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Industry Claims of 'Proven' Technology Went Unchallenged at MMS

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BP Exploration and Production told federal regulators it had "proven equipment and technology" to deal with deepwater spills like the one billowing crude oil into the Gulf of Mexico.

It didn't. Still, the Minerals Management Service took the company's word for it.

But BP isn't the only company to offer such blithe, and some say false, assurances. Most of the three dozen or so companies that kept drilling in deep water in the Gulf after the Deepwater Horizon rig sank got their regulatory approvals based on documents stating they could easily mop up spills, even gushers many times the stated size of the BP spill. But there's no indication they have any better method than BP.

A Greenwire analysis of MMS records shows that at least seven of the 36 operations listed on the agency's "current deepwater activity" for May use the exact same "proven equipment" claim to dismiss the idea that a major spill could cause major damage.

Another 10 or more current operations assured regulators that because of the "response capabilities" at their disposal, a spill likely would have no significant effect. Just about all of the exploration plans for the three dozen current deepwater operations, in one way or another, asserted they could handle a "worst-case scenario" spill.

The easy acceptance by MMS reflects a belief among regulators and industry that technological and regulatory advances had made spills on the magnitude of the 1989 Exxon Valdez-level spill all but impossible. They also provide a window into why President Obama last week suspended at least 33 deepwater drilling operations in the Gulf.

"MMS completely overlooked the possibility of a major spill," said Miyoko Sakashita, oceans director for the Center for Biological Diversity, which has sued MMS to block 49 offshore drilling projects. "They just take it on a smile and a handshake."

Agency officials failed to respond to repeated requests for comment left at its Washington headquarters and at the federal command center in New Orleans.

Some lawmakers have called for a criminal investigation into BP's "proven equipment" assurances, saying they might constitute "false statements" to federal officials. And Attorney General Eric Holder yesterday indicated that the Justice Department could look at criminal charges in the spill.

But the records filed with MMS indicate that if prosecutors find BP's claims criminal, they might also have to slap the cuffs on supermajors like Exxon Mobil Corp. and Marathon Oil Corp. along with several smaller companies.

"It does call into question whether the oil companies have a contingency plan to deal with a spill like this," said Sen. Ben Cardin (D-Md.), one of eight members of the Senate Environment and Public Works Committee to request the criminal probe.

'Real-time learning'

Since the BP well blew out April 20, executives from the British oil giant have repeatedly stressed there are no "proven" methods for capping a blowout in deep water. Instead, they have improvised and experimented with techniques with names like "top hat" and "junk shot." Each time, they've taken pains to emphasize that none of them has ever been done at such depths.

One executive has likened the deepwater repairs to doing "open heart surgery at 5,000 feet in the dark." Others have compared it to operating in outer space. Even after calling in experts from the federal government and its fellow oil companies, BP has failed to stanch the flow.

"This is an unprecedented situation, not just for BP but for the oil industry," BP communications chief Andrew Gowers said at one point, "and we are inventing new technologies on the go to tackle this."

BP global CEO Tony Hayward has deemed some of the failures "real-time learning."

The exploration plan for the now-blown-out well, filed with MMS, says the company was capable of handling a "worst-case scenario," which it describes as a leak of 162,000 barrels per day from an uncontrolled blowout. That is 6.8 million gallons and 32 times more than the original estimate of 5,000 barrels of crude per day. That estimate has since risen to 12,000 to 25,000 barrels a day.

Asked in a Senate hearing to reconcile the "proven equipment" statement with the trial and error taking place in the Gulf, the British firm's top U.S. executive, Lamar McKay, struggled to come up with an answer.

"Obviously, when that document you're quoting was turned in, we weren't expecting this," he said.

Neither was MMS. It approved BP's permit on April 6, and stamped approval on all the other current plans that said deepwater spills wouldn't have significant effects.

Shell outlined risks in 2000

It's not as though no one saw the risk.

A 2000 environmental assessment for a Shell deepwater drilling operation starkly lays out the difficulties and dangers of capping a blowout at such depths. To the layman who has watched the best minds in the business fumble for answers to the BP spill, the report seems almost prescient.

"Regaining well control in deep water may be a problem since it could require the operator to cap and control well flow at the seabed in great water depths and could require simultaneous fire-fighting efforts at the surface," the report states. Crews battled flames for two days after the Deepwater Horizon sank, then found that the well was spewing oil.

The report predicts blowouts in deep water would be more likely to occur at the seafloor rather than near the surface, would be much harder to control with remotely operated equipment at great depths, and would produce large quantities of submerged oil that would never reach the surface. And it foreshadows much of the difficulty that spill responders would have in dealing with situations like the Deepwater Horizon blowout.

"If the outer casing strings are breached," it says, referring to one of the scenarios laid out by experts analyzing the BP spill, "the likelihood of a successful surface intervention would be minimal."

Among its other points:

"The likelihood of spills from loss of control [blowouts] in deep water may be different than the risk of spills in shallow water. Further investigation is required before the consequences of blowouts in deep water can be fully evaluated."

"It is more likely for a blowout in deep water to occur at the seafloor because there is less containment capability subsea."

"There are few practical spill response options for dealing with submerged oil."

Also, a 2004 report commissioned by MMS highlights some of the potential problems with blowout preventers as companies, particularly smaller ones, moved into deeper and deeper waters. The report, by West Engineering Services of Brookshire, Texas, states that smaller companies didn't always understand the risks. Some of the rigs being used in deep water, the report says, couldn't assure that they could seal their well in the event of an accident.

"At least some of the rigs currently in operation have not considered critical issues necessary to ensure that their shear rams will shear the drill pipe and seal the well bore," according to the report.

But a 2002 environmental impact statement (EIS) for MMS's Gulf of Mexico drilling program reflected the belief among industry and regulators that the days of big spills were all but over.

The report, widely cited in oil companies' exploration plans, stresses that large oil spills are unlikely, in large part because of "an increasingly effective campaign of positive prevention and preparedness initiatives to protect U.S. coastal waters from oil pollution."

If there are spills, the document asserts, the effects "are anticipated to be primarily short-term and localized in nature."

It also notes that whatever oil is put off limits will likely have to be imported from another country.

"Because the energy needs of this nation are projected to increase dramatically," the EIS says, "any decline in domestic oil production must be replaced by imports of both crude and petroleum products from outside this country or replaced by alternative energy sources."

Industry boilerplate

The "proven" claim appears to have become boilerplate in some plans, often drafted by Louisiana- or Texas-based consultants.

The seven have identical wording: "In the event of an unanticipated blowout resulting in an oil spill, it is unlikely to have an impact based on the industry wide standards for using proven equipment and technology for such responses."

In addition to Exxon Mobil and Marathon, the other "current deepwater activity" companies to claim "proven equipment and technology" are ATP Oil & Gas, Hess Corp., LLOG Exploration Offshore Inc. and Walter Oil & Gas Corp.

But the assurance isn't followed with what the "proven" technology is, except to note that, in most cases, the company's spill equipment providers are nonprofits called Marine Spill Response Corp. and Clean Gulf Associates.

Attempts to reach Clean Gulf Associates Executive Director Frank Paskewich and Marine Spill Response Corp. officials to ask whether the organizations had "proven equipment and technology" for deepwater spills were unsuccessful.

One of the other drillers that told regulators it has "proven equipment and technology" to fight a massive spill has been drilling 3 miles closer to the Louisiana coast than the Deepwater Horizon rig.

Owned by LLOG Exploration, it was one of the wells to get an exemption from environmental review called a "categorical exclusion." MMS also agreed to limited environmental review for a Walter Oil & Gas Corp. operation now drilling in 1,200 feet of water.

The Walter drilling plan was approved on April 26, six days after the Deepwater Horizon sank. That was before the Obama administration declared its initial,

monthlong moratorium on new drilling.

"This has been extremely customary," Walter manager Ron Wilson said of the limited environmental review. "It's been reviewed many times and found to be an acceptable practice."

Now that Obama has suspended existing deepwater operations, he said, Walter's drilling operation is preparing to pull up stakes.

At least one of the plans that claims "proven" technology is an Exxon Mobil project that was put on hold when Interior Secretary Ken Salazar declared a "pause" in drilling approvals.

An Exxon Mobil spokeswoman, Cynthia Bergman White, didn't speak to whether the company has adequate plans for handling a spill when and if drilling is allowed to proceed on its Hadrian prospect. But she said the operation is safe and the subsea conditions are well understood.

"As is the case with all Exxon Mobil-operated wells worldwide, the Hadrian well has been planned, and will be drilled, under the rigorous application of the Exxon Mobil Operations Integrity Management System to ensure the safety and integrity of the design and execution of the well," White said.

Marathon spokesman Lee Warren also didn't address the plans the company has filed in the past, but said it is looking at safety and preparedness issues. He added that Marathon is suspending drilling on one of its operations on orders from the administration. Another operation listed as "current deepwater activity" had already finished drilling in May.

"As a result of the tragic incident in the Gulf of Mexico, Marathon is working both with industry and on our own to examine all aspects of deepwater operations and emergency preparedness," Warren said. "This includes participation in the API Industry Task Forces."

BP's latest bid for exemption

BP has made similar assertions -- even since its blowout -- to obtain an exemption from environmental review for another project.

The exploration plan for a 4,468-foot-deep well in its "Mad Dog" field, approved May 6, doesn't claim to have "proven equipment and technology," but it does assert that it had the capability to respond to a worst-case scenario of a 184,000-barrel-a-day spill.

In the section of the "initial exploration plan" for explaining the Mad Dog operation's "blowout scenario," BP states: "information not required."

BP top U.S. executive McKay told a Senate committee that requesting and receiving such categorical exclusions are "industry standard" because extensive environmental reviews have already been done at an earlier stage in the process.

As with many of the plans, BP's Mad Dog assertions are "summarized from" the 2002 EIS that deemed spills highly unlikely. Besides "proven equipment and technology," the exploration plans offer a potpourri of reasons spills won't happen, or how easily they can be dealt with. Some are eyebrow-raising in the wake of the BP blowout, the oil washing ashore in Louisiana, and reports of coziness between MMS inspectors and oil company managers.

A plan submitted by Elf Exploration Co. for a well now being drilled by another company dismisses the possibility of a spill, in part, because of the extent of regulation MMS "imposed" on drillers.

"Because of the low probabilities and mitigative measures imposed on the operator, an offshore spill related to the proposed operations is not expected to contact a coastal barrier or dunes," the plan says.

Petrobras, which has the deepest well on the list, at 8,850 feet, said it analyzed a "typical offshore spill of 1,000 [barrels] or greater" a day and said that "the slick would not persist on the water surface beyond 10 days" and the probability of oil washing ashore was less than 0.5 percent.

The plan acknowledges that oil spills that last more than 30 days are "more likely" to wash ashore. But it said "active response activities" would prevent the oil from lasting long enough to reach shore.

And Shell hasn't included the same dire predictions about deepwater spills that it did in its 2000 report. For example, the company's plan for its "Great White" prospect simply cites a decreasing likelihood of spills, which it says that MMS had attributed to the "improvement to MMS operational requirements."

The exploration plan by Murphy Exploration & Production Co. for its drilling operation in the Gulf doesn't focus on how it would handle a spill so much as note that oil spills account for only a fraction of the petroleum that get into the ocean.

The plan says 61 percent of the petroleum contamination in the oceans comes from transportation and river runoff and another 10 percent comes from natural seeps of oil and gas, while only 1.3 percent comes from offshore drilling.

"The preceding discussion is not intended to minimize the significance of major oil spills resulting from petroleum exploration and production activities," the Murphy plan says, "but is provided to establish perspective relative to their probable occurrence."