



Between The Devil and the Deep Blue Sea?

A Survey of the U.S. regulatory response to the 'Deepwater Horizon'
Incident of April, 2010

Presented by Frank J. Gonynor, Gard (North America), Inc.

Lest We Forget...



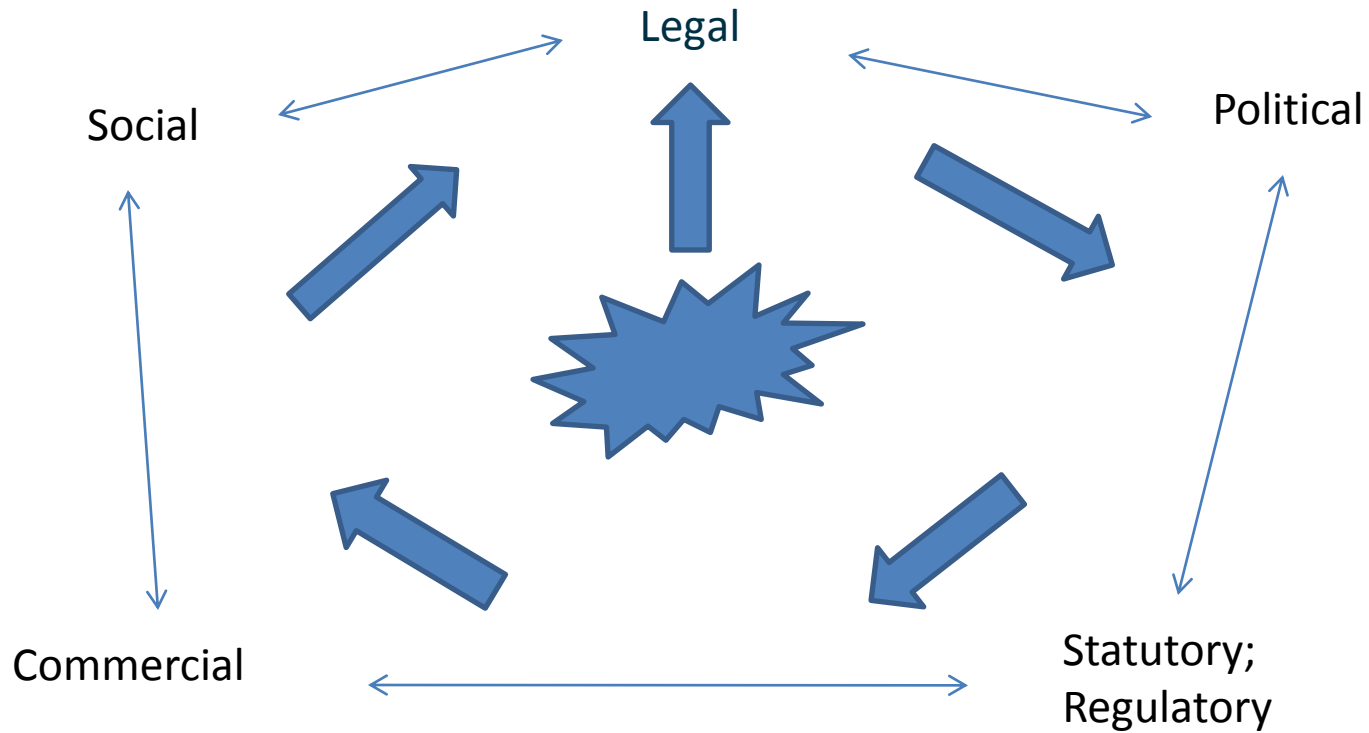
A Single Large Event and Its Effects: The Outward Ripples



The Bigger the Event, the Larger the Ripple Effect



The 'Pentagon Pattern'



The Reactions...



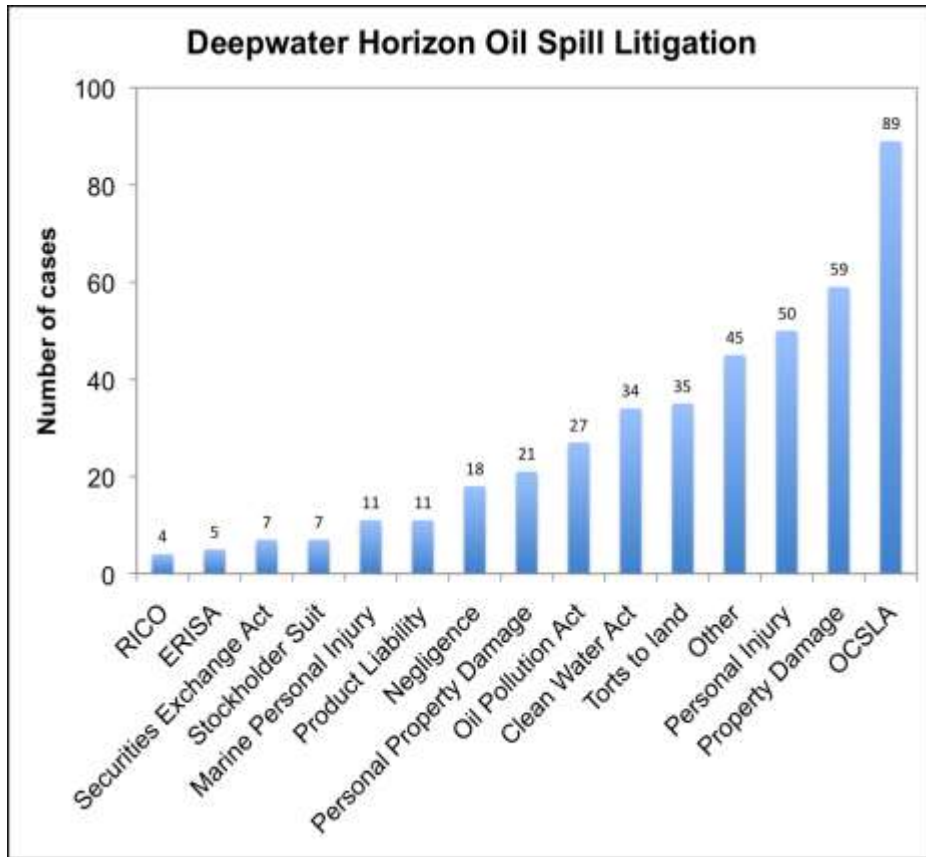
The Reactions continued...



Then Came the Commissions and Committees...



And then the Lawsuits...



Then, an outcome – the recommendations and the regulations



GULF OF MEXICO NUMBERS

183.1 billion

BOEMRE estimate of annual cost (in US dollars) to operators to comply with the new interim final rule on drilling safety.

631.4 billion

Total estimated annual avoided "social costs" (benefits) in US dollars resulting from the rule. Source: BOEMRE

16.3 billion

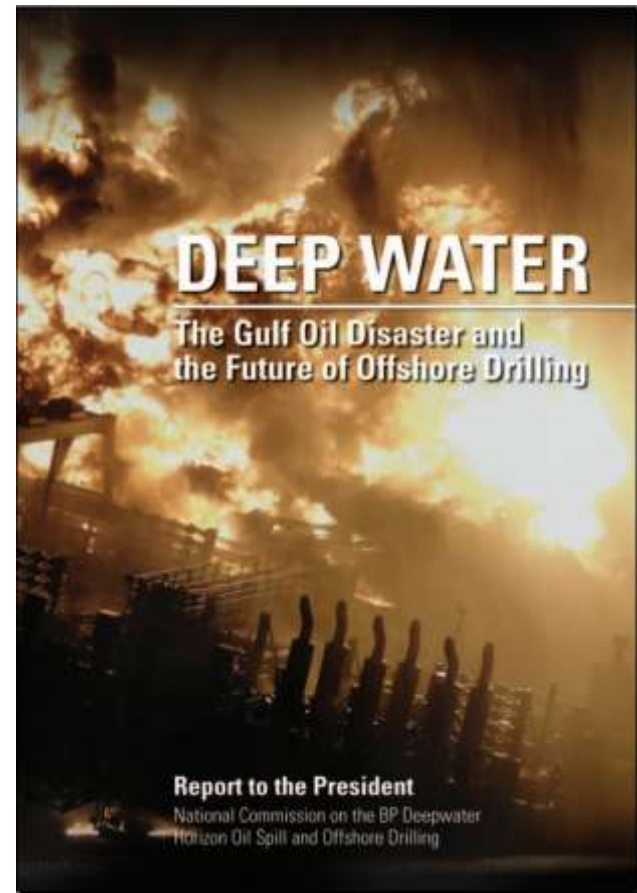
DOI estimated cost (in US dollars) of a "hypothetical spill."

26

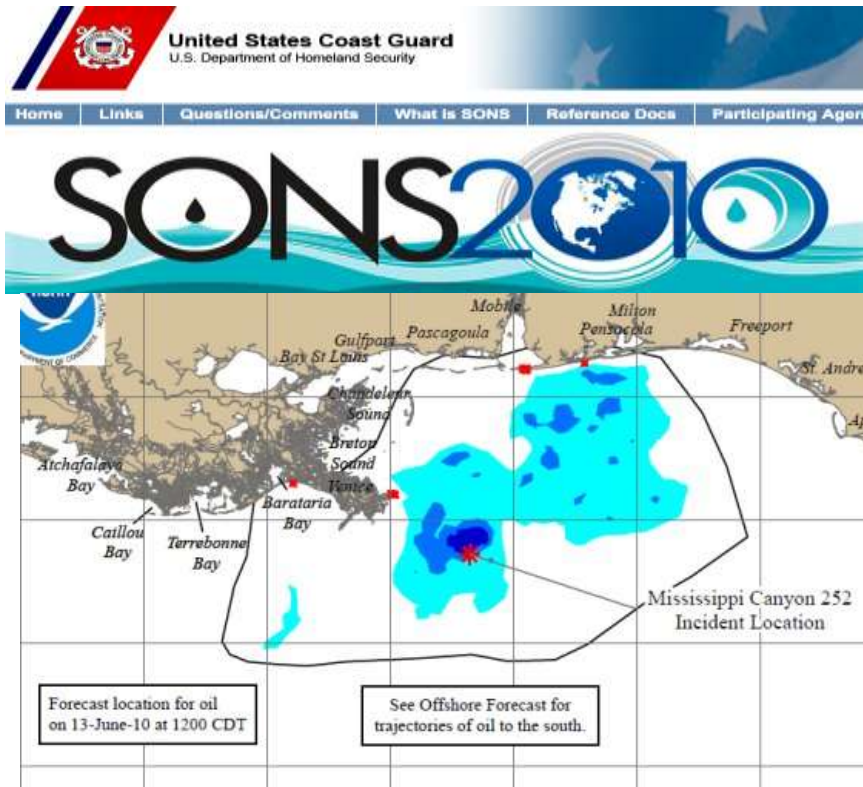
Estimated interval (in years) between catastrophic spills caused by blowouts, "based on historical trends and the number of expected future wells." (DOI)

The National Commission and Its Findings

- Reorganization of the Regulators
 - Change of Risk Management that are equivalent of international regulatory peers
 - Use of enhanced environmental impact reviews
 - Use of supplemental industry self-policing and industry-created safety institute
 - Improved oil spill response training and agency based plan evaluation
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The National Commission Findings (cont.)



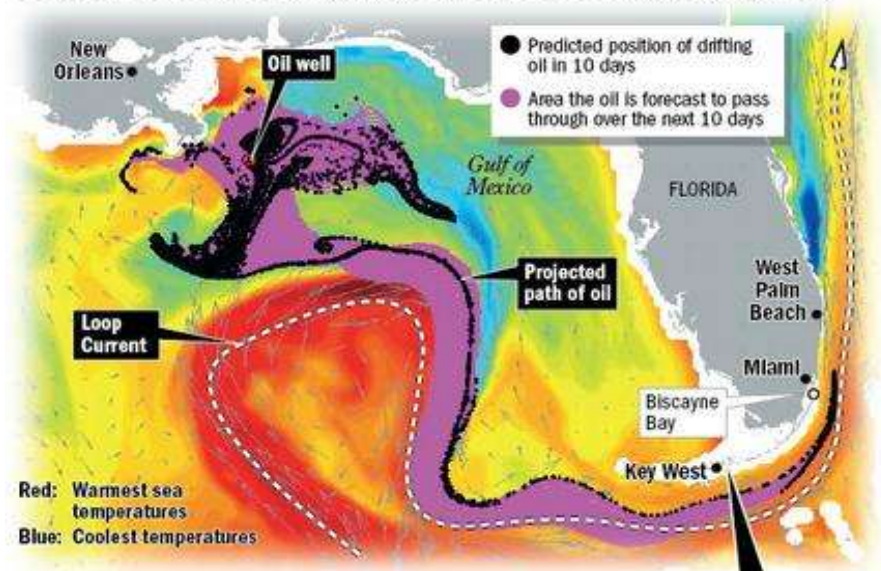
- Enhance procedures under rubric of 'Spills of National Significance'
- Strengthening state and local involvement
- Research and development for improved response
- Better understanding of dispersant use
- Better containment capability
- Better Flow Rate Estimates
- More Robust Well Design

The National Commission Findings (cont.)

- Financial Responsibility: raise liability cap and financial responsibility limits
- Increase per-incident payouts from the OSLTF
- Better measurement of human health impacts, consumer confidence
- Expedited environmental restoration and management of ocean resources

FORECAST TO ARRIVE IN MIAMI: May 28

Scientists at the University of South Florida are using computer models to predict the movement of the spill. They expect it to be off Miami by next week.



Source: University of South Florida College of Marine Science

CHRISTOPHER SMITH/START ARTIST

The Creation of New Players, New Plays, on a New Playing Field



Both are called 'Football', but they're not the same!

New Players

- Minerals Management Service

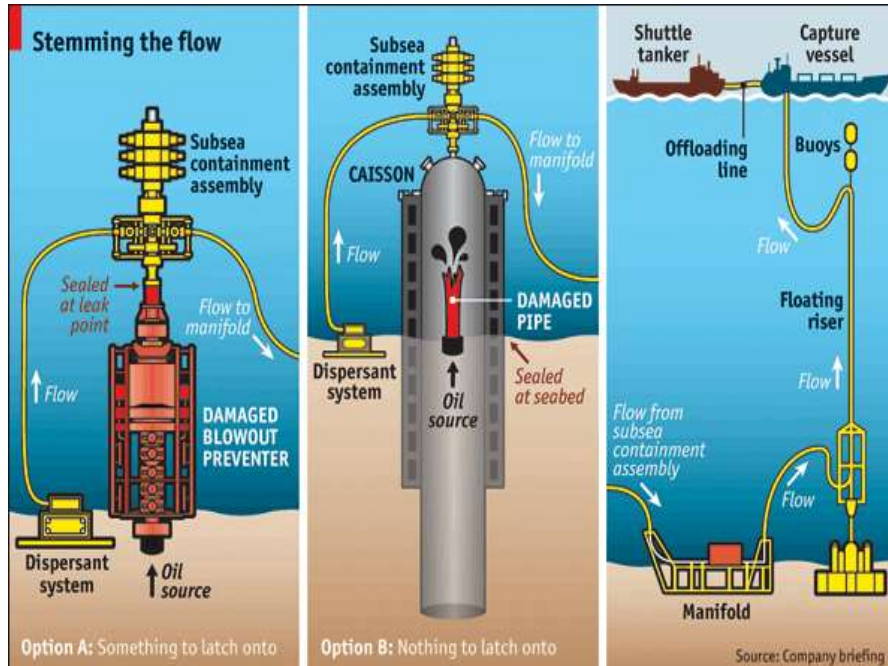


- Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)



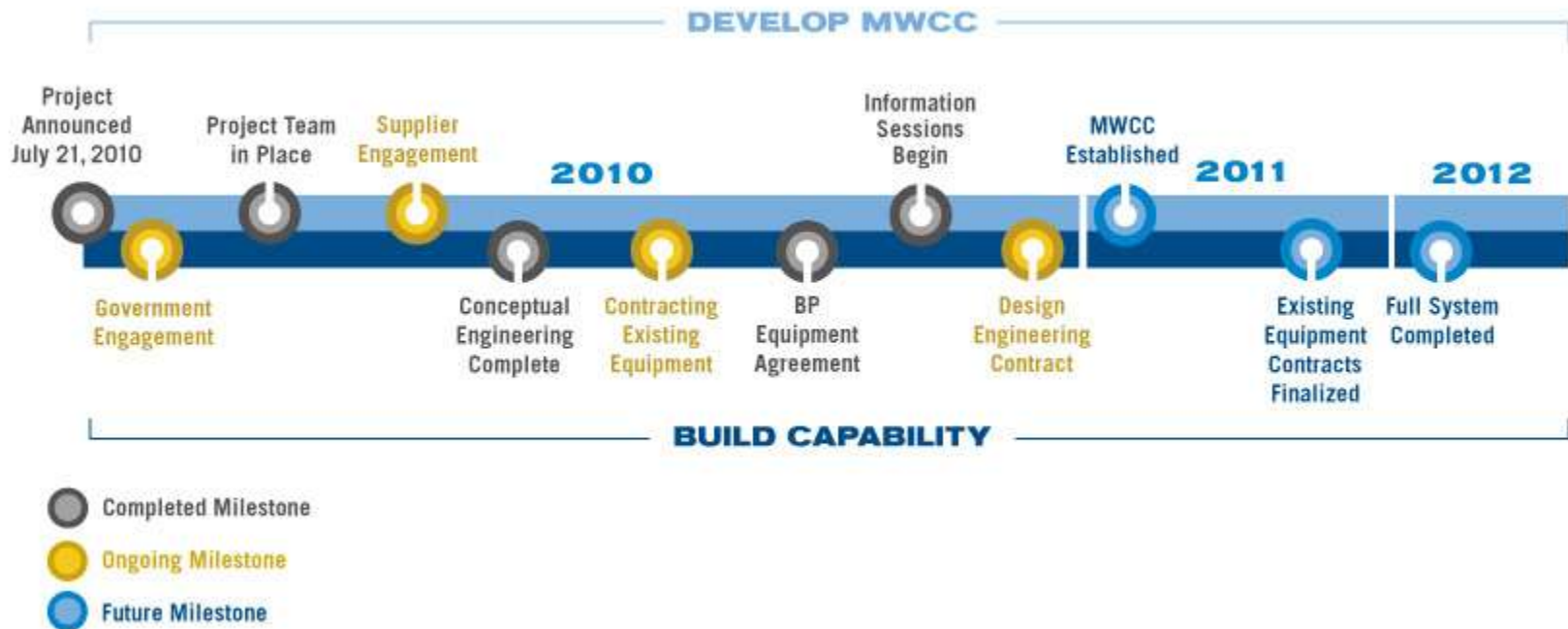
- 1. Office of Natural Resource Revenue – collecting taxes and royalties.
- 2. Bureau of Ocean Energy Management – permits and environmental studies
- 3. Bureau of Safety and Environmental Enforcement – enforcement branch

New Players (cont.)

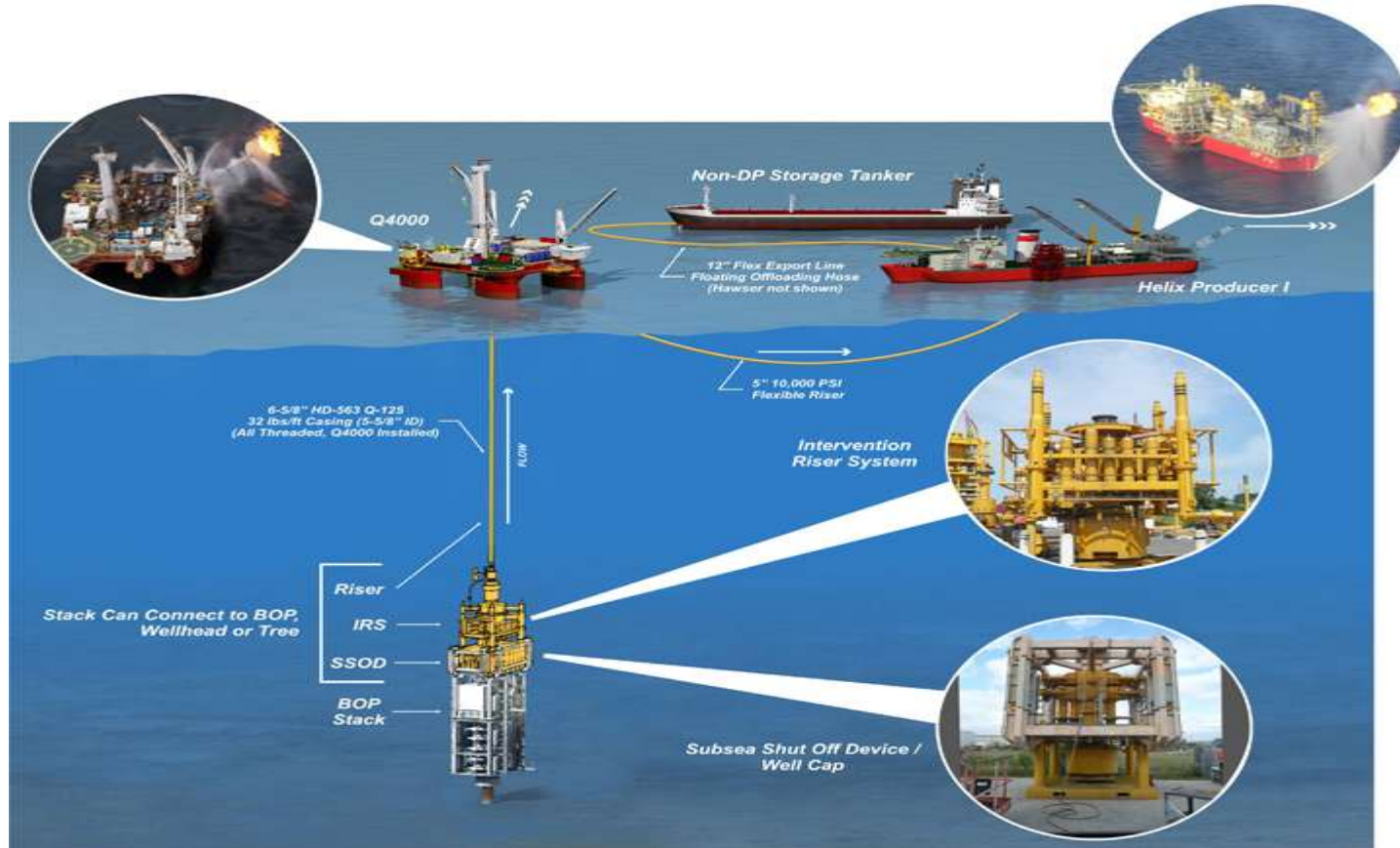


- - Offshore Energy Safety Counsel: 13 member expert panel, which will advise agencies
- - Marine Well Containment Company, and Helix Energy Solutions Group – providers of deepwater well spill containment services.

Timeline for development of new response system – Marine Well Containment Co.



The Helix System



The Permit Delay – Clearing the blockage



5+ permits are now pending, but the issue is that the subsea blowout containment systems are not considered viable, as of 14 Feb 2011.

31 shallow water (<500 ft. Depth) have been granted since June, 2010. Issue could be that oil companies have not filed, due to vagueness of new offshore safety and environmental rules, hence 'no backlog'?

The Permit Issue – A Political ‘Wrestling Match’

- Issue re well containment, versus political instability in Middle East, rising oil price, domestic unemployment.
- Feb. 24th - Sec’y Salazar at Houston conference states won’t bend to political factors.
- Senate holding up approval of DOI appointments.
- as prices rise at the gas pump, citizen-consumer pressure will arise.



Deep Well Containment Response: Ready to Roll?

- **Ship ready to deploy if spill duty call**
Houston Chronicle Feb. 24, 2011
- Helix Energy Solutions-meeting with Secretary Salazar

The Helix Producer I, 93 miles off Louisiana, pumps oil to the surface, flares off natural gas and cleans the crude so it can be transferred to a refinery. But it also stands ready to deploy to the scene of a Gulf disaster to contain a spill.



Deep Well Containment Response: Ready to Roll? (cont.)



- Marine Well Containment Co. says :

'Open for business'

Clay Vaughn, vice president of deep-water projects at Exxon Mobil, said the company has been in constant contact with bureau officials, particularly in the last couple of months, to make sure the system complied with the new requirements.

"We believe we've given them all the information they've requested," Vaughn said.

"We're open for business."

Houston Chronicle, 17 Feb 11

The 'New Rules'

- Notice to Lessees ('NTL-06'): enhanced blowout scenario planning, exploration plans, development and production plans, and development operations coordination documents.
- 6 month moratorium on deepwater drilling / ended
- Immediate enhancement of safety requirements
- NTL 2010-N05 – increased safety measures for OCS energy development.

Dispersant Use – The 'Achille's Heel' of the Response Planning?

Studies indicate that the core surfactant ingredient of the dispersant Corexit is not degrading in the deep sea environment as anticipated it would, and thus may be a cause for objection to well containment response plans.



NEPA – Another Obstacle?

National Environmental Policy Act (42 U.S.C. 4321), mandating environmental impact statements.

-almost unheard of in the Gulf of Mexico prior to the Deepwater Horizon incident, because of notion 'no significant impacts', and 'categorical exclusions'

-but now, many NEPA lawsuits have been filed.

-how long will these take to resolve?



The New Playing Field

- Establishment of the Investigations and Review Unit, to 'target companies that game the system'.
- Reorganization and new recusal policy.
- Creation of 11 implementation teams re analyzing regulatory agenda.
- Expand inspection program.
- Conducting comprehensive environmental analysis of Gulf of Mexico and Arctic areas re future leasing and development.
- New guidance re 'Idle Iron' wells, re setting in permanent plugs and production platform dismantling.

The OPA '90 Limitation of Liability Issue – Current Status



Offshore Energy Reform To-Do List

www.PewEnvironment.org/OffshoreEnergyReform

Plug the Leaks in the Law.

Federal law governing offshore oil exploration and development is out of date. The Gulf of Mexico disaster has exposed a system in which industry is allowed to cut corners on safety and environmental protection and government oversight is lax. It is time to **plug the leaks** in our nation's offshore oil drilling laws. The Pew Environment Group recommends the following changes to current law to help ensure that the catastrophes like the BP Deepwater Horizon never happen again.

1. Decisions regarding off-shore oil and gas activities should recognize the multiple values and uses of our ocean and coastal environments and ensure that the public has a voice in protecting them.

- Fisheries, tourism, marine wildlife, subsistence and other ocean and coastal resources should be on equal footing with the oil and gas development in all oil and gas activity decisions.
- Affected communities should have meaningful input into oil and gas development decisions and spill response preparedness through Regional Citizen Advisory Councils.

2. Spill response should be fast, safe, and effective.

- Industry should be required to demonstrate before drilling begins that it has the capability to quickly and effectively stop and clean up an oil spill.
- Industry should be required to demonstrate it can remove a majority of the oil from a worst-case spill.

3. Offshore oil and gas leasing, exploration, and development should occur *only* where and when it is proven to be safe and will not harm valuable resources.

- Leasing and development should occur only if decisions are based on the best scientific information provided by all relevant government agencies with expertise in spill prevention and response, fisheries, marine life, and water quality.

b. Oil and gas activities should be prohibited in areas defined by scientists as important ecological areas during times when it poses the greatest risk to other resources such as migrating marine species, or where spill response capability is inadequate.

- Industry should be required to use the best available technology that is proven to work in applicable conditions, and should be required to routinely test equipment and improve safety.
- Oil drilling inspectors must be well trained and should provide around-the-clock operational safety monitoring on drill rigs.

4. Adequate financial resources should be readily available to address the full effects of oil spills.

- There should be no cap on the liability of any company that is engaged in oil and gas exploration and development activities.
- The oil spill liability trust fund should be used to ensure there is continuous improvement in oil spill prevention and response technology.



Reform Our Outer Continental Shelf and Oil Pollution Laws NOW.

For more information contact: Karen Steiner, Director, Government Relations, Pew Environment Group, 202-687-0818, ksteiner@pewtrusts.org

- Numerous legislative proposals to change OPA '90 liability limitation, ranging from complete abolition to USD 10 Billion, and beyond.
- Will a compromise be reached, and if so, at what amount?

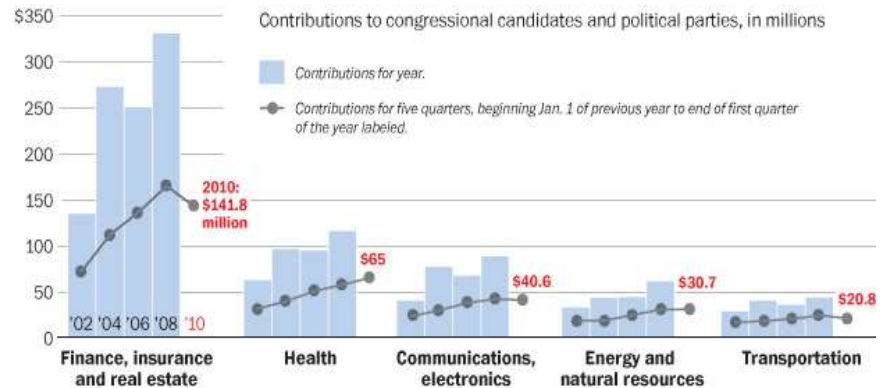
Current Status: March 1, 2011 – Oil Pollution Act of 1990

-while numbers of bills have been greatly reduced since June, 2010, new ones have been filed.

-HR 492 : full cost

-HR 501: remove cap on liability, and 3 year adjustment

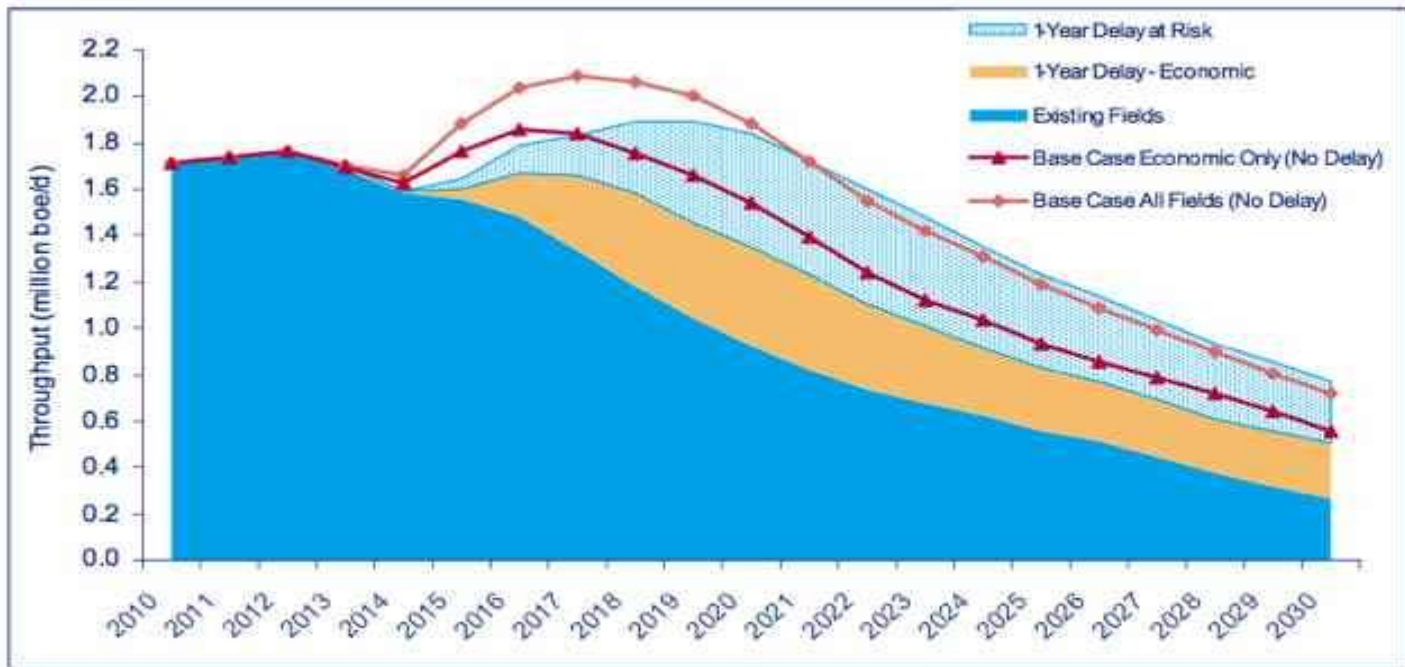
-S 214: full cost



Source: The Washington Post – 27 May 2010

The Future – What does it hold for Deepwater Drilling in the Gulf of Mexico?

Estimated Deepwater GoM Production (1-Year Delay Case)



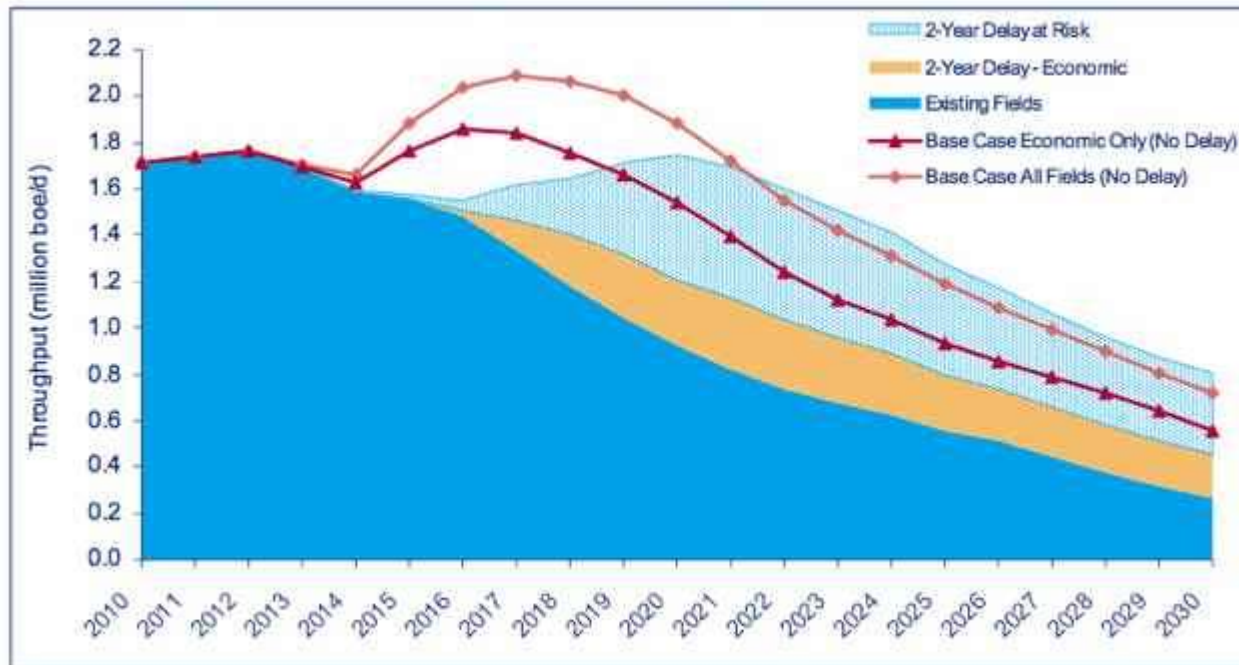
Source: Wood Mackenzie – Upstream Service

A Projection of a 1 Year Delay in Gulf of Mexico Production



The Future ? (cont.)

Estimated Deepwater GoM Production (2-Year Delay Case)



Source: Wood Mackenzie – Upstream Service

A Projection of a 2 Year Delay in Gulf of Mexico production

The Public's Balance of Alternatives

Shunning of Offshore Drilling



Much Higher Energy Costs



Conclusions / Q & A



Origin of the phrase: Between the Devil and the Deep Blue Sea



- Devil—the seam between the deck planking and the topmost plank of the ship's side
- Alternative: Odysseus, between Scylla, a monster, and Charybdis, a whirlpool.
- The 'blue' part did not seem to become part of the phrase until the release of the song of that title, recorded by Cab Calloway in 1931.