

BOEMRE/U.S. Coast Guard Joint Investigation Team Report

Witnesses

Panel I

Captain Hung Nguyen

Co-Chair of the Joint Investigation Team, U.S. Coast Guard

David Dykes

Co-Chair of the Joint Investigation Team, Former Bureau of Ocean Energy Management, Regulation and Enforcement Staff

Vice Admiral Brian M. Salerno

Deputy Commandant for Operations, U.S. Coast Guard

Michael Bromwich

Director, Bureau of Safety and Environmental Enforcement

Panel II

Ray Dempsey

Vice President, BP America

James Bement

Vice President, Sperry Drilling, Halliburton

Bill Ambrose

Managing Director, North America Division, Transocean

Members Present

Doc Hastings (R-WA), Chairman

Ed Markey (D-MA), Ranking Member

Jeff Landrey (R-LA)

Rush Holt (D-NJ)

John Fleming (R-LA)

Dan Boren (D-OK)

Glenn Thompson (R-PA)

Bill Flores (R-TX)

Raul Grijalva (D-AZ)

Andy Harris (R-MD)

John Sarbanes (D-MD)

Steve Southerland (R-FL)

Non-members Present

Sheila Jackson Lee (D-TX)

This oversight hearing on October 13, 2011 was held to review testimony from key witnesses regarding the final Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) and Coast Guard Joint Investigation Team (JIT) Report. The report evaluated the causes, effects, and responsibility of all involved parties in the March 2010 BP Deepwater Horizon oil spill. The disaster began with an unexpected influx of hydrocarbons into the Macondo well, which escalated to a blowout of hydrocarbons onto the rig floor. The oil was ignited by a gas vent, resulting in two separate explosions and a persistent fire that

continued to burn the available fuel until the rig sank two days later. The night before this hearing, the Department of the Interior (DOI) formally issued BP, Halliburton and Transocean 15 violation notices regarding their involvement with the oil spill.

Chairman Doc Hastings (R-WA) opened the hearing saying that it is the committee's "duty to get the full facts... before rushing to judge or legislate." He added that it is America's top priority to make its offshore drilling practices the safest in the world. Ranking Member Ed Markey (D-MA) followed with his opening statement that focused on lack of any legislation following the country's worst environmental disaster, which took place a year and a half ago. Markey pointed out that the report said the disaster was preventable and that worker and safety standards are in need of improvement. He brought up the fact that the Democratic minority members of the committee were not notified of this hearing's second panel of witnesses, whom he called "the majority's witnesses," or their testimonies until a day and a half before the hearing took place. He expressed a worry that the lack of a consultative process to discuss the witnesses was an attempt to shield the companies' mistakes. Finally, Markey alluded to the recent development of DOI's violation notices to BP that will result in \$21 million fines, equivalent to only seven hours of profit for the company.

Hastings took the floor again to clarify Markey's comment about the last-minute notification of the second panel. Hastings responded that party witnesses do not exist, and that the majority was not aware of the presence of a second panel until late as well.

The first panel of witnesses was made up of five government and military officials. Captain Hung Nguyen of the U.S. Coast Guard gave his testimony to provide background on the development of the BOEMRE and Coast Guard JIT, for which he co-chairs, as well as a detailed description of the methods in which the study was conducted. Next, David Dykes spoke on the report's recommendations. He assured the committee that his written and oral testimonies contain his "best recollection of the facts as [he] remember[s] them," because of his limited access to the evidence after his resignation in September 2011. He summed up the report recommendations, some of which have already been incorporated since the disaster, which encompass regulatory changes, research collaboration, and agency collaboration with industry to develop best practices for well control training. Brian Salerno gave his testimony, stating that "a flawed safety management system and safety culture aboard Deepwater Horizon" contributed to the disaster. He explained that the Coast Guard examined five aspects of the disaster relating to their jurisdiction, one of which was the safety management system implemented by the owner-operator of the well, Transocean. Salerno noted that their investigation "revealed numerous system deficiencies and acts of omissions by Transocean and the Deepwater Horizon crew that adversely impacted opportunities to limit the magnitude of the disaster." Michael Bromwich listed in his testimony a number of issues that BOEMRE concluded contributed to the disaster, including well design, well cementation, hydrocarbon flow paths during the blowout, temporary abandonment of the well, kick detection and rig response, failure of the blowout preventer, regulatory findings, and company practices. He said that the evidence from the report shows that BP and their contractor, Halliburton, violated BOEMRE's regulations. The BOEMRE panel found that regulations could be enhanced in a number of areas, especially drilling inspections, after recognizing that "existing regulations had not kept up with the advancements in technology used in deepwater drilling."

During the question and answer period, Hastings and Jeff Landry (R-LA) brought up the topic of statutory authority, asking Bromwich which law allows the Bureau of Safety and Environmental Enforcement (BSEE), previously BOEMRE, to regulate the subcontractors. Bromwich assured both congressmen that their regulatory abilities are written in the law and said he was happy to provide the exact details after the hearing. Rush Holt (D-NJ) asked Salerno if any of the Coast Guard recommendations are currently being put in place and if any require regulatory action. Salerno replied that they are currently being incorporated into practice and that all of them do not require regulation.

Dan Boren (D-OK) questioned the authenticity of the report absolving government officials from blame, because he had email proof that a government official was provided with the questions prior to the JIT hearing. Nguyen assured Boren that none of the witnesses were coached on how to answer the questions; they were merely given the "areas of the questions" that would be asked. Steve Southerland (R-FL) was disappointed that the report laid nearly all of the blame on the companies, but Bromwich argued that though the disaster was not a governmental failure, the government needs to take a bigger role in regulating industry so there can be a successful "partnership between the two."

John Sarbanes (D-MD) asked Bromwich to speak more on government oversight resources. Bromwich said that the number of inspectors available is "nowhere near where we need to be." According to him, the government needs to hire more inspectors and

bolster the regulatory program to replace the “prescriptive style” of regulation the agency had in the past.

Bill Flores (R-TX) asked how the government can address the human error problem. The panel suggested reducing the number of opportunities that individuals have to make decisions that can result in error. Greater awareness, knowledge, and training are essential to provide the information individuals need to digest the situation and make correct decisions.

Flores asked the panel if they were aware of any fraudulent acts by BP, Halliburton, Transocean, or anybody else during the study. All the witnesses had no knowledge of fraud or criminal acts. Landry asked Dykes if BP had a comprehensive Safety and Environmental Management Systems (SEMS) in place at the time of the disaster. Dykes replied that they did and it played no part in the cause of the accident; he informed Landry that there is no guarantee a working SEMS will prevent accidents. According to Dykes, there were gaps in the management change as the company shifted from paperwork to an electronic system.

During the second panel, Raymond Dempsey gave his testimony, saying that BP “deeply regrets” the spill and has new performance standards for deepwater drilling. James Bement said in his testimony that Halliburton is committed to its safety and to providing energy to the country, and will “continue to fully support, and cooperate with, the ongoing investigations.” Bill Ambrose stated in his testimony that “nothing is more important to Transocean than the safety of our people,” and that they have formed an investigative team to evaluate the problems associated with the disaster.

In the question and answer period of the second panel, Flores asked Dempsey what the total cost of the accident was for BP. Dempsey answered that total costs have amounted to over \$20 billion. Flores then asked Bement and Ambrose if the report came to any systemic allegations against Halliburton or Transocean. Both men said no, assuring that they drill thousands of wells safely all over the world. Holt asked Dempsey if BP plans on appealing the violations that DOI released the night before. Dempsey replied that BP will take a serious look at them and participate with DOI to reach an agreement. Holt asked if BP has acknowledged that it failed to protect its workers and the environment. Dempsey said that “BP has from the very start acknowledged its role in this accident,” but the contractors also have to be held accountable and “it gets very complicated with multiple parties.” When Holt asked Bement if Halliburton plans to appeal the violations, Bement replied that the company “will go through the process and reserve the right to appeal.”

Sheila Jackson Lee (D-TX), a non-committee Representative, joined at the end of the hearing to ask the witnesses if each of them is committed to “fixing what needs to be fixed.” All three witnesses confirmed they are actively engaged and committed to making the necessary changes. Finally, Hastings wrapped up the hearing by asking about “stop-work” policies in each of the three companies. All three witnesses said that BP, Halliburton, and Transocean each have a “stop-work” policy that is in place if an emergency takes place.
