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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, STAFF DIRECTOR
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May 26, 2010

The Honorable Ken Salazar
Secretary
United States Department of the Interior
1849 C Street, NW, Room 6156
Washington, DC 20240

Dear Secretary Salazar:

We are writing to request an immediate review of all drilling underway now in offshore waters to ensure that every well has an effective plan in place to prevent and respond to disasters like the one currently underway in the Gulf of Mexico.

In addition, we ask that any plans or permits for new drilling in the Outer Continental Shelf (OCS) not be approved unless there are reasonable assurances that a repeat of the Deepwater Horizon incident would not occur.

Background

On May 6, 2010, in the wake of the Deepwater Horizon disaster, you directed the Minerals Management Service (MMS) to stop issuing permits to drill new wells pending completion of a 30-day review of safety issues surrounding OCS drilling that was ordered by President Obama. The President reaffirmed this moratorium in a speech on May 14, 2010. Also on the 14th, you and Nancy Sutley, Chair of the Council on Environmental Quality (CEQ), announced a review of MMS' NEPA procedures. The President also stated that the Administration is "closing the loophole that has allowed some oil companies to bypass some critical environmental reviews."

On May 23, 2010, however, the *New York Times* reported that multiple permits for OCS drilling were issued after your order to temporarily halt approvals for new wells. In addition, the *New York Times* article indicated that since the April 20 explosion, multiple plans for drilling activities have been granted a categorical exclusion, which is a decision not to require detailed environmental review under the National Environmental Policy Act (NEPA).

An Inspector General report released yesterday raised further concerns about MMS oversight of drilling operations by highlighting inappropriate relationships between MMS inspectors and their oil industry counterparts that occurred prior to 2007. A March 2010 GAO report also found that MMS faces challenges in the Alaska OCS Region in carrying out its responsibilities under NEPA. The GAO report highlighted allegations by stakeholders and former MMS scientists of suppression or alteration of their work on environmental issues.

Drilling Oversight

Recent news and government reports continue to call into question the oversight of offshore drilling activities in all areas of the OCS open for drilling. As we reach the end of the 30-day safety review, which is expected on May 28, it is clear that drilling must not be allowed to resume without additional review.

We strongly urge that review and approval of all new drilling plans and permits be deferred until the findings of all ongoing reviews, including the Independent Commission established by the President and the joint Department of Interior and CEQ review of NEPA procedures, are properly addressed and recommended reforms have been instituted.

We would also like you to clarify your current policy regarding oversight and environmental review of drilling activities, the scope of the moratorium put in place on May 6, and the conditions that must exist before it is lifted. A series of specific questions addressing these issues is attached.

We share your commitment to reforming the MMS and ensuring adequate oversight of the safety and environmental impact of offshore drilling. We look forward to working with you on this critical matter.

Thank you for your attention to this request. We would appreciate your prompt reply.

Sincerely,


Barbara Boxer
Chairman


Benjamin L. Cardin
Chairman
Subcommittee on Water and Wildlife

Attachment

1. Please provide a list of active and planned drilling activities in the OCS where the Minerals Management Service has approved an application for permit to drill, exploration plan, or development and production plan. Please include the location of the drilling site, date of approval, and the status of each active or proposed activity. Please also indicate any proposed activity that MMS has not approved pending completion of the 30-day review of safety issues.
2. What categories of offshore oil and gas drilling activities and what stages of the application process (e.g., exploration plan, development and production plan, application for permit to drill) continue to be approved and what are the criteria being used to determine that these drilling activities should be approved before the completion of the safety review and other reviews of MMS drilling oversight?
3. What conditions will have to exist before the Department of the Interior (Department) begins approving actions that are currently on hold pending the completion of the 30-day safety review?
4. Does the Department plan to resume approval of all drilling activities upon completion of the 30 day review? If so, what interim steps does the Department propose to take to ensure adequate environmental review of drilling activities while the Independent Commission and the review of National Environmental Policy Act (NEPA) practices as well as Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) procedures are ongoing?
5. Please provide any and all guidelines and policy directives given to MMS employees after the Deepwater Horizon accident on April 20, 2010 regarding the temporary suspension of approval of drilling activities, review and approval of plans and permits and compliance with NEPA, ESA and MMPA requirements.
6. What steps has the Department taken to close the loophole that allows oil companies to bypass environmental reviews under NEPA? Where the Department continues to grant categorical exclusions for some offshore oil drilling activities, how has it justified, in light of ongoing events in the Gulf, the required finding that these activities do not individually or cumulatively have a significant effect on the human environment?
7. BP's initial exploration plan for the Deepwater Horizon rig understated the risks associated with the drilling operation and overstated the company's ability to respond to a catastrophic failure at the well site. Furthermore, MMS approved BP's plan without detailed information that might have allowed the agency to better judge the company's capacity to respond to a blowout or large-scale spill. What steps are being taken to address similar shortcomings in existing drilling plans as well as in the process for review and approval of pending plans?
8. Did MMS receive the authorizations required under the MMPA and the ESA for BP exploration activities conducted by the Deepwater Horizon rig at Mississippi Canyon Block 252? Has MMS obtained all necessary authorizations required under the MMPA and the ESA for approval of oil and gas exploration and production activities undertaken in the Gulf of Mexico during the 2007-2012 oil and gas development program?