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Environmental groups threaten suit to block deepwater Gulf of Mexico oil exploration permits

By Mark Schleifstein,
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Four environmental groups have threatened to sue the departments of Interior and Commerce for allowing permits to be given in the aftermath of the Deepwater Horizon disaster to seven companies for exploration activities in the deepwater Gulf of Mexico in violation of federal laws protecting endangered whales, dolphins and sea turtles.

The companies have been granted 10 permits since Oct. 15 for geological and geophysical exploration activities, including seismic testing, by the Bureau of Ocean Energy Management, Regulation and Enforcement.

Interior Secretary Ken Salazar announced the lifting of a moratorium on permitting related to deepwater drilling on Oct. 12.

The letter sent to agency officials on Wednesday by the Natural Resources Defense Council, Center for Biological Diversity, Sierra Club and Gulf Restoration Network, warns that the suit could be filed after 60 days, a requirement under federal law to allow the agencies to address controversies and avoid lawsuits.



SUSAN POAG / THE TIMES-PICAYUNE A Hawksbill Turtle coated with oil is carefully removed from a transport crate at the Audubon Aquatic Center at the Audubon Center for Research of Endangered Species in lower coast Algiers Sunday, June 6, 2010. A team from the Audubon Nature Institute, worked with two visiting experts from the New England Aquarium, cleaning four turtles who were spotted by helicopter by a team Sunday from NOAA 30 miles off of the Louisiana coast in the Gulf and transported from Venice to Algiers by a courier. After being examined by the veterinary staff, the turtles had their blood drawn, and then were washed with Dawn dishwashing soap. Since the oil spill occurred, the center has washed and rehabilitated 32 turtles. They will be kept indefinitely until deemed safe to release.

The suit would target the Interior Department and its subsidiary agencies, BOEMRE and the U.S. Fish & Wildlife Service; and the Commerce Department and its subsidiary, NOAA Fisheries.

BOEMRE is required to consult with the wildlife and fishery agencies in issuing permits, and those

agencies are responsible for enforcing the federal Endangered Species Act and Marine Mammal Protection Act.

Under those two laws, whales, dolphins, sea turtles and endangered fish and other organisms are protected from "takes," which can include actions ranging from

harassment to killing of individual specimens, and can include disrupting feeding routines or destroying habitat.

In this case, the seven companies are likely to use air guns that create explosive sounds in the water to locate oil and gas resources beneath the ocean floor. The sounds are known to cause deafness and otherwise disrupt the animals.

The activities might also result in other environmental threats to the protected resources, such as the release of pollutants in the water.

There are 29 species of cetaceans, including sperm, blue, humpback and Northern right whales, and five sea turtle species that live or visit the Gulf. There also are more than 600 species of fish and 300 species of coral.

"They're repeating the same mistakes again, ignoring environmental laws that are supposed to apply in the Gulf of Mexico, that have led to severe tragedy this past year," said Miyoko Sakashita with the Center for Biological Diversity.

In the letter, the organizations say BOEMRE improperly relied on environmental studies prepared in support of lease sales in large areas of the Gulf, when it should have conducted studies of the specific areas included permits to meet the requirements of the Endangered Species Act.

The permits also did not properly address potential impacts from major oil spills, such as the BP Deepwater Horizon incident.

And BOEMRE did not require the companies to get permits from NOAA Fisheries for "taking" marine mammals as part of the BOEMRE permit process, as required under the protection act.

"While BOEMRE applied to (NOAA Fisheries) for authorization to take marine mammals incidental to conducting seismic surveys in 2002, that authorization has never been granted," the letter said. And in the aftermath of the Deepwater Horizon incident, BOEMRE also hasn't applied for "takings" of marine mammals that might occur during future spills.

The companies issued exploration permits by BOEMRE are Seabird Exploration, Fairfield Industries, WesternGeco, Dynamic Data Services, Fugro Multiclient Service, TDI-Brooks International, and CGG Veritas. Several companies received more than one permit.