

March 21, 2011

Shell deep-water Gulf plan wins OK, but challenge is likely

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WASHINGTON — The oil and gas industry cleared a major hurdle Monday in its path back to deep-water drilling, with regulators' approval of an offshore exploration plan that lays the foundation for Shell to drill three exploratory wells in the Gulf of Mexico.

The plan is the first of its kind approved since last year's Gulf oil spill and represents the government's determination that Shell has satisfied stiffer safety mandates triggered by the disaster.

But the decision faces an almost-certain legal challenge from conservationists who say the government's review was weak and that it is acting prematurely by not waiting until it completes a lengthy post-spill environmental study of the Gulf of Mexico that could take until next year.

Interior Secretary Ken Salazar said the decision "marks another important step toward safer deep-water exploration."

Marvin Odum, president of Shell Oil Co., called it "a very significant milestone" that could provide a regulatory template for drilling new exploration wells in the deep-water Gulf.

"Not only do we know what it takes, not only do we know that the industry can meet all these new standards, but

it also provides a go-by, an example, that hopefully more permitting can be done more quickly," Odum said.

The approved plan provides the framework for Shell to drill in 2,950 feet of water at its Cardamom Deep discovery about 255 miles southeast of Houston. Odum has said the discoveries - made in 2009 and 2010 - could hold more than 100 million barrels of oil equivalent.

Shell still has to obtain separate permits to drill each well, and already has filed an application for one of them.

A difference of opinion

In approving Shell's plan, the Bureau of Ocean Energy Management, Regulation and Enforcement assessed the environmental consequences of the company's proposed drilling and concluded the work would have "no significant impact."

Environmentalists likely will allege in court that the assessment was insufficient. The outcome of that legal fight could dictate not only Shell's future at the Cardamom Deep discovery but also whether federal regulators have the power to approve new deep-water drilling any time soon.

So far, the Obama administration has focused on restarting work on 57 projects that were permitted before a ban on some deep-water drilling was imposed last year in response to the spill.

The government is waiving environmental assessments for those deep-water drilling projects, three of which have been approved since Feb. 28.

Shell's exploration plan presented the first real test of whether the government is empowered to swiftly review and approve new deep-water exploration plans that form the blueprint for well-by-well permitting decisions.

Bill Snape, a senior counsel with the Tucson-based Center for Biological Diversity, said that in approving the Shell plan, the government cut off a detailed review that is required under the federal National Environmental Policy Act.

"NEPA requires a hard look - not some sort of hop, skip and a dance where you just go through the procedure for the sake of doing it," Snape said.

Potentially illegal?

Snape said the government's decision to approve an exploration plan without waiting for the Gulf-wide environmental study is "potentially illegal."

"We are absolutely analyzing our options for future litigation," he added.

The Natural Resources Defense Council also is considering challenging the action in federal court, said David Pettit, a council director in California.

Pettit said it seems unlikely that the ocean energy bureau studied the full range of environmental consequences that Shell's drilling could have on endangered species and marine mammals in the region.

Drilling foes likely would mount a challenge swiftly, because they are mindful that it could be tough to convince a federal judge to halt a project once drilling starts.

In any legal challenge, the federal government would have to defend its environmental assessment of Shell's plan.

Industry officials said they hope Shell's preparation and the careful review by the ocean energy bureau would allow the government to make a strong case that it has complied with the National Environmental Policy Act.

"The government has to step up and show it's done its work and made decisions that are supported by the record," said Erik Milito, upstream director for the American Petroleum Institute, a leading industry group. Based on the work on the plan by the government and Shell, Milito said, API sees no reason litigation should hold it up.

Michael Bromwich, the ocean energy bureau director, said he is optimistic the agency's work will pass muster.

"We've taken the time and the trouble and consulted extensively with the solicitor's office to make sure that this environmental assessment was robust and that it did everything that needed to be done, both because we thought that was the appropriate level of work to be done and because we were aware of the risk of a legal challenge," Bromwich said.

Worst-case scenario

If Shell secures drilling permits, its well equipment will include sub-sea blowout preventers designed to cut off an uncontrolled surge of oil or gas. The company also said it will tap containment equipment and vessels from the Houston-based Marine Well Containment Co. in case of a blowout like the one at BP's Macondo well last April.

Under Shell's worst-case scenario, a blowout at the site could spill 14.4 million barrels of oil over the 109 days it would take to drill a relief well.

Some drilling advocates insisted that Monday's step was too little too late.

"While this is another step in the right direction toward getting our Gulf Coast back to work, this administration is still moving too slowly to get this industry back up and working at full speed," said Sen. Mary Landrieu, D-La. "We will know that the oil and gas industry has once again found solid footing when we have reached a point where approvals for exploratory permits - or permits of any kind - are not considered newsworthy."

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