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Obama Decried, Then Used, Some Bush Drilling Policies

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Less than four months after President Barack Obama took office, his new administration received a forceful warning about the dangers of offshore oil drilling.

The alarm was rung by a federal appeals court in Washington, D.C., which found that the government was unprepared for a major spill at sea, relying on an “irrational” environmental analysis of the risks of offshore drilling.

The April 2009 ruling stunned both the administration and the oil industry, and threatened to delay or cancel dozens of offshore projects in Alaska and the Gulf of Mexico.

Despite its pro-environment pledges, the Obama administration urged the court to revisit the decision. Politically, it needed to push ahead with conventional oil production while it expanded support for renewable energy.

BP's daily spend on the Gulf of Mexico oil spill continues to grow through the crisis. Here is the daily spending in millions of dollars.

Another reason: money. In its arguments to the court, the government said that the loss of royalties on the oil, estimated at almost \$10 billion, “may have significant financial consequences for the federal government.”

The U.S. Court of Appeals reversed its decision and allowed drilling in the Gulf to proceed—including on BP PLC's now-infamous Macondo well, 50 miles off the Louisiana coast.

The Obama administration's actions in the court case exemplify the dilemma the White House faced in developing its energy policy. In his presidential campaign, President Obama criticized the Bush administration for being too soft on the oil

industry and vowed to support greener energy forms.

But, once in office, President Obama ended up backing offshore drilling, bowing to political and fiscal realities, even as his administration's own scientists and Democratic lawmakers warned about its risks.

After the Macondo well blew out, sinking the Deepwater Horizon rig and causing a catastrophic spill, Mr. Obama said his administration should have been more vigilant in handling the oil industry. “More needed to be done, and more needs to be done” to tighten oversight, he told reporters recently.

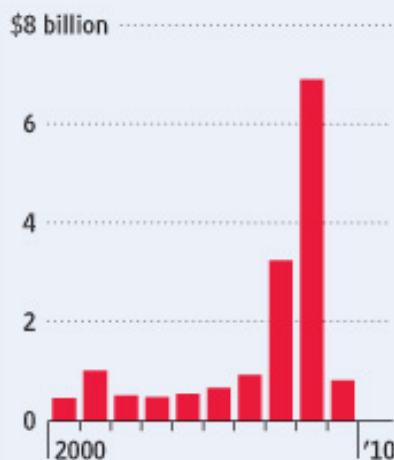
Still, the administration defends its intervention in the court case, and says the ruling made it look more cautiously at whether to open new areas to offshore drilling. It pins blame on the Bush administration for pursuing a policy for deep-offshore drilling “that was driven by one principle: open everything,” said White House spokesman Ben LaBolt.

“Over the course of the year,” he said, “the Interior Department conducted a review process to produce an offshore strategy that closed a number of environmentally sensitive areas from exploration and put in place a process to explore where additional production could take place.”

Fever Pitch

Industry interest in offshore oil and gas leases ramped up in lockstep with historically high oil prices.

U.S. government revenue from offshore lease sales



Crude-oil futures, weekly



Source: Minerals Management Service; Thomson Reuters via WSJ Market Data Group

Since the Deepwater Horizon explosion, he added, “we are implementing top to bottom reforms to ensure that a disaster like this is never repeated.”

Michel Olsen, a former official in the Bush Interior Department, defended the previous administration’s offshore approach. “Our policy was founded on the requirements of the law,” he said. “It wasn’t just to give industry whatever it wanted.”

Mr. Obama inherited a slew of energy challenges when he took office in early 2009. The agency within the Interior Department charged with overseeing the oil and gas industry, the Minerals Management Service, was reeling from scandals. An inspector general’s report months earlier had described rigged contracts, drug use and sex between MMS employees and industry representatives.

Along with cleaning up the MMS, Interior had to wrestle with a five-year drilling plan the Bush administration had filed just days before leaving office. The plan sought to open the waters in most of the U.S. outer-continental shelf to oil and gas exploration between 2010 and 2015. The push into ever deeper waters in the Gulf, which began in earnest in the mid-1990s, reflected the reality that drilling in shallower waters was largely tapped out.

To buy time and work out its own policy preferences, the Obama administration reopened the Bush plan for public comment.

The tensions in the administration’s own deliberations were clear from the start. Mr. Obama’s Interior secretary, Ken Salazar, quickly picked a fight with the oil industry when he retroactively withdrew 77 oil-and-gas lease sales in Utah that the Bush administration had approved in its final weeks. The move drew applause from environmentalists and criticism from oil companies.

In April 2009, Mr. Salazar went on a four-city tour to discuss the nation’s offshore energy future. His first stop: A solar-powered convention center in Atlantic City, N.J., where he touted the potential of offshore wind power to supply clean electricity to the eastern seaboard. Boosting offshore renewable energy had become a “top priority” for Interior at the express wish of Mr. Salazar, who had issued a secretarial order to that effect just three weeks earlier.

But, before the packed house of politicians, activists and interested citizens, Mr. Salazar also defended the need for more offshore oil and gas. “The reality is that we have oil and gas potential in significant ways, especially in” the Gulf of Mexico, he said, according to a video of the event.

The administration was apprehensive about expanding offshore drilling. But it also hoped to get a legislative package on climate change through Congress. At the center of the bill was a controversial and potentially

expensive provision requiring companies to acquire permits to release carbon dioxide.

To navigate Capitol Hill, the administration needed to strike a balance between the “green energy” projects favored by environmentalists and liberals, and the traditional oil and gas projects favored by Republicans, whose support would be crucial in the Senate. Continuing to promote offshore drilling was part of that bargain.

But the federal appeals court decision, which came just days after Mr. Salazar’s tour, threatened to throw a wrench in that process. The case was brought two years earlier by indigenous Alaskans and a coalition of environmental groups. It challenged a Bush-era plan to lease large chunks of offshore Alaska to oil drilling.

The groups argued the strategy didn’t adequately account for the whole range of environmental perils raised by oil drilling on the outer shelf.

The appeals court agreed, ruling that the federal program was based on “irrational” analysis. The government’s own assessment, the court found, weighed only the impact of oil washing up on shorelines. In a foreshadowing of the post-spill debate, the court noted that the analysis didn’t address the impact of a significant spill further out at sea.

At first, Mr. Salazar used the ruling as a way to draw a distinction between his approach and that of the Bush White House. Blasting what he called “the previous administration’s failure to apply the law,” Mr. Salazar said in a statement that he planned to “fix the problems” the court identified. He would do so not by firing managers or shaking up MMS, but by subjecting offshore drilling to heightened scrutiny. Those fixes, he said, would “put oil and gas leasing decisions back on a firm scientific footing.”

Still, the ruling presented an immediate problem. It threw into uncertainty hundreds of millions of dollars in drilling projects already under way in the Gulf—the source of about a third of the country’s domestic oil supply and the lifeblood of the regional economy. In addition, the government had another big lease sale for Gulf offshore acreage coming up in August.

In its response, the government noted that the oil and gas from approved exploration and drilling projects had a combined value of \$7.65 billion. Among the existing leases, the petition noted, was the March 2008 Lease Sale #206. That deal included BP’s acquisition, for \$34 million, of the acreage encompassing the Macondo well.

Voiding existing leases, the Justice Department argued on behalf of Interior, would cause “severe and unnecessary disruptions” to oil and gas activity in the Gulf of Mexico, and could push companies and drilling rigs toward other

nations with less onerous regulations.

A day after the administration's petition, the industry's main lobbying group, the American Petroleum Institute, made its own case echoing the government's arguments. "The significance of [Gulf of Mexico] activities under the five-year program cannot be overstated," the API argued.

In late July, the D.C. appeals court responded to the government petition by clarifying its earlier ruling. Only drilling in Alaska, the case's main focus, would be stopped. Activity in the Gulf of Mexico could continue while the administration carried out a new environmental analysis to address the court's concerns about deep-water spills.

Mr. Salazar began to express confidence that he had resolved the problems within the Minerals Management Service that had led to poor oversight of offshore drilling. In September, in testimony before the House Natural Resources Committee, he listed the steps he had taken to make sure ethical lapses "don't occur in the future."

Still, inside the administration there was debate about the right policy for offshore drilling.

On Sept. 21, Jane Lubchenco, Mr. Obama's handpicked head of the National Oceanic and Atmospheric Administration, filed a lengthy comment on the Bush-era drilling plan still under review. She cited several concerns, including the government's tendency to underestimate the likelihood of oil spills and to downplay their potential environmental impacts. She also noted the government's penchant for cribbing from older, often outdated, environmental analyses.

She cited a Congressional Research Service study from earlier in the year. "The threat of oil spills raises the question," the report said, "of whether U.S. officials have the necessary resources at hand to respond to a major spill."

The administration's struggle to find middle ground on its offshore policy came to a head in Senate hearings in mid-November, just weeks after a drilling rig off the coast of Australia had suffered a deepwater blowout, creating an oil leak that would go on for months.

Sen. Robert Menendez (D-NJ) pointed to an enlarged photo of the Australian rig in flames and asked rhetorically whether he was "just being old-fashioned" to worry that a similar blowout could occur in the U.S.

MMS Deputy Director Walter Cruickshank assured the panel that such fears were misplaced. The Australian rig wouldn't have been licensed to operate in U.S. waters, he said. The U.S., he said, had "what we believe is the most aggressive oil spill contingency planning...in the world."

On March 31, Mr. Salazar joined President Obama in a hangar at Andrews Air Force Base in Maryland to announce their new offshore policy. Standing before an

F-18 "Green Hornet" fighter jet designed to run partly on bio-fuel, Mr. Obama told the audience that "we'll employ new technologies that reduce the impact of oil exploration... And we'll be guided not by political ideology, but by scientific evidence."

The plan was designed in part to allay the federal court's concerns. To satisfy the court's demand for better "balance," it included a broader environmental analysis, examining the impact of spilled oil on marine life and not just on shorelines.

It also ranked prospective drilling areas in terms of their environmental sensitivity. The Central Gulf of Mexico, where BP's Macondo well was based, topped the "most sensitive" column. It also scrapped a handful of planned lease sales in Alaska.

But the proposal kept much of the Bush plan intact, and even added for the first time new lease sales off the coast of Virginia.

It also relied extensively on environmental impact analyses carried out in April 2007 that the court had found wanting.

The 2007 document said "large oil spills associated with [outer continental shelf] activities are low-probability events." The "most likely size" of a serious spill, that report concluded, would total 4,600 barrels—a fraction of what the Deepwater Horizon continues to allow into the water every day.

Kieran Suckling, executive director of the Center for Biological Diversity, which brought the original lawsuit, said their court victory wound up changing little. "Salazar, and by extension Obama, have pursued the same offshore program as the Bush administration, even while playing a smoke-and-mirrors game," he said.

Two weeks before the Deepwater Horizon explosion, President Obama offered a plug for wider offshore exploration. "Oil rigs today generally don't cause spills," he told a gathering in Charlotte, N.C. "They are technologically very advanced."

On April 20, with the blowout on the Deepwater Horizon drilling rig, everything changed.

The Macondo spill has forced the administration to take many of the steps it dismissed as draconian last summer in the wake of the appeals court ruling. On May 27, Mr. Salazar canceled a lease sale in the Gulf set for August. He ordered that all lease sales set for 2011 had to face tougher environmental scrutiny.

And he ordered a six-month moratorium on all drilling activity in the Gulf of Mexico. That moratorium was struck down as arbitrary by a federal judge in New Orleans in June, but Mr. Salazar has fought back, insisting the moratorium remain in place. So far the judge's ruling stands.