

**Alaska Wilderness League ♦ Defenders of Wildlife ♦ Earthjustice ♦ Environmental Defense Fund
Gulf Restoration Network ♦ League of Conservation Voters ♦ National Audubon Society
National Parks Conservation Association ♦ National Wildlife Federation
Natural Resources Defense Council ♦ Ocean Conservancy ♦ Sierra Club
The Wilderness Society ♦ World Wildlife Fund-US**

President Obama
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

March 30, 2011

Dear President Obama,

We are writing to urge you to direct your Administration to promptly implement important reforms recommended by the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (the Commission). We appreciate your Administration's leadership in proposing a significant increase in funding for the Interior Department's oversight of offshore drilling operations, the initial restructuring of the agencies that oversee offshore oil and gas activities, and the regulatory changes adopted since the disaster. However, the Commission recommended reforms that go beyond these steps. Certain of these recommendations require legislation which we urge you to vigorously promote, including a significant increase in the liability cap and the financial responsibility requirements for offshore facilities and an allocation of at least 80 percent of Clean Water Act penalties to Gulf restoration. Many of the recommendations, though, may be carried out under current law. *As the first anniversary of the disaster approaches, we urge you to announce the steps that your Administration intends to take to implement the Commission's recommendations. We ask that in that announcement you direct the members of your Cabinet and Administration to move swiftly to put these recommendations into effect.*

The Commission, which you established in Executive Order No. 13543, issued its report on January 11, 2011. It found that deepwater energy exploration and production, particularly at the frontiers of experience, involve risks for which neither industry nor government has been adequately prepared. It called for fundamental reform in both the structure of regulatory oversight and the internal decision-making process to ensure political autonomy, technical expertise, and full consideration of environmental protection concerns.

The Commission found that the technology, laws and regulations, and practices for containing, responding to, and cleaning up spills lag behind the real risks associated with deepwater drilling. In addition, scientific understanding of sensitive environments in deep Gulf waters, along the region's coastal habitats including national parks, national seashores, national wildlife refuges, and other federally protected lands, and in areas proposed for more drilling, such as the Arctic, is inadequate.

The Commission concluded that, absent fundamental reform, another Deepwater Horizon disaster could occur. It made a comprehensive set of recommendations for improving government oversight of offshore drilling, as well as calling on industry to greatly improve its practices.¹ The Commission noted that many of the recommended reforms go beyond those already initiated since the Deepwater Horizon disaster.

We urge you to announce on or before the first anniversary of the spill the steps that your Administration intends to take to implement the Commission's recommendations. Here, we highlight some of the report's key recommendations.

Safety and Environmental Protection

An independent offshore safety authority should be created within the Department of the Interior that is insulated from pressure to increase production and maximize lease revenues. It should have authority over technical and operational safety and overall responsibility for fostering safe and environmentally sound offshore energy operations. This authority should be headed by a qualified executive with an engineering or technical background who is appointed by the President for a five- or six-year term. The new agency should have classifications and salary scales for engineering and technical staff and inspectors similar to those of the Nuclear Regulatory Commission.²

Interior, in consultation with the Council on Environmental Quality, should revise and strengthen its National Environmental Policy Act (NEPA) practices and procedures, including requiring environmental impact statements for specific lease sales and before plans for exploration, development and production are approved in areas with complex geology, in ultra-deepwater, in the Arctic and in other frontier areas. Interior should incorporate the "worst-case scenario" calculations from oil spill response plans into the NEPA documents.

In less explored areas, Interior should reduce the size of lease sales so their geographic scope allows for a meaningful analysis of potential environmental impacts and identification of areas of ecological significance.

Interior should enhance environmental protection by creating a distinct environmental science division within Interior headed by a chief scientist with specified responsibilities regarding environmental review and protection. Interior has taken a step in that direction but has not gone as far as the Commission recommended in that the chief environmental officer reports to the head of the leasing office rather than having a separate line of reporting directly to the Assistant Secretary, as recommended by the Commission.

Interior also should strengthen science and interagency consultation in the Outer Continental Shelf oil and gas decision-making process. NOAA, the nation's lead civilian ocean agency, which has the most expertise in the management of living marine resources, should identify areas that should be excluded from lease sales because of their high ecological importance or sensitivity. Interior should adopt NOAA's

¹ Chapter Nine of the Commission's report, *Deep Water, The Gulf Oil Disaster and the Future of Offshore Drilling*, contains the Commission recommendations to strengthen regulatory oversight. See <http://www.gpoaccess.gov/deepwater/deepwater.pdf> (pp. 249-291); see also, a summary of recommendations at <http://www.gpoaccess.gov/deepwater/deepwater-recommendations.pdf>.

² Some aspects of the Commission's recommendation for an independent safety authority would need congressional authorization (for example, for a Senate-confirmed director), but much could be carried out under current law.

recommendations unless doing so would be inconsistent with important national policy interests and it should publish in writing its rationale for rejecting any NOAA recommendation.

Response and Containment

There should be a new process for reviewing oil spill response plans. The Department of the Interior should review and revise its regulations and guidance for response plans and ensure that adequate technical expertise exists within the staff for reviewing and approving plans. The process should ensure that all critical information and spill scenarios are included in the plans, including containment and control methods, to ensure that operators can deliver the capabilities indicated in the response plans. In addition to review by Interior, oil spill response plans should be subject to review and approval by other agencies with relevant scientific and operational expertise, including the Coast Guard, EPA and NOAA, and the plans should be available to the public for commenting (as in Alaska and Washington State).

EPA should amend or issue guidance on the National Contingency Plan to establish distinct procedures increasing government oversight of the responsible party in a Spill of National Significance. It should also update its dispersant testing protocols and require more comprehensive testing prior to listing or pre-approving dispersant products. The Coast Guard and EPA should modify pre-approvals of dispersant use to establish procedures for further consultation based on the temporal duration, spatial reach, and volume of the spill and of dispersants that responders are seeking to apply. EPA and NOAA should conduct and encourage further research on dispersants, including research on the impacts of high-volume and subsea use of dispersants, the long-term fate and effects of dispersants and dispersed oil and the development of less toxic dispersants.

Compensation, Impacts, and Restoration

Agencies that are natural resources trustees should ensure that compensatory restoration under the Natural Resource Damage Assessment (NRDA) process is transparent and appropriate. The trustees should appoint an independent scientific auditor to ensure that projects are authorized on the basis of their ability to mitigate actual damages caused by the spill, with special care taken to assess and compensate poorly understood marine impacts. Any potential settlement should provide for long-term monitoring of affected resources, as well as enhancement of these resources beyond the baseline.

In addition, a broader restoration effort – guided by new research and an understanding of what long-term damages may be resulting from the spill – is needed. Federal agencies should build capacities to put this restoration effort on a strong footing.

The Arctic

The federal government should develop and implement an immediate comprehensive federal research and monitoring effort to provide a foundation of scientific information on the Arctic ecosystem and its diverse wildlife. Good information exists for only a few species and, even for those, just for certain times of the year or in certain areas.

Interior should ensure that oil spill containment and response plans proposed by industry are adequate for each stage of development and that the underlying financial and technical capabilities have been satisfactorily demonstrated in the Arctic. Oil-spill response methods cannot simply be transferred from elsewhere to the Arctic.

In addition, the Coast Guard should conduct a review of its current and projected capabilities in the Arctic, including its capacity to respond to a potential oil spill in the Arctic. This review should be shared with Congress, which should provide funding to establish Coast Guard capabilities in the Arctic. The Oil Spill Liability Trust Fund should be used to promptly fund a comprehensive interagency research program to address oil spill containment and response in the Arctic.

The United States should play a leadership role in working with other countries to establish strong international standards for Arctic oil and gas activities.

Conclusion

We are approaching the one year anniversary of the Deepwater Horizon blowout. A clear blueprint has been laid out in the Commission's report for preventing a similar disaster. To ensure that the lessons from the BP disaster are learned and not repeated, we hope that on or before the anniversary, you announce the steps that your departments and agencies have taken and intend to take to implement the recommendations contained in the Commission's report.

Sincerely,

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