increased Federal-State cooperation.

#### *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 issues raised by, and lessons being learned from, the circumstances surrounding the event. We are aggressively pursuing actions on multiple fronts, including:

- Inspection of all deepwater oil and gas drilling operations in the Gulf of Mexico and issuance of a safety notice to all rig operators;
- Implementation of the 30-day safety report to the President, including issuing notices to lessees on new safety requirements, and developing new rules for safety and environmental protection;
- Defending the moratorium on new deepwater drilling, which is currently the subject of litigation; and
- Implementing new requirements that operators submit information regarding blowout scenarios in their exploration plans—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 BOEMRE, 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 OIG 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 30, 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 strengthen safety, and improve overall management, regulation, and oversight of operations on the OCS.

Finally, the President established the independent bipartisan National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling tasked with providing options on how we can prevent and mitigate the impact of any future spills that result from offshore drilling. The commission will be focused on the environmental and safety precautions we must build into our regulatory framework in order to ensure an accident like this never happens again, taking into account the other investigations concerning the causes of the spill.

*Supplemental Legislation*

The administration will make sure that BP and other responsible parties are held accountable, that they will pay the costs of the Government in responding to the spill and compensation for loss or damages that arise from the spill. We will do everything in our power to make our affected communities whole. As a part of the response efforts, we expect to spend a total of \$27 million through June 30, 2010 for Interior's response activities.

As part of our reforms, we are also building on the efforts we undertook in the last 16 months to strengthen the OCS budget. As I already mentioned, the 2011 budget includes a 10 percent increase in the number of inspectors. Our restructuring of the OCS Program will require additional resources to aggressively pursue the reforms I outlined earlier, to implement the 30-day report to the President, and to potentially address the results of ongoing investigations and the President's Commission. We are currently hiring an additional 12 inspectors, 6 more than we proposed in the 2011 budget, and we are taking other actions that are outlined in the 30-day report to the President. Over the course of the next several years, 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 that will fund the near-term resources we need for these activities. I appreciate the Senate's prompt action in passing the supplemental on May 27. As you know, it is critically needed to support our full and relentless reforms—to bolster inspections of offshore oil and gas platforms, draft enforcement and safety 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 approve of oil and gas exploration plans from 30 to 90 days—this is also needed and I hope the Congress will include it in the final version of the supplemental.

*Reorganization of the Minerals Management Service*

On June 15, I appointed Michael R. Bromwich as the Director of the BOEMRE. Michael will lead us through the reorganization—the foundation for the reforms we have underway. He will lead the changes in how the BOEMRE 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.

Michael will join the team that has been working out the details of the reorganization. In a May 19 Secretarial Order, I 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 a reorganization plan in consultation with others within the administration and with the Congress. The report will provide the plan to restructure the MMS in order to responsibly address sustained development of the OCS's conventional and renewable energy resources, including resource evaluation, planning, and other activities related to leasing; comprehensive oversight, safety, and environmental protection in all offshore energy activities; and royalty and revenue management including the collection and distribution of revenue, auditing and compliance, and asset management.

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 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 nontax and nontrust revenue for the Treasury, collecting an average of more than \$13 billion annually for the past 5 years. There will be clear separation between the entities that collect and manage revenue and those that are responsible for the management of the OCS exploration and leasing activities.

As I outlined in a May 12 letter to the chairman and ranking member, we want your input and welcome your help to bring about the necessary restructuring of the organization and budget in an expeditious manner.

*Sustained Response Efforts in the gulf*

Of utmost importance to us is the oil spill containment and clean up of the gulf. I have returned to the gulf region numerous times to witness the work Depart-



mental staff and volunteers are carrying out to protect the coasts, wetlands, and wildlife threatened by this spill. We have deployed approximately 1,000 Interior employees to the gulf and they are 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 National Incident Commander, Admiral Thad Allen, the Flow Rate Technical Group, which is led by USGS Director Dr. Marcia McNutt, and a scientific team led by Energy Secretary Steven Chu recently announced an improved estimate of how much oil is flowing from the leaking well. That estimate, suggests that the flow rate is at least 35,000 barrels per day, based on the improved quality and quantity of data that are now available. At the Government's direction, BP is continuing to make progress capturing increasing amounts of this flow.

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 (FWS) 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. To protect the 8 national parks and 36 wildlife refuges and the numerous wildlife, birds, and historic structures they are responsible for in the Gulf of Mexico, the NPS and the FWS dispatched approximately 590 staff.

Representatives from the FWS also participated with the U.S. Coast Guard, the Environmental Protection Agency, 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, many people in the Department who are devoting significant time and energy to this event; to the various investigations and inquiries, both within the administration and in the Congress, that are being carried out; and to the ongoing reorganization and reform. I want to acknowledge their work and let them know those efforts are appreciated and are not going unnoticed. In the last 60 days we also have been able to see what the employees in the BOEM are capable of, their professionalism, their dedication to the Department, and their enthusiasm for the reforms underway. With Michael's help we will be able to cast aside the shadow on the many dedicated employees that has been left by an errant few, and by previous policies that have prioritized production over ethics, safety, and environmental protection.

#### *Conclusion*

Much of my time as Secretary of the Interior has been spent working to promote reform of prior practices in the MMS and to 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.

As we evaluate new areas for potential exploration and development on the OCS, we will conduct thorough environmental analysis and scientific study, gather public input and comment, and carefully examine the potential safety and spill risk considerations. 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. We will also work with you on legislative reforms and the finalization of a reorganization that will ensure that the OCS Program is effectively managed to achieve these goals.

Last, let me assure you 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, to protect our important places and resources, and to take actions based on the valuable lessons that will help prevent similar spills in the future.

Secretary SALAZAR. What I would like to do, Madam Chair, is to have Michael R. Bromwich, who we strongly recruited, who I offered this job to, and who we are proud to have on the job now on his third day, share his thoughts. He has hit the ground running and is doing a great job and has a lot of work ahead of him.

Senator FEINSTEIN. Thank you.

Mr. Bromwich, please proceed.

**STATEMENT OF MICHAEL R. BROMWICH, DIRECTOR, BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR**

Mr. BROMWICH. Thank you, Chairman Feinstein, and thank you for your kind words about my prior service. I have enjoyed meeting with Ranking Member Alexander. I have not yet had the pleasure of meeting with the other distinguished members of the subcommittee, but I am sure that will happen soon.

As Secretary Salazar said, I was sworn in on Monday. Today is my third day on the job, and I view this really as an opportunity to introduce myself to you, particularly the Senators who I do not know, and to hear what your concerns and issues are with respect to the reorganization proposal.

Let me tell you a little bit about my background and what I think are the reasons why the President and Secretary—

Senator FEINSTEIN. Somebody should run us through the reorganization proposal. The Secretary did not do it, so I trust you will do it.

Mr. BROMWICH. Well, I think the Secretary is going to do it in response to questions. That is my understanding.

Again, I have seen an outline of the reorganization proposal. It is not something I even had the chance to study closely. As I think the Secretary will tell you, I am in the process of being briefed on it and will have the latitude to adjust it as I see fit, but I was not planning to outline that or justify it for you today.

Secretary SALAZAR. Senator Feinstein, I would be happy to do that perhaps after—

Senator FEINSTEIN. That is what this hearing is about.

Secretary SALAZAR. I will focus on that after Michael's comments.

Mr. BROMWICH. My prepared testimony goes into the various governmental experiences that I have had that I think are relevant in law enforcement and in overseeing organizations. Since I left Government in 1999, I have been in private practice and I have actually dealt with a number of issues in institutions that were in need of organizational reform. Those included being the independent monitor for the D.C. Police Department for 6 years on use-of-force issues. I had just started a similar assignment with the U.S. Virgin Islands Police Department that, regrettably, I had to give up in accepting this job.

In addition to that, I did a major investigation of the Houston Police Department Crime Lab and the job was to diagnose and prescribe recommendations for fixing a range of problems that led to a number of bad outcomes, including wrongful convictions.

In addition to that, I did a lot of work for the Delaware Department of Corrections, looking at their program to provide medical and mental healthcare to inmates and helping them bring their standards and their practices up to snuff.

That is my background I think is relevant, and the truth is I knew relatively little about this agency until a couple of weeks ago. It was a request from both Secretary Salazar and the President himself to take on the challenge of running this agency, of revamping this agency, and as Chairman Feinstein said, changing the culture of this agency. It was those requests that made me realize that this was a challenge, a public service challenge, that I really needed to accept.

Very briefly, let me talk about two changes that have already occurred in the last 3 days.

The first and the least substantive, obviously, is the name change, as Secretary Salazar mentioned. The full name is the Bureau of Ocean Energy Management, Regulation and Enforcement. It is a long name but I think it is important that regulation and enforcement are in there. I think those aspects of the mission may not have been followed as closely, carefully, and scrupulously as they should have and that I vow to do in the future.

The second important change which I am announcing today is that I am creating a unit called the Internal Investigations and Review Unit—the Investigations and Review Unit. It is, frankly, modeled after a similar agency that I set up in the Justice Department's OIG, the Special Investigations and Review Unit, which served as a SWAT team for me in addressing some of these most critical problems and issues that arose in the agency. It is that unit that did the investigation of the FBI laboratory. It was that unit that did the investigation of the FBI's role in the Aldrich Ames investigation.

My 2½ days on the job have shown me that there is not that kind of investigative capability in my organization, and I think it is vital to create it. It is vital to create it both to investigate internal allegations of misconduct, that is, misconduct against people in my agency, but also to pursue with aggressiveness and diligence allegations that the companies who are under the regulatory supervision of my agency are not doing what they are supposed to do, have violated the terms of their leases, and may have made false statements or engaged in other misconduct in order to acquire those leases.

#### PREPARED STATEMENT

I think it is a very important capability, and I feel proud to have created it at Justice. Secretary Salazar, when I proposed it just the other day, immediately embraced it and we are going to try to stand that up absolutely as soon as possible.

I realize I am taking over this agency at a critical and challenging time. I look forward to the challenge and I look forward to working with all of you as we move forward.

[The statement follows:]

#### PREPARED STATEMENT OF MICHAEL R. BROMWICH

Thank you, Chairman Feinstein, Ranking Member Alexander, and members of the subcommittee 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 new Director started on Monday, and therefore I have had only a short amount of time to begin to understand the Bureau's programs, operations, and challenges. I would like to take my time 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 firm of Fried Frank. I headed the firm's internal investigations, compliance and monitoring practice group and concentrated on conducting internal investigations for private companies and other organizations; providing monitoring and oversight services in connection with public and private litigation and Government enforcement actions; and representing institutions and individuals in white-collar criminal and regulatory matters. I also provided crisis management assistance and counseling.

Even while in private practice I have had significant experience with turning around troubled Government agencies. I served for 6 years as the Independent Monitor for the D.C. Metropolitan Police Department and had just begun performing the same role for the U.S. 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 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 CIA crack cocaine controversy.

From 1987 through 1989, I served as Associate Counsel in the Office of Independent Counsel for Iran-Contra. In January through May 1989, I was 1 of 3 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 many lengthy and complex cases and argued many appellate matters before the Second Circuit. I served as Deputy Chief and Chief of the Office's Narcotics Unit.

From those experiences dealing with many organizations and institutions, I have accumulated substantial experience in seeing what works and what does not in organizations. I have had experience leading Government agencies, as well as reviewing the leadership styles in many agencies. Based on that experience, I am confident that I can lead this organization and implement the changes that are necessary.

### *Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)*

As I said, I began my service as the Director, BOEMRE on June 21, 2010. So far, my understanding of the events surrounding the Deepwater Horizon catastrophe are primarily based on the news coverage, what I have read, and initial conversations with Department of the Interior personnel. Therefore, my knowledge of the Bureau, its employees and its programs is at a very early stage.

I look forward to becoming well-versed in the complex regulatory regime governing offshore oil and gas exploration and drilling and the Nation's emerging and promising offshore renewable programs. It already is apparent that the programs that the BOEMRE manages are technologically complex and involve a highly specialized workforce. As a bureau, we will be thinking carefully about, and proceeding quickly with, reforming the way the Bureau does business and oversees energy exploration and development.

My goal is to develop a set of recommendations for the Secretary and the President that will improve the way the organization works. I am committed to eliminating improper incentives and influences, creating a culture for the OCS Program that is devoted to vigorous and effective regulation and enforcement, and estab-

lishing the Bureau as an agency that is focused on safety and environmental protections.

I understand that the Department has been conducting an extensive analysis of the organization, its programs, and best practices in other countries and other agencies. I will take advantage of the work that has already been done. We expect to release a plan in the coming weeks that will guide the reorganization. I look forward to talking with you and getting your input to educate this process.

These are important issues for the President, the Congress, and the Nation. Under Interior's management, the OCS currently provides 30 percent of the Nation's domestic oil production and almost 11 percent of its domestic natural gas production. The Nation currently relies on the OCS Program to continue to make available energy resources that we and our economy need. I look forward to the challenges ahead, and to ensuring that we manage the development of the Nation's energy resources, while at the same time enforcing the law and aggressively regulating oil and gas exploration and drilling to ensure that this activity is conducted in a manner that is safe for workers and the environment. Thank you.

Senator FEINSTEIN. Thank you very much.

We will begin with questions. The rounds will be 5 minutes. I will go back and forth between the sides. So it will be myself, Senator Alexander, Senator Tester, Senator Collins, Senator Dorgan, and Senator Murkowski.

#### REORGANIZATION OF THE MMS

Secretary SALAZAR. Madam Chair, would it be your wish that I just take 2 quick minutes to review the reorganization?

Senator FEINSTEIN. Please do that. All we have are two pages that look like this.

Secretary SALAZAR. We have taken the MMS and broken it up into three distinct units.

The first of those is the BOEMRE. That will be the unit within the Department that would have the authority to do the resource determinations relative to the creation of the 5-year leasing plan and engaging in the leasing process.

The second would be to create a Bureau of Safety and Environmental Enforcement (BSEE). We are splitting off the environmental and enforcement part of the organization from the functions that are involved in the leasing part of the organization.

Third, the creation of a separate office that would do the revenue collection.

Now, let me make two quick comments about that organization.

What leads us to that organizational structure is that we believe it is important to separate the leasing from the enforcement functions and to separate the revenue from the enforcement functions as well. That is why we have created these three separate units.

Now, we are hopeful that we will be able to work with you to move forward to have these organizations staffed up correctly. For example, within the BSEE, we believe we have approximately 380 people who we could move into that particular part of the organization. However, we also recognize that we need about 600 people, which would mean an additional 220 people, to basically be able to do the inspections in the Gulf of Mexico and to significantly increase the environmental compliance and environmental enforcement staff. These kinds of numbers are the ones that we want to work with you so we can make sure that at the end of the day the environmental enforcement and the standards that need to be created can, in fact, be carried out.

## INSPECTORS

Senator FEINSTEIN. Well, let me begin then with the technical stuff. If I understand it correctly, the MMS currently employs 60 inspectors to look after 3,800 platforms in the gulf, of which 1,000 are manned and subject to inspection. The administration's budget request for 2011 has asked for six additional inspectors. Now, that is clearly woefully inadequate.

In addition to the numbers, there is a real problem with the relationship between the MMS inspectors and the oil companies they are supposed to be inspecting. Mr. Bromwich and I spoke about that. Last month, as you well know and we know, the Department's OIG reported on the problems of inspectors at Lake Charles, Louisiana, taking meals and gifts from the oil companies. One inspector was even negotiating a job with an oil service company at the same time he was inspecting one of the company's rigs.

So this speaks to how do you change the culture and where do you get people who are fiercely independent and able to carry out their job of inspection and regulation. How does reorganization fix that problem?

Secretary SALAZAR. We are not doing this because of cosmetic views. There is a problem and we need to fix it. We are going to do that with the request to this Congress for a robust increase in what we are able to do with respect to enforcement and inspections. You all know what the deficit situation is and what you have been dealing with here in this Congress, and we have been dealing with here for the last several years. Yet, we have asked for a significant increase in the number of inspectors even in these tough budget times in the last 2 years. It is obvious that is not enough. We will be coming forward with a budget amendment, Senator Feinstein, to be able to address these additional requests.

## REORGANIZATION OF THE MMS

We are in a position, Senator Feinstein, where we are moving forward with the reorganization, but I want to give Michael R. Bromwich an opportunity to dig further to address the cultural issues that you speak about. It is obvious that just having strong ethics standards and trying to root out ethics problems is not sufficient. There is additional work that has to be done. Michael, on his third day on the job, will be working with us to review these organizational plans so that as we come back to this subcommittee, we will have a greater degree of comfort and we expect to be able to have that before this subcommittee within the next several weeks.

Senator FEINSTEIN. Before you do that, just so you know, the Democratic leadership has said go ahead, appropriators, mark up your bills. So we are beginning to do that. We have not set a date for the markup yet, but the work is now beginning. So if you are going to submit something in addition to the six inspectors you have submitted, we are going to work within a very strict cap. So we are going to have to cut something else to do it. So if you could get that in to us quickly, that would be appreciated.

Secretary SALAZAR. Senator Feinstein, we will work with the White House, Office of Management and Budget (OMB) and with your staffs to make sure this issue is addressed quickly.

Senator FEINSTEIN. Good. Thank you.

#### CULTURE CHANGE

Mr. BROMWICH. Senator Feinstein, on the need to change the culture issue, I think that is the key, and I think it is a combination of leadership and making clear what the mission of the agency is in unmistakable terms. I think it is a matter of making clear that cozy relationships will not be tolerated. That people, for example, who are doing inspections and seem to pull back and not be as aggressive as they might be, that that information gets to me and I find out about people who are not doing their job aggressively and that there are consequences for that.

Now, I have already tried to start sending that message, but it is not going to happen overnight. I will need to visit the field installations. I will need to make that point in person. I think creating this unit, which I announced this morning, will send that message but it will take some instances of my making clear that I mean business for the culture to start to change.

Senator FEINSTEIN. Thank you very much.

Senator Alexander, would you like to go next?

Senator ALEXANDER. Thank you, Madam Chair.

#### MORATORIUM

Mr. Secretary, do you plan to issue a new moratorium on all exploration of oil in the Gulf of Mexico at depths of more than 500 feet?

Secretary SALAZAR. The answer to that is "Yes", Senator Alexander. The point of view we have taken as we move forward with the moratorium is, as I have explained to other committees in the Congress, we had a choice of just essentially three. One is letting things go as if nothing had ever happened. Some advocated that what we do is press the stop button forever and never do any more production or drilling in the OCS. And the third was to press the pause button. The President and I chose to press the pause button. This will allow us to learn the lessons from the Deepwater Horizon explosion and to deal with the issues of standards and enforcement while also making sure the many measures that are supposed to be in place to prevent this kind of thing from ever happening again are in fact in place.

Senator ALEXANDER. It is hard to disagree with pressing the pause button, after such a severe tragedy, on the 33 wells that are exploring. But the judge yesterday made to me a cogent argument, and your data, as I mentioned—you just said that you hope by mid-July to be capturing 60,000 to 80,000 barrels of oil a day or have the capacity to do that, which is two or three times as much oil as has been spilled in the last 30 years.

So how will you take into account, as you develop a moratorium, the possibility that a moratorium will help create higher prices, lost jobs, will cause the United States to bring more oil to our shores by tankers which have a worse safety record than the drillers, will make us more dependent on foreign oil?

I agree with the pause, but how can you do what I think we would do if there were a terrible airplane crash, immediately find out everything we could about it, but then get back to flying as

soon as we could because of the damaging consequences to the country if we did not?

Secretary SALAZAR. Senator Alexander, we will in the weeks and months ahead take a look at how it is that the moratorium in place might be refined. It might be that there are demarcations that can be made based on reservoirs where we actually do know the pressures and the risks associated with them versus those reservoirs which are exploratory in nature, where you do not know as a company what it is that you are drilling in. The moratorium order we will issue will include the criteria under which it is appropriate to take a look at lifting the moratorium.

We will also work with the President's Deepwater Horizon Commission to get their views on when they believe it is appropriate for us to lift the safety button.

I am always cognizant of the fact, as I know you are too, Senator Alexander, that we are still in a very dynamic situation. We know that conduct leading up to April 20, in my view on the part of those who were involved on that rig was reckless conduct.

We also know we are not going to have a critical piece of evidence from the bottom of the ocean, the blowout preventer (BOP) mechanism, that can be thoroughly examined, until after we get this well killed. The killing of the well is still some 30 to 60 days away, maybe hopefully sooner, but we do not know.

When we get all that evidence together and we continue to hear from engineers, as Michael comes on board working with Wilma Lewis, we will make whatever adjustments are appropriate.

#### ACCOUNTABILITY

Senator ALEXANDER. Mr. Secretary, on the question of accountability, I mentioned the flagpole theory. When I was Governor, I asked the whole cabinet to pass a bill they failed. I then put one of them on the flagpole and it passed the next week. Collective responsibility is not always the way you get a result.

There are 14 various Federal agencies involved in the regulation of offshore drilling from the MMS to the Coast Guard to the Corps of Engineers, to Navy, to the Marine Fisheries Service, and you are proposing, in effect, to split one of those into three. How does adding to the number of agencies increase the principle of accountability of the kind the Navy captain has of the nuclear reactor on his ship?

Secretary SALAZAR. Senator Alexander, the law which was passed decades ago by this Congress, the Outer Continental Shelf Lands Act (OCSLA) is essentially what creates the national framework for the development of the OCS. It gives that responsibility to the Secretary of the Interior. The Secretary of the Interior created a Secretarial Order under Secretary Watt, which has been continued through Republican and Democratic administrations.

In our view, there are some fundamental flaws with respect to how that organization was created. The need for the separation of the environmental and enforcement functions from those that essentially lease out the resource is one essential flaw that needs to be corrected. Another flaw that needs to be corrected is those who are making the money for the United States at a rate of \$13 billion a year also need to be separated from the environmental and en-



forcement functions. We will work with Michael R. Bromwich to honor the existing law of the United States with respect to the OCS.

Senator ALEXANDER. Thank you, Madam Chair.

Senator FEINSTEIN. Thank you, Senator Alexander.

Senator TESTER.

#### STATEMENT OF SENATOR JON TESTER

Senator TESTER. Thank you, Chairman Feinstein.

And thank you for being here today, both of you fellows.

#### MONUMENTS

I am going to step away from the MMS issue just for a moment for a Montana-centric issue, as long as I have got you here.

There are all kinds of documents that are flying around the Internet that seem to be reinventing the issue around the Interior Department's monument memo. Back in March, you were here, you were before this subcommittee, and you told me that there were no plans for a monument designation in Montana. You have also responded to written requests with the same message, that nothing would move forward without substantial public input. But this has not stopped a few folks from continuing to believe that there will be a national monument designation in Montana.

So I guess the first question is, do you know something I do not? Or are folks just out there fanning the flames?

Secretary SALAZAR. I think it is folks fanning the flames.

As you know, Senator Tester, you were one of the key leaders in Montana pulling together the America's Great Outdoors listening conference. Our hope is, the President's hope is, that will launch the new century of conservation which many members of this subcommittee have been leading for a very long time. It is out of that process we hope that we move forward with a conservation agenda, but it involves listening to the people and it does not involve the heavy hand of Government coming in and imposing the monument authority. That is our message. It has not changed over time.

Senator TESTER. Okay. So if there are no plans, what can we do to reassure folks in Montana that there are no secret deals being crafted in back rooms that are dimly lit, smoke-filled, or whatever there might be, to create a monument designation in eastern Montana?

Secretary SALAZAR. On Friday, we have another listening session in Annapolis, Maryland on the America's Great Outdoors, and I will be happy to issue a statement before then with respect to the monument issue.

Senator TESTER. Okay.

#### REORGANIZATION OF THE MMS

Back to the MMS, the reforms that you instituted for MMS' structure, as you pointed out, divide into leasing, enforcement, and collection. I agree that for the protection of natural resources and the taxpayers, the same folks who regulate should not be collecting the funds or inspecting them.

With that in mind, how will the restructuring of the MMS impact onshore revenue collections from Bureau of Land Management (BLM) leases since the MMS currently collects their payments? Will there be a change in procedures or will it be under the current processes?

Secretary SALAZAR. The Office of Natural Resources Revenue would be the entity that would have the responsibility for collecting those revenues, and as you know, the MMS has done that for both onshore as well as for offshore activities. That effort would be one that would be moved over into the Office of Natural Resources Revenue.

I hasten to add, Senator Tester, that our proposal is one that we have put together over the last year, but we have put it down on paper over the last several months.

It is important for Michael R. Bromwich. I recruited him, hired him, and am delighted to have him on board running the organization. I want his input on how this organization can best be stood up to do the job it has to do. I am going to give him that opportunity before we press the final triggers.

Senator TESTER. Okay.

#### NEW LEASING STANDARDS FOR BLM

Protecting rural America is critically important to both of us and cutting corners is just—is unacceptable. Let us just put it that way.

This winter you released new leasing standards for BLM. Are those standards enough? Can you assure me that problems like this are not going to happen on public lands or onshore development?

Secretary SALAZAR. Yes, we have put Bob Abbey in place as the Director of the BLM, whom I am sure you know well. He has been moving forward with a great part of our reform agenda, including the elimination of the categorical exclusion issues with respect to onshore leasing, the 77 lease sales, and a whole host of other things we have been working on. There are things we can do better. We are always willing to listen.

#### ETHICS

Senator TESTER. In the arena of ethics, Mr. Bromwich, you talked about transparency and oversight. Are there ethical standards that you folks have in mind to put in place for the MMS? And this can be for you, Mr. Bromwich, if you would like.

Mr. BROMWICH. I need to do a careful review of what ethics standards, including the new ones, are currently in place, and if there are additional enhancements I think are appropriate, I will consult with the Secretary and we will put those in place.

Senator TESTER. A quick follow-up. You talked about consequences for not doing the job. What do you think the consequences should be for folks who potentially—potentially—were not doing the job in this case?

Mr. BROMWICH. Well, it depends on what they did not do. But if it is severe enough, they should lose their jobs.

Senator TESTER. Thank you.

Secretary SALAZAR. If I may add to that answer. First, you will know that from the OIG reports dating back to January, as well

as more recent reports that really dealt with behavior that was pre-January 2009, there have been actions taken that have included criminal prosecutions. They have included referrals for prosecutions, and they have included personnel actions.

With respect to this particular incident on the Deepwater Horizon, I have asked the OIG to take a look at the involvement of the MMS employees with whatever happened on the Deepwater Horizon. I am looking forward to getting that report, and when Michael and I get that report, we will take whatever action is appropriate.

Senator TESTER. Well, I thank you for that statement, Secretary Salazar. I think the punishment should be severe. This is a major ecological and environmental disaster. I do not need to tell you that. You know this. And people who were not doing their job intentionally, assuming that it was intentional, need to pay the price.

Senator FEINSTEIN. Thank you, Senator Tester.  
Senator Collins.

#### STATEMENT OF SENATOR SUSAN COLLINS

Senator COLLINS. Thank you. Thank you, Madam Chairman.

Secretary Salazar, it is great to see you even if it is under a difficult circumstance discussing issues that are absolutely critical.

#### ACCOUNTABILITY AND CULTURE

I want to follow up on the point that both Senator Feinstein and Senator Alexander made, and that is that just reorganizing the MMS does not deal with the essential issues of accountability and culture. And Senator Tester was starting to get into those issues.

I have read both the September 2008 OIG report and the report from May of this year, and they both paint an absolutely appalling picture of an agency that is rife with cronyism and corruption. As the OIG said in September 2008, we are talking about very serious misconduct.

My basic question is, are the employees who were cited for serious misconduct still working for the Department? You mentioned that in some cases there had been criminal charges brought, but are you confident? Can you assure us that all of the agency's employees that were cited for serious misconduct, such as taking gifts, negotiating employment while they were still working with the Federal Government, have been removed from their positions or otherwise sanctioned?

Secretary SALAZAR. The answer to that, Senator Collins, is appropriate action has been taken, which means that some of them have been terminated. Some of them have been referred to prosecution. Some of them have been dealt with under the personnel system. The more recent report, which also dealt with conduct dating back to 2004 and 2005, is a recent report in the last, I think, 20 or 30 days. We have taken appropriate personnel action. They have been put on leave without pay, and we are in the process of moving forward to determine the appropriate ultimate personnel action that should be taken and, if necessary, other kinds of action.

Senator COLLINS. What is alarming to me is the first report was nearly 2 years ago, and yet we have a subsequent report just last month that indicates the same kinds of problems, albeit in different offices. Same agency. That means there was not a systemic reaction

to the first report. So I know you have a new director in Mr. Bromwich, and those are issues you are charging him with. But I think it is important for this subcommittee to know specifically what actions have been taken both to correct this culture of corruption, but also to deal with the individual employees, and I would ask that that be provided.

#### OIL SPILL RESPONSE PLANS

Let me go on to a second issue. The Homeland Security Committee also held an oversight hearing to look at the coordination among the various agencies that are responsible for reviewing the oil spill response plans, and what we found is that current law divides that responsibility. The Coast Guard is responsible for approving the oil response plan for vessels. The MMS reviews and approves them for offshore facilities. The Environmental Protection Agency (EPA) approves them for onshore facilities. There is very little exchange of plans or approvals among those three agencies.

I was disappointed, for example, that there exists no requirement for the MMS to share the oil response plans for offshore facilities with the Coast Guard which is responsible for approving the vessel that is right over the well. Should there not be more coordination among those three agencies? Should the plans not be shared between the MMS and the Coast Guard, for example?

Secretary SALAZAR. The answer to that is absolutely yes, that should happen. There was, in fact, consultation. I do not know, to the greatest degree, whether that happened in the way it should have happened, but the answer to that is yes.

If I may on the culture of corruption issue, Senator Collins. We are looking at both of the OIG reports for the royalty in-kind program, mostly in Lakewood—that was the sex and drug scandals—and then the most recent report also relating mostly to 2004, 2005, 2006 conduct in the Louisiana offices. We are taking a look at those issues.

I also have asked the OIG to take a look at whether or not the ethics initiatives we took at the beginning of the administration have changed the culture. I have asked her to look at what is happening with these kinds of issues between January 2009 and now.

Second, that is a charge I have given to Michael R. Bromwich. I would like him to respond just generally because I think it is a question that you all have, how we are going to attack this culture of corruption because it goes beyond, frankly, just issuing ethics orders and performance plans, if that would be okay, Madam Chair.

Mr. BROMWICH. It does. It obviously goes well beyond the issuing of formal ethics orders. It goes beyond training, although both of those elements are important. It is how you deal with the kinds of misconduct that you identified appeared in those two OIG reports. I have read them as well, and it is shocking behavior. It is absolutely shocking behavior.

I hope and I think it is not pervasive across the agency. I hope it is limited to pockets of personnel, some of which are already gone and the rest of which, if I have my way, will be gone soon. There will be zero tolerance for corruption, coziness, et cetera. We will work aggressively both through the OIG and through the new internal unit I am setting up, which I think is a sign to the organiza-

tion that I personally mean business, to root out the vestiges of what should not have been there to begin with but regrettably was.

It will be a sustained push. It will be making clear that there will be zero tolerance for what has apparently been tolerated in the past. There will be the encouragement of people to come forward with information suggesting corruption among others. In the short term, Senator, there may be more of these allegations that come forward. It is not going to stop overnight and we are not going to have unearthed everything already. I would ask for your patience on that, but I pledge to all of you that I will work in a very determined and very aggressive way to get that out of this agency.

Senator FEINSTEIN. Thank you very much, Senator Collins.  
Senator Dorgan.

#### STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. Madam Chairman, thank you very much.

There are two points that I would make with respect to Senator Collins' points.

#### INSPECTOR GENERAL REPORTS

Number one, I think both of the OIG reports largely refer to a time period back in 2006, 2007, and 2008. So that is important to understand because I think things have changed to a degree since then and if not, there are serious problems here.

But there was a shameful culture of corruption. We are talking about sex and drugs and various problems—but aside from that, incompetence, secret handshakes, and so on that warrant not only criminal prosecution where necessary, but also the rolling of heads. And I think what you heard from Senator Collins and Senator Tester, they want to know that those who were engaged in this culture of corruption are no longer on the public payroll. We want to know that appropriate, proper, and tough action has been taken to make sure that there is a lesson for everyone who is serving at the agency today. This is public service and you have responsibilities to the public.

So I wanted to just mention those two things.

#### ACCOUNTABILITY

And let me mention one other, and that is the fractured responsibility. Senator Alexander made the point, and I agree with it. As it has been mentioned, you have eight different agencies that have a piece of this responsibility. On the other hand, it is the Congress that often creates those circumstances. For example, I am so frustrated with the Defense Department because every single branch of the military service wants to do every thing. That is why unmanned aerial vehicles are now in the Air Force, Marines, and the Navy. So we have a responsibility for that fractured jurisdiction across agencies.

#### MORATORIUM

Yesterday, Mr. Secretary, I heard, as I was listening to the radio going home, criticism of you for not moving fast enough, and then

I heard criticism that you were overreacting. So it is pretty hard to win, it seems to me, in those circumstances.

And I was thinking about this issue of the moratorium in the gulf or “pause.” Let me say to you, first of all, in the context of all of this blizzard of language that is directed in every direction, I have confidence in you. I have served with you. I know you, and I have confidence in you. I know that you are working very hard to do the very best that you can do.

The easiest thing is to look in the rear view mirror, as long as we have unobstructed vision. So I am asking this. Let us assume it is now March 1 or February 1 and you decide there have to be safety reviews, third-party verifications, a major structural reform of the MMS into the three parts, time out to inspect offshore rigs and so on. What do you think the reaction would have been? I assume there would have been an apoplectic seizure by people who would be affected.

Listen, I support offshore drilling, as you know. We get, I believe, 30 percent of domestic supply from offshore. We are going to continue to have offshore production and drilling. But I assume we are going to do this in a way that is sort of like driving a car. If the brakes are not fixed, you do not drive it. So you have put in place a moratorium. I hope it is more a pause so we figure out how do we make sure the worst case, if it happens in the future, will not be something that we cannot control or cannot respond to.

So I guess I have given you a number of things to chew on from my comments, but especially the question of overreacting. The criticism that you are not doing enough—in my judgment, I have watched you. I have watched every single day what you are doing. You are doing everything humanly possible to address these issues. I hope you will comment on the criticism of overreacting and the kinds of things that you have put in place. Had you taken aggressive actions earlier this year, there would have been a firestorm of protests.

Secretary SALAZAR. Thank you very much, Senator Dorgan, for your kind comments.

#### ACCOUNTABILITY

As I said at the outset in my opening remarks, there is a problem, and we have to fix it and we have to learn the lessons from it. The fact is that when you think about more than 40,000 wells drilled in the Gulf of Mexico without this kind of a blowout and some of the statistics that Senator Alexander was mentioning earlier on, I think there was a sense of great safety and a complacency that needs to be re-examined, and that is exactly what we are doing now.

At the end of the day, looking ahead, my sense is that we will have a new set of standards, but standards will not do it alone. We then need to have enforcement. With respect to both of those, we are going to need to have a beefed-up agency and we are going to need to have the right kind of leadership to make sure those standards are the best standards achievable and enforcement actually occurs.

Senator DORGAN. It is very hard to gaze into the future. No one would have predicted what we now are facing. But if you would,

transport yourself to about, oh, December 1. Where are we at this point with respect to the leaking well, with respect to the issue of pause, moratoriums, safety, regulations, and more? Where do you see us?

Secretary SALAZAR. December 1. Let me see we are June—

Senator DORGAN. Well, another 5–6 months from now.

Secretary SALAZAR. Six months from now at a minimum, I would see a revision in the moratorium because it is, as the President has said, a pause button. We would have in place the implementation of many of the recommendations we issued to the President with respect to safety. I would see us moving forward with the new organization under Michael's leadership to make sure the issues all of you have raised are, in fact, being addressed.

In a larger sense—and it is why I am so confident in the future—I see us moving forward to have what will be a safe and environmentally protective program with respect to production of oil and gas on the OCS. I see us moving forward with a gulf coast restoration plan as part of America's Great Outdoors which I think we will put on steroids and we will see happen under the leadership of Secretary Mabus and many of us who are working with him on that. I also see us moving forward with a conservation agenda which you, the members of this subcommittee, have been such great champions of for so long.

#### OFFSHORE DRILLING AND PRODUCTION

Senator DORGAN. You see additional offshore drilling and production with additional safeguards and regulations and procedures?

Secretary SALAZAR. If you take a close look at what we did with the OCS plan we announced, the Gulf of Mexico was where most of the known resource is. When you look at the different factors that are set forth in OCSLA, I am very comfortable that the decision reached there was, in fact, the correct decision. It is also important for us to make sure that we do not move forward with additional drilling until we know that it can be done in a safe way. We are spending a huge amount of our time on right now understanding—from the best scientists in the world, including Secretary Chu, including the members of the National Academy of Engineering, and others to make sure that when we do move forward, that it can be done in a safe way.

Senator FEINSTEIN. Thank you, Senator Dorgan.

Senator Murkowski.

#### STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Madam Chairman.

Welcome. Good to see you, Secretary.

As has been noted by several of our colleagues, these are difficult times certainly. The effort to restructure the MMS, I think we all have agreed, is one that is necessary. We will have an opportunity to have you before the Energy Committee tomorrow to discuss further that restructuring.

## MORATORIUM

The comments I have got this morning relate to the moratoria. The judge's decision yesterday, you have to admit, is pretty scathing when he uses words like "arbitrary and capricious" in stating that the ban exceeded Federal authority, when he says that the report makes no effort to explicitly justify the moratoria, and then goes further to say it does not discuss any irreparable harm that would warrant a suspension of the operations. It is a pretty direct and a pretty tough statement.

Now, you have already affirmed that you do intend to issue yet another moratoria. I have to assume that it is going to be different than the blanket ban that you put in place, otherwise you are subjecting yourselves to another court coming back and saying that in fact all things were not considered.

Now, you made some statements about—and I will look to my notes here, but you said you are going to look to specific criteria in lifting the moratoria, make adjustments as appropriate. Is it accurate for me to believe then that you are leaving some latitude that in fact prior to the termination of the moratoria, that Interior would look to allowing for leases to come back on line when you have had an opportunity to review it, but prior to the end of the time period that has been set? Did I read that correctly?

Secretary SALAZAR. Two points, Senator Murkowski, if I may.

First, with respect to the moratorium, I believe it was the correct decision. I believe it is the correct decision today, and with all due respect to the honorable court, we disagree with the court. We are taking that decision on appeal.

At the same time, it is important that this moratorium stay in place until we can assure that deep water drilling can be done in a safe way. We are not there today, and we will move forward with the executive authority which I have to make sure that the moratorium does, in fact, stay in place.

Your larger question, I think is a most important one, is when do you lift the moratorium. What the President said and what I have said is we pressed the pause button, and as we move forward and we learn from this disaster in the gulf, there may be adjustments that can be made.

Senator MURKOWSKI. Prior to the expiration of the moratoria?

Secretary SALAZAR. We will have more information on that in the coming week, and we will be sure to share it with you and with your staff, Senator Murkowski.

Senator MURKOWSKI. Let me ask you then, Mr. Secretary, because I think you understand—not everybody understands, but there are distinctions. When you are out in deep water, you have got the exploratory wells as the Deepwater Horizon and the Macondo was. There are five of those. There are 28 that are now subject to, or were subject to, this moratoria that are in the phase called the appraisal development phase.

And in terms of risk factors, there is—and again, those that had, as I understand, made the recommendation about a moratoria made this distinction that the risk factors are much, much different between a well that is in this appraisal and development status as



opposed to the exploratory when we do not know what the pressures are, we do not know what those unknowns are.

Are you, in fact, looking to make a distinction rather than putting everything off limits and subject to a moratoria, or are you looking at the factors that actually contribute to risk and allow for those that are in a development and appraisal phase to proceed, notwithstanding any moratoria that may be in place in deep water?

Secretary SALAZAR. Senator Murkowski, those are exactly the kinds of issues we are looking at. There is a difference between drilling an exploration well where you are drilling into formations where you do not know anything about it and you do not know the pressures or any of the other geophysical factors you are contending with versus drilling into reservoirs where you already have the geophysical information and knowledge of the reservoir.

We are looking at all of those issues, and at a point in time when we can give assurance to the American people that we can move forward safely, we will make whatever adjustments are appropriate. But I do not have a timeline for you today.

Senator MURKOWSKI. Madam Chairman, I have some additional questions. I am hoping that we will have a second round here. But I would ask you then, as you are looking to—because it sounds that you are clear that you are planning on imposing again another moratoria there. I am not certain whether there is any assurance that once this moratoria is complete, that there is a process in place that will allow those who have been waiting to resume at the conclusion of that moratoria. We all know around here 6 months may be 6 months on paper, but in terms of their ability to restart again—those are some of the questions that I want to explore in a second round here.

Senator FEINSTEIN. Thank you very much, Senator.  
Senator Cochran.

#### STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Madam Chairman, thank you, and let me join you and the other members of the subcommittee in welcoming the distinguished Secretary to our Interior Appropriations Subcommittee hearing.

#### MORATORIUM

One thing that occurred to me, when the moratorium was first announced, was that it was overly broad if it was designed to suspend drilling and production of oil and gas from deep wells in the Gulf of Mexico when it in fact included a much broader definition of activity of exploration and production that captured natural gas wells that were in place producing natural gas without damage to anybody or anything and very, very important to the energy security of not just the gulf region but the entire United States. These are major national assets that provide important energy for our country.

Am I correct in assuming that most, if not all, of those shallow water, by comparison, wells are going to be permitted to go back into production sometime soon if they have not already?

Secretary SALAZAR. Senator Cochran, I appreciate the question and your leadership on these issues in Mississippi.

Let me take a few minutes and do a little broader explanation here.

There is a very huge distinction between the safety recommendations we received that I delivered to the President and my decision to issue the moratorium. They are separate and apart. I received the safety recommendations. The President and I made the decision on moving forward with the pause button.

Second, it was our decision to move forward with allowing shallow water drilling to continue because at the 500-foot level, they can still be anchored to the bottom. It is still a place where the wellhead can be reached by divers, and those who are involved in the industry have told us that was an important part that could move forward. We have allowed that part to move forward with the requirement that some safety requirements we put in a notice to lessees be followed.

Third, what I would say, Senator Cochran, is that it is important for all of us to remember, while this is a moratorium on drilling, that significant production that has been built up over many years in the Gulf of Mexico continues unaltered. There has been very little disruption in terms of either oil or natural gas production from the Gulf of Mexico during the last 65 days.

Senator COCHRAN. Thank you, Madam Chairman.

Senator FEINSTEIN. Thank you very much, Senator Cochran.

Senator Murkowski has asked and so perhaps we could have another round. Very quickly, Senator, I want to ask one question and make a brief statement.

#### FAIL-SAFE TECHNOLOGY

Is there, to the best of your knowledge, any failsafe technology to stop any leaking of a deep water drill penetration below 400 meters or 1,300 feet, and if so, what is that failsafe technology?

Secretary SALAZAR. The procedures and the efforts in place had multiple redundancies to stop this. That is why you have 40,000 wells in the Gulf of Mexico where you have not had these kinds of problems before, and in other places.

Senator FEINSTEIN. That is not my question. What is the technology that is failsafe that will stop a leak at this depth or greater depth?

Secretary SALAZAR. The technology that is there has to do with all the components of the construction of the well, including the redundancies which you should never have to get to if it is done right. That is the BOP, which should be functional and which should operate. There are significant improvements in my view that can be made to the BOP mechanisms that have to be required of industry, and some of those are addressed in the 30-day report. There may be others that we will be implementing.

Now, to I think your ultimate question, Senator Feinstein, can you ever do this with 100 percent certainty that you are not going to have another blowout, I do not think there is that kind of guarantee that anybody will ever be able to give. We live with some risk.

Senator FEINSTEIN. I think you mistake me. I do not doubt that we can get there someday. To the best of my knowledge, there is no technology today that can absolutely prevent and give the public

the general assurance that nothing as dire is ever going to happen again. I mean, you look back in Australia. That was new technology. That thing did not blow up, but leaked. I do not think we are there yet.

And what bothers me—and this is my statement—there are very powerful interests that want to proceed at all costs, and I do not think we should. I think we have an imperative and that imperative is to see that the technology is in place before we drill, to see that it is monitored, to see that inspectors are not from the oil community but that they are truly independent, that they are well-trained, and that they have the authority to shut something down, that they cannot waive an environmental impact report like happened with BP.

I mean, I think there is a whole litany of things that have shown that the path that we were on was a dire path. And I think you are going to have to be very strong to really change that because I think for all intents and purposes, the pressure is going to be enormous to go back to business as usual.

Secretary SALAZAR. I agree with you, Senator Feinstein, there are a litany of things that have to be done. When you go back and look day to day at what happened with this particular blowout, my own view, having taken a review of some of the preliminary investigations that have been done, is there was reckless conduct involved. How do you police that reckless conduct? Well, part of it may be what we are coming to this subcommittee for, saying that we need approximately 250 additional inspectors to get the job done.

#### INSPECTORS

Senator FEINSTEIN. You are asking for six right now. So it is a big jump.

Secretary SALAZAR. We have had an increase, I think, every year for the last 2 years with respect to the MMS. But it is insufficient, I agree with you. It is insufficient when you are asking a group of inspectors to go and do the job of inspecting the panoply of production facilities and pipelines, which are so crucial to this Nation's national energy security, to essentially believe Government staffed at that level can actually do the job. Even if you take away the issues of corruption and coziness of industry, which must happen, and that is the zero tolerance doctrine we have in place. If you take that out of the picture, the fact is that 62 people cannot do the job.

Senator FEINSTEIN. I agree, and we will do the level best we can, Mr. Secretary. I assure you of that. Some of it—I do not know—might have to come through a supplemental because we will likely have a cap on our budget. But we will do the very best we can. And there is no question as to the need and the necessity. So thank you.

Senator Alexander.

Senator ALEXANDER. Thanks, Madam Chairman. Thanks for this hearing, and I look forward to discussing in more detail the proposals.

#### MORATORIUM

Just to go back to the moratorium question just a moment, I guess my inclination—I will just speak for myself. Well, I will not

compare mine to others. Let us just say I think those of us who have raised questions about the moratorium—here is my view.

Nothing is 100 percent safe. There is a fellow we have not heard much from lately named Cass Sunstein in the OMB who made quite a name for himself balancing risks and the cost/benefit of decisions that need to be made. What I am trying to say is that I perfectly understand the difficulty of the decision of saying okay we have got a terrible tragedy here, let us see what we can do.

But we spilled 1 billion gallons of coal ash in a coal plant in Tennessee and we did not stop burning coal. But we tried to figure out how we do not ever have that happen again, and EPA is going to take over that kind of regulation.

A coal mine killed a number of miners not long ago in West Virginia. We did not stop mining coal, but we took immediate steps to try to see if we could keep that from happening again.

A natural gas plant blew up in Connecticut, but we are expanding the use of natural gas.

And if an airplane crashes, we sometimes look at the model of the airplane or the type of pilot or the training of those pilots. We do not say 1.6 million Americans stop flying for 6 months because there are countervailing balances.

And the countervailing balances here are higher prices, lost jobs. The tankers bringing the oil are more likely to spill oil in our history than offshore drilling. That we will be relying more on foreign oil if we do not explore for oil here, and that you have testified that by mid-July, you hope to be able to recapture twice as much every day as we spilled in the last 30 years and that this seems to be an anomaly.

So I do not question the pause. I think a pause is wise. I would hope that in devising any other moratorium, that you take into account the judge's reasoning and the countervailing public interests, pressures that involve jobs and make sure that the economic consequences are not worse than the environmental consequences as a result of the moratorium. That is all that I am trying to say and I suspect other Senators.

#### REORGANIZATION OF THE MMS

One other thing I would like to ask you. I am trying to understand. Is there not some risk that by splitting this agency up into three parts—let us say Mr. Bromwich does a really good job of getting the culture right here. We are talking about 33 offshore drilling exercises. You have got 3,600 production wells in the Gulf of Mexico. But let us say you get the culture right. Is it not possible you are confusing things by dividing things up by three? I mean, who is really going to be ultimately in charge? Will it be the Secretary, whether it is you or the next Secretary in another administration? Who do we look to to say if another spill happens, it is my fault? And to whom do all these people report? Some Assistant Secretary, some Deputy Secretary, or to the Secretary himself or herself?

Secretary SALAZAR. The configuration that you have in front of you, Senator Alexander, is in large part based after the current configuration for the regulation of offshore oil and gas exploration and production in Norway and the United Kingdom. What I asked

a group of senior advisors including the Assistant Secretary of Policy, Management and Budget, Rhea Suh, and Chris Henderson in my office, to do was to go out and craft the concept for me on how we needed to reorganize the MMS. They reached out to the Ministers of Energy in Norway, as well as the United Kingdom, and in those particular nations, there was a reorganization that occurred after there was an incident that was a horrific incident for those nations. That was one of the reasons why we ended up with this organization that is in front of you.

In addition, I feel strongly it is important to separate out within the organization those who are involved in leasing the resource and those who are involved in bringing in, on average, \$13 billion a year into the Federal Treasury from those who are involved in actually doing the inspection and enforcement and environmental compliance. I think that is an important division that has to be made. As I said earlier in my testimony, Michael R. Bromwich will work closely with me and with other people who have been involved to tailor the organization to the needs today. We will be working closely with your staffs as well, to make sure that the organization, moving forward, is the appropriate organization and organic legislation to be able to do the important missions that have been assigned to the Department of the Interior and through this bureau is developed.

Senator FEINSTEIN. Thank you very much, Senator.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Madam Chair.

#### MORATORIUM

Secretary, in response to my colleague from Mississippi here, you made clear that a distinction had been made between the shallow water operations and the deep water, and you said that there were very huge distinctions and that in shallow water you are allowing the drilling to continue because of a list of factors, anchored to the bottom and the like.

I would again urge you—and it goes back to Senator Alexander's point about also considering the economics as we look to other factors. But when we are looking at risk factors, there is a distinction between the exploratory wells, the 5 that are out there, and the 28 others that are in that subsequent phase. If there could be a process that allows them to move forward, perhaps, just perhaps, some of what we are seeing in terms of the economic devastation will not be as pronounced. And I think it is important that we look to those distinctions.

And as I talk about the distinctions, I have to ask the question about the decision as it relates to Alaska's offshore and the Chukchi and Shell's operations up there. As we know, their proposal was to explore in relatively shallow waters at depths of no more than 150 feet. So clearly in shallow waters. So the question has to be asked if in fact we are allowing exploration to proceed in the shallow waters in the gulf, why are we not allowing offshore to proceed in the shallow waters in the North? I am still trying to determine whether or not the Alaska leases are technically under this same moratoria that relate to deep water or are they subject to a special delay of their own.

Secretary SALAZAR. Senator Murkowski, as you well know, I am very familiar with that effort based on conversations I had with you over the last year. Our view is there are a number of different issues that are important in addressing oil and gas development in the Arctic. The science, number one. Number two, specifically with respect to the exploration wells that you referred to, is the question of whether or not there is the oil response capability that would be sufficient in the event that you would have some kind of an unexpected disaster, the way that we have had with the Deepwater Horizon. The pause button gives us an opportunity to take a look at the whole set of issues in the OCS, and that will be one that we will be looking at.

Senator MURKOWSKI. But how are we defining that pause? Because if it is a moratoria, a moratoria that is brought about because of a decision made by the administration as a result of the Deepwater Horizon disaster, then there are funds that have been made available by BP to assist those displaced workers who would be subject to this moratoria. We have got about 600 people in the State of Alaska that had planned on going to work right now, and those people are no longer needed in the sense of being able to do the supplying, do the training, be physically out there.

But we do not know what our status is. All we know is that we have been put on hold. We do not know if the process to allow for the appeals process that is underway with the air quality permits—whether that can be allowed to proceed so that when the pause button is then unhinged, Shell will be able to move. There is an uncertainty that is in play in Alaska that is so indefinite and leads to so much, I think, confusion about the status. There can be no further movement until some signals have been given from the administration. We just do not know what our status is. And so to suggest that, well, it is just a pause, what does that pause really mean to us in Alaska?

Secretary SALAZAR. Senator Murkowski, you raise a very fair question, and let me respond with two points.

First, we are in a very dynamic situation in the midst of a crisis that no one in the Senate and no one in the executive branch ever anticipated we would be dealing with right now. We are trying to bring this crisis under control, and the most important thing I think that we can do is to do that and fix the problem and then learn the lessons from that problem. That is what the President has directed me to do. That is what we have directed our people in Interior to do, and we will do that.

Second, with respect to the exploratory wells that you speak about for Shell, frankly there is an issue which I think is apparent to everybody, and that is the oil spill response capability is something that has to be taken a look at. Right now, as you know, part of the reason why the Gulf of Mexico made the most sense in terms of moving forward with oil and gas production is that is where you have essentially the focal point of the infrastructure, the support of State governments, but in addition to that, it is where you had the massive oil spill response capability that had been amassed there over time. We do not have that same oil spill response capability through the Coast Guard or anybody else in the Arctic. It is my view that the pause button is very appropriate for these wells.

Senator MURKOWSKI. Well, and at the time that the decision was made, I too said that we need to ensure the level of safety and assurance offshore in Alaska and said at that time, it was reasonable to make sure that we had that level of assurance in place.

#### MORATORIUM AND ALASKA STATUS

What I am asking today is for a greater certainty as to that Alaska status. Are we in a moratoria? Is it a special delay of its own? If that is the case—and as I understood your comments at the time that this moratoria was put in place, it was Alaska was not under a moratoria. Alaska was being viewed differently. But what we had asked for was that there be a process that would ensure that permits did not lapse, leases did not toll, and that Shell would be able to have sufficient notice to do the redeployment, to make sure that all those assets that they are counting on for any kind of a response are able to be deployable. So if we are kind of in this limbo where we do not know when or if, it is going to be very difficult to re-engage any level of operation offshore.

So I am just looking for some clarification as to our status. The 600 people who are not working this summer, as they had hoped, are looking for some clarification of status. And we are hopeful that with all the work that Shell has done, all the scrutiny that they have received not only from the MMS and every agency from the Coast Guard to the EPA, through every level of the judicial process, that the plan that they have proffered and supplemented since the Deepwater Horizon spill will be one that works to not only provide the jobs and the resource that we need but to do so in a manner that is air-tight when it comes to response capability and capacity.

Thank you, Madam Chair.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator FEINSTEIN. If you would like to answer that quickly, and then we are going to recess the hearing.

Secretary SALAZAR. I am happy to respond to it very quickly. The moratorium in place does, in fact, apply to the Alaska wells and to the exploration wells Shell had proposed to put into place. It is because we need to have a greater level of certainty that the kind of tragedy unfolding in the gulf does not occur up there. We will be working on it in the weeks and months ahead and we will be working with you as well to make sure we are doing the right thing for the environment in Alaska as well as for the interests that you and others advocate.

Senator FEINSTEIN. Thank you very much, Senator Murkowski.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED TO KEN SALAZAR

#### QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

#### STRUCTURE VERSUS CULTURE

*Question.* Mr. Secretary, your Secretarial Order of May 19 directed that the Minerals Management Service (MMS) be structurally reorganized into three new bu-

reaus. The stated purpose was to “. . . improve the management, oversight, and accountability of activities .”

At the same time, a decade or more of Inspector General reports and Government Accountability Office reports suggests that what has ailed the MMS has as much to do with the culture of the organization and the ethical failures of its employees as it does with how the office is assembled.

As you go about implementing this reorganization, I am concerned that this could become nothing more than an exercise in moving boxes on an organizational chart.

My first question to you, then, is this: How do you see this reorganization reversing the culture that has permeated the MMS for so many years and what assurances can you give the subcommittee that changing office titles will actually improve accountability among your employees?

Answer. The Department of the Interior (DOI) is implementing a range of reforms to the operations of the former MMS to address problems that had been well-documented for years, as well as new issues that came to light in the aftermath of the Deepwater Horizon disaster. The reorganization is an important component of these reforms, but it is not intended to address every problem. We are also working to both change the culture within the new entities that will replace MMS and to make sure that they have the resources they need to meet their responsibilities to the public.

The reorganization, which is necessary to separate conflicting missions, is already well underway. On October 1, 2010, the Office of Natural Resources Revenue was placed under a different Assistant Secretary and will continue its responsibility of collecting and verifying all monies due the Federal Government. The remainder of the BOEMRE will be divided into two new bureaus in 2011. The new Bureau of Ocean Energy Management (BOEM) will be the resource manager responsible for access to Federal offshore lands and for related environmental assessments and reviews. The Bureau of Safety and Environmental Enforcement (BSEE) organization will be responsible for compliance and enforcement of all regulations pertaining to Outer Continental Shelf (OCS) activities. The internal and external controls planned for these bureaus will provide the necessary oversight to improve accountability and help ensure that these bureaus meet statutory mandates in a complete and forthright manner.

#### LACK OF OVERSIGHT

*Question.* Last month, during the investigation into the causes of the Deepwater Horizon explosion, the New Orleans-based MMS engineer who was responsible for giving BP the go-ahead to drill the exploratory well admitted he was not aware that BP was required to prove that its so-called BOP would actually work in the case of an emergency.

Furthermore, according to press reports, the gentleman stated that he wasn't even aware the MMS had a regulation requiring such proof. So not only did he not ask BP to provide the proof, he says his office never required it on any of the 100 drilling applications the office reviewed.

Mr. Secretary, the fact that the person allowed to approve drilling applications does not even know that oil companies are required to show proof that their emergency equipment works, is, in my opinion, stunning.

And this lack of knowledge does not appear to be an organizational issue. Rather it appears to be a case of an agency failing to carry out its mandated mission.

What is it in the proposed reorganization that will enable the Department to enforce regulations any better than what's happening under the current organization?

Answer. As part of the reorganization and reform effort, we plan to take a fresh look at the entire inspection and oversight process to make sure that the BSEE has a clear risk-based strategy for maintaining safe OCS operations. In the new organization, we plan to bolster the oversight of the proposed BSEE by reinstating formal controls that had been successfully used in past operations. These controls were in the form of administrative oversight procedures such as follow-up inspections to ensure that the BSEE's oversight was consistent and comprehensive with respect to the regulations. This level of oversight became impossible to maintain with an increasing inspection workload and static level of inspection staffing.

There will be an internal auditing function that will be responsible for ensuring that all permits issued will be in compliance with all relevant statutes and regulations. Performance of all employees involved in approving permits and conducting inspections will be regularly evaluated. Additionally, the Director of the BOEMRE has established an internal investigation and review unit that will report directly to him and will help to expedite his oversight, enforcement, and re-organization



mandates. This includes investigation of misconduct allegations, response to high-priority issues, and assistance in implementing the reorganization of BOEMRE.

Additionally, we have prepared two new rules that will help improve drilling safety by strengthening requirements for safety equipment, well control systems, and BOP practices on offshore oil and gas operations, and improve workplace safety by reducing the risk of human error. We are also actively recruiting more inspectors, engineers, and other personnel to strengthen safety oversight within the new organization.

#### INTERIOR INSPECTOR GENERAL TESTIMONY ON MMS INSPECTIONS

*Question.* Last week, the Acting Interior Inspector General Mary Kendall testified before the Natural Resources Committee in the House of Representatives. During her testimony she pointed out several critical problems with the MMS inspection system that need to be addressed as part of any reorganization. I will quote her directly. Ms. Kendall testified that:

“We recently learned that MMS has a dearth of regulations governing their inspection program—four brief, general subsections.

“The MMS also has difficulty recruiting inspectors due to its grade and pay structure. Industry tends to offer considerably higher wages and bonuses.

“When they can be recruited, inspectors for the MMS receive primarily on-the-job training.”

I find it astonishing that an agency with such heavy responsibilities has been permitted to function without documented inspection standards and mandatory training for inspectors.

Mr. Secretary, how will the reorganization address the lack of basic inspection program regulations and the inadequate inspection workforce?

Answer. The reorganization will create a bureau whose primary function will be to enforce safety and environmental standards for offshore oil and gas activities. An independent bureau dedicated solely to this purpose will enable the bureau to focus all its resources on this effort, instead of competing for resources and leadership attention within a bureau with broader responsibilities. The BOEMRE and the Department have already worked together to identify areas in need of additional resources and developed a budget request to support those needs. These funds will not only support additional personnel that will be in the field inspecting facilities, but also additional personnel to develop needed regulations and provide reviews of applications to ensure that requirements are met. The BOEMRE has hired a consulting firm to assist in the restructuring process, which will further ensure successful implementation of an organization committed to an improved regulatory program.

#### TECHNOLOGY AND THE REORGANIZATION

*Question.* We have been told over and over by the Federal agencies working on the oil spill that the attempts to stop the leak at 5,000 feet have never been tried before. It has been a mantra that all of these attempts—the coffer dam, the soda straw, the top hat, the top kill, the relief wells, the bottom kill, and so on—have been tried and have worked in shallow water, but you just didn’t know if they would work in deepwater or ultra-deepwater.

The Department’s Technical Assessment and Research Program has funded numerous studies dealing with exactly the issues we see today. Here are just a few of the research studies the DOI has funded:

- BOP procedures for deepwater drilling;
- Floating vessel blowout control;
- Study of human factors in offshore operations;
- Reliability of subsea BOP systems for deepwater applications;
- Development of a blowout intervention method and dynamic kill simulated for blowouts in ultra-deepwater;
- Review of shear ram capabilities; and
- Evaluation of shear ram capabilities.

Mr. Secretary, surely some of this research provided warnings about all the things that could go wrong with drilling in ultra-deepwater. Surely some of this research explained the difficulties that would accompany a large-scale failure. The DOI must have been warned and chose to proceed with permitting ultra-deepwater drilling anyway.

What will this reorganization do to ensure that necessary research is conducted and subsequently put to use in guiding future OCS policy?

Answer. A number of steps are under consideration or have been initiated to refocus and expand BOEMRE's existing Operational Safety and Engineering Research (OSER) Program including:

- An independent third-party review (in progress) of the OSER Program's research studies performed over the past decade to:
  - Assess which prior findings and recommendations remain valid and what implications this has for BOEMRE management and regulatory oversight; and
  - Determine what additional research is needed to either fill a void or reassess operations in cases where new technologies, absent at the time of prior research, are now in use; and
- Expanding direct distribution of OSER findings to include more of the front-line regulators and inspectors so that the latest technologies and findings generated through the OSER Program are available to assist in approval and inspection of new equipment and operations; and
- Performing an internal review of the OSER Program to determine whether the Program's scope and breadth should be expanded to better address the obvious challenges of deepwater and other offshore development.

“CATEGORICAL EXCLUSIONS” FROM ENVIRONMENTAL REVIEWS

*Question.* The BP Deepwater Horizon was granted a categorical exclusion from environmental impact statement and endangered species laws by the MMS prior to the explosion and fire.

There have been press reports which suggest that the National Oceanic and Atmospheric Administration (NOAA) has told the MMS in the past that continued drilling in the Gulf of Mexico was harming endangered marine mammals.

Mr. Secretary, what is the administration's current position on issuing categorical exclusions?

Answer. On August 16, 2010, Secretary of the Interior Ken Salazar and BOEMRE Director Michael R. Bromwich announced that the DOI will restrict its use of categorical exclusions for offshore oil and gas development to activities involving limited environmental risk, while it undertakes a comprehensive review of its National Environmental Protection Act (NEPA) process and the use of categorical exclusions for exploration and drilling on the OCS. This announcement follows the release of the Council on Environmental Quality's (CEQ) report on the former MMS's NEPA Program. The report was done in close consultation with the DOI and the BOEMRE which replaced the MMS.

On October 8, 2010, the BOEMRE published in the Federal Register a Notice of Intent to Conduct a Review of Categorical Exclusions for Outer Continental Shelf Decision. The 30-day public comment period for the review ended November 8, 2010. The BOEMRE received more than 3,200 comments. All comments will be reviewed and considered in the process of revising the content and use of categorical exclusions. While this review is underway, the BOEMRE will be using categorical exclusions on a more limited basis. For actions that potentially involve more significant environmental risk, Interior officials intend to subject more decisions to environmental assessments or environmental impact statements.

The limited use of categorical exclusions will allow the BOEMRE to move forward with new permits under the Secretary's NTL-06 and NTL-10, which notified offshore lessees that shallow water drilling activity could proceed as soon as they provide additional information about potential blowout scenarios and implement additional safety measures for rigs and platforms. Director Bromwich has made clear that until the comprehensive review is completed, categorical exclusions should not be used to approve deepwater drilling activities.

When the review is completed, the BOEMRE will announce a new approach to NEPA compliance that takes into account the joint recommendations included in CEQ's report, statutory and/or regulatory constraints, and other appropriate factors. This is consistent with the CEQ's regulations directing all Federal agencies to periodically review their NEPA policies and procedures.

Exceptions to a categorical exclusion may arise and Federal agencies are required to develop procedures to determine whether a normally excluded action may have a significant environmental effect. The Categorical Exclusion Review determines whether a proposal that is categorically excluded may meet any of the Department's extraordinary circumstances criteria, requiring an environmental assessment or environmental impact statement.

## TIMING ON REORGANIZATION

*Question.* You stated in your May 19 Secretarial Order that you would have an initial timeline and plan for the MMS reorganization by Friday, June 18. Obviously, we haven't seen the details yet.

Can you tell us when you think those documents will be released? And do you anticipate providing us with a proposed budget structure for the each of the new bureaus and offices at the same time?

*Answer.* The DOI continues to focus its resources on responding to the BP Deepwater Horizon disaster and implementing necessary reforms that will protect people and the environment. As part of the response, the DOI is preparing organizational changes that are necessary to strengthen oversight of the companies that develop energy on the OCS. The DOI is evaluating a variety of options for restructuring the BOEMRE in order to enhance the ability to fulfill what have been conflicting missions. The reorganization will separate the inspection, oversight, and investigation mission from both the collection of energy revenues and the leasing activities related to offshore energy development. Establishing a new entity within the Department, focused primarily on enforcing energy laws and regulations will provide greater authority and autonomy for the BOEMRE charged with overseeing the safety and compliance of energy operations.

This crisis is evolving and the DOI has several teams focusing on the ongoing response to the spill, the reorganization, regulatory reforms, and related issues. The DOI appreciates the concern of the subcommittee and the need to provide specific details in a timely fashion; particularly for items that present budgetary impacts. The Department will prepare a 2011 budget amendment as quickly as possible.

## PEER-REVIEWED RESPONSE PLANS

*Question.* Mr. Secretary, as you and I have discussed, the culture of the agency and the industry must change. I believe that the safety record of a company, and the viability and thoroughness of its response plans for leaks at the depth of the proposed lease, should also be under consideration when leases are given.

I have worked with Senator Brown of Massachusetts on legislation that would mandate that leases include response plans that have been peer-reviewed at the time of leasing, and that the Secretary certify that the response plan is technologically feasible.

Our legislation is S. 3497 and I would ask that you please take a look at that bill.

Do you agree with me that it's a good idea to allow leasing decisions to be based not only on which company will pay the most, but also which company will be the best and safest steward of our natural resources and citizens' safety?

*Answer.* The BOEMRE regulations at 30 CFR 256.35 provide the BOEMRE the right to disqualify entities from acquiring any new lease holdings or lease assignments if their operating performance is unacceptable. Unacceptable performance is defined in 30 CFR 250.135–136 and includes the consideration (individually or collectively) of accidents and their nature; pollution events, environmental damages and their nature; incidents of noncompliance; civil penalties; and failure to adhere to OCS lease obligations. The BOEMRE has exercised this authority in 2008 for a company that did not adhere to its OCS lease obligations.

As part of the ongoing response to the BP oil spill, we will be looking closely at existing BOEMRE regulations and policies, including oil spill response plans and lessee qualifications, to ensure the greatest protection of human health and safety and the environment. The new rules that we recently developed are designed to raise the bar for safety and accident prevention processes.

## OVERLAPPING RESPONSIBILITY

*Question.* There is another aspect of the regulation of OCS oil and gas production that I find to be very troubling. There is a complex web of Federal agencies that are responsible for different aspects of OCS operations. The MMS is responsible for the adequacy of the drilling and production technology and practices. The Environmental Protection Agency (EPA) and the Fish and Wildlife Service (FWS) have responsibilities related to environmental and wildlife safety. The Coast Guard (USCG) inspects rigs and other vessels for seaworthiness and qualified crews. The NOAA monitors weather conditions. This arrangement requires close cooperation and coordination among the agencies under the best of circumstances.

How does your reorganization address the complex web of Federal agencies, and have you engaged these agencies as put this plan together?

Answer. The BOEMRE agrees that managing activities on the OCS is a complex mission that requires coordination with multiple agencies and their respective jurisdictional authorities. We believe that we have the mechanisms and contacts in place to work closely with these agencies so all parties can meet the demands of their statutory requirements. The division of BOEMRE into three discrete entities is being done with careful attention to all statutory and regulatory requirements, including necessary ongoing coordination with other Federal agencies.

There are many agencies engaged in oversight of OCS energy development activities beyond the four agencies mentioned above (i.e., the EPA, FWS, NOAA, and USCG). To name a few, the BOEMRE also works with the Department of Commerce (Coastal Zone Management Program); the Federal Energy Regulatory Commission (renewables); the Department of Transportation (pipeline transportation issues); Army Corps of Engineers (Rights-of-Way); various State oil and gas programs (fields that cross Federal/State boundaries); and the Navy and Air Force (restricted areas).

#### THE 30-DAY REPORT TO THE PRESIDENT

*Question.* On May 27, the Interior Department released its report to the President that included recommendations for immediate actions to improve the safety of OCS oil and gas operations. The first recommendation is that all BOPs used in drilling operations be immediately re-certified by an independent, outside, third party.

Mr. Secretary, you have the responsibility to ensure the safety of drilling operations. The MMS was established by Secretarial Order to perform this function. Why then does the recommendation require an outside party to offer the certification? Shouldn't the Department be required to possess this expertise?

Answer. The independent third-party requirement was made to ensure that an expert would examine the BOP equipment and certify that it would operate as originally designed. This party would be outside of any influence from the operator, drilling contractor, or the regulator. This independent review is necessary to show all stakeholders that the equipment being examined is fit for service. This is also one of the issues that will be closely examined in the coming months. The BOEMRE will establish a team to investigate what additional certification requirements need to be developed for BOP equipment and systems, including how and by whom this certification should be made.

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#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

*Question.* In your recent testimony you expressed great optimism that the new Bureau of Safety and Environmental Enforcement (BSEE) will improve inspection and regulatory oversight of drilling on the Outer Continental Shelf (OCS). You note that you currently have 60 inspectors to oversee 4,000 rigs in the Gulf of Mexico. You estimate more than 200 additional inspectors will be necessary for the BSEE to achieve its goals but the President's 2011 budget requests funding for only 6 additional inspectors.

Do you expect to realign or cancel other Department of the Interior (DOI) priorities in order to offset the cost of additional permanent personnel? If so, what programs will be under consideration? What framework will you use to evaluate the safety of drilling technology and the additional costs associated with implementing a new safety and regulatory regime? Do you expect the oil industry to assume any of the additional costs? If so, how will these costs be allocated, recovered, or paid?

Answer. We do not expect to realign or cancel other DOI priorities to offset the cost of additional permanent personnel. The DOI's 2011 budget proposed a balanced set of programs to support the administration's initiatives and the Secretary's high-priority goals and will implement the reorganization while maintaining a robust agenda for clean energy and climate change, WaterSMART, treasured landscapes, youth, and a renewed commitment to tribal nations. The DOI is relying on the enactment of the President's 2010 supplemental request that includes \$29 million for DOI needs related to the BP oil spill and OCS reforms.

The framework for the evaluation of safety will be based on the results of the 30-day report to the President, recommendations from the President's commission, the results of investigations underway, and other information. The framework will consider the best practices of other countries such as Norway and the United Kingdom and evaluations of effective practices of other Federal regulatory and enforcement programs.

There is the potential to consider additional inspection fees—the 2011 President's budget increases inspection fees from \$10 million charged in 2010 to \$20 million. A key component of the OCS reforms underway is hiring an additional 12 inspectors, which would be funded from the \$29 million supplemental.

*Question.* The DOI recently released its plan to open up certain new areas of the OCS for oil and gas drilling. Since the tragic BP Deepwater Horizon oil spill began on April 20, there have been numerous indications that this catastrophic event will affect the DOI's 2012–2017 leasing plan, including how other Federal agencies contribute to the plan.

In terms of projected revenues to the Federal Government, please characterize the significance of leasing these new areas. Similarly, how would Federal revenue be affected should the previous drilling moratorium as described in fiscal year 1998–fiscal year 2008 appropriations language be reinstated? If the DOI eliminates the categorical exclusion for the central and Western Gulf of Mexico from certain environmental reviews in the leasing plan, what will be the costs to the Treasury? Please describe in detail. Please quantify the additional amount of oil that will be directly available to the domestic United States market as a result of leasing these new areas.

*Answer.* At the time the March 2010 OCS oil and gas strategy was developed, Federal revenues from leasing the new areas included in the strategy (i.e., Eastern Gulf of Mexico, mid-Atlantic, and South Atlantic), were estimated to increase OCS revenues over the life of development (approximately 40 years) by slightly less than 7 percent relative to a baseline that assumed development in existing program areas in the Central and Western portions of the Gulf of Mexico, as well as Cook Inlet, Beaufort Sea, and Chukchi Sea in Alaska. However, the Deepwater Horizon disaster has resulted in the need to reassess the risk of development in these areas, as well as the underlying assumptions regarding development costs.

It is difficult to estimate the impact of re-imposing a legislative moratorium on leasing in these areas, as it would depend on both the time period for which the moratorium applied and the amount of development one assumes would take place in these areas in the absence of legislation. The administration has decided not to include these areas in its revised 5-year (2012–2017) OCS leasing plan in light of lessons learned from the Deepwater Horizon disaster.

If categorical exclusion 516 DM 15.4(c)(10) was eliminated, approximately 600 additional EAs would be prepared for activities that previously would have gone through a thorough, activity-specific NEPA analysis under a Categorical Exclusion Review. The cost of each environmental assessment is estimated at about \$4,000, thereby making the total cost to be approximately an additional \$2 million per year. This represents the cost of the NEPA analysis only.

Leasing in the new areas included in the original March 2010 OCS oil and gas strategy had been estimated to contribute 1.2 Bbbl of oil and 4.2 tcf of gas to the stream of production, starting in 2020 and continuing through the life of production. However, the Deepwater Horizon disaster has resulted in the need to reassess the risk of development in these areas, as well as the underlying assumptions regarding development costs.

#### CONCLUSION OF HEARING

Senator FEINSTEIN. Thank you, Mr. Secretary. Thank you, Mr. Bromwich.

The hearing is recessed.

[Whereupon, at 12:35 p.m., Wednesday, June 23, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]