

BP Oil Spill Amnesia Bill (S. 953)

One year ago, the *Deepwater Horizon* oil rig exploded, killing 11 workers, spilling approximately 170 million gallons of oil into the Gulf of Mexico, and wreaking havoc on the environment. However, rather than seeking to prevent future disasters, S. 953, introduced by Republican Minority Leader Mitch McConnell, would accelerate the very processes that the President's National Oil Spill Commission found led to the BP disaster by shortcutting safety and environmental reviews. Last week the House of Representatives passed three drill-at-all-cost bills (H.R. 1229, H.R. 1230, and H.R. 1231) which greatly expand offshore drilling while making oversight even weaker than before the BP Gulf Oil Disaster.

SECTION 3, "CONDUCT OF CERTAIN PROPOSED OIL AND GAS LEASE SALES"

- **Reopens Lease Sales Cancelled in Response to the BP Gulf Oil Disaster**—In an effort to employ lessons learned from the BP spill, in May 2010 the Administration cancelled leases in the Gulf (nos. 216, 218, and 222), and off of Virginia (no. 220). Secretary Salazar acknowledged the agency needed to "proceed with caution and focus on creating a more stringent regulatory regime." This bill would force the hand of the Administration, mandating that it offer these very lease sales, despite the Administration's acknowledgement that it is not adequately prepared to properly oversee these sales.
- **Mandates Lease Sales in the Arctic Ocean**—This bill would also mandate lease sales in the Arctic Ocean which the Administration cancelled even before the Gulf oil disaster. By approving environmental reviews that have been found by courts to be inadequate, this bill would foster unsafe development in one of the world's last remaining pristine areas. The nation is not yet ready for industrial oil and gas development in the Arctic. The President's National Oil Spill Commission found extreme gaps both in the science needed to understand and mitigate the impacts of development on this fragile ecosystem, and also in the response capability both of the federal government and the oil companies. The nearest U.S. Coast Guard facility is 1,200 miles away, and responding to an oil spill in the Arctic could be impossible for the majority of the year due to harsh conditions, leaving oil trapped in the ice and otherwise present in the marine environment for months.
- **Sidesteps Proper Environmental Analysis**—In the wake of the BP disaster, both the National Oil Spill Commission and the Council on Environmental Quality concluded that the pre-spill environmental review process for drilling impacts was grossly inadequate. Yet, S. 953 actually *weakens* this process by end-running the court system and deeming old environmental impact assessments adequate for the leases within the bill. These analyses were completed before the Gulf disaster by the old Minerals Management Service. They do not take into account anything learned from the spill and indeed were based on the premise that such a spill could not occur.

SECTION 4, "APPROVAL OR DENIAL OF DRILLING PERMITS"


- **Imposes Rushed, Arbitrary Permitting Deadlines**—This bill would force the Secretary of the Interior to approve or deny drilling permits within 30 days of their application date. If the Secretary failed to reach a decision within 60 days, the permit would be "deemed approved." These permit applications are for complicated and dangerous activities, and imposing such a rushed and arbitrary deadline would strain oversight capacity and prevent the agency from

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conducting a safe and adequate review. The National Oil Spill Commission found that lack of adequate government oversight was a leading cause of the BP Gulf oil disaster, and this bill could lead to even less oversight than the Minerals Management Service deployed before the BP Gulf oil disaster.

SECTION 5, "EXTENSION OF CERTAIN OUTER CONTINENTAL SHELF LEASES"

- **Provides Unnecessary Lease Extensions**—This section would grant a one-year lease extension on all non-producing leases set to expire on December 31, 2011, disregarding the existing process by which the Administration is granting lease extensions to those leases affected by the deepwater drilling moratorium. This provision unnecessarily grants lease extensions to companies not affected by the moratorium, and could deprive Americans of revenue from use of public resources.

SECTION 6, "JUDICIAL REVIEW OF AGENCY ACTIONS RELATING TO OCS ACTIVITIES IN THE GULF OF MEXICO"

- **Prevents Enforcement of Key Environmental Laws**—Section 6 would prohibit parties from recovering attorney's fees even if a federal court agrees that the government failed to comply with the National Environmental Policy Act, the Endangered Species Act, or the Marine Mammal Protection Act. This attempt to close the courthouse door to the fishing industry, the tourism industry, and environmental community to challenge government officials who fail to follow the law undermines our very system of justice and accountable government. This bill would also undermine the checks and balances of the judicial system by limiting the courts that could hear civil cases, and reduce the plaintiff's ability to provide substantive evidence to the courts.

SECTION 2, "OIL SPILL RESPONSE AND CONTAINMENT"

- **Makes Modest Improvements in Oil Spill Prevention and Response**—Section 2 requires third-party certification of a company's oil spill response plans to ensure that oil spill response capabilities are in place and have been demonstrated to work. Also, it funds a study to look at and make recommendations to improve oil spill prevention and clean-up technologies, and directs the Government Accountability Office (GAO) to evaluate the government response to the Gulf oil disaster and make recommendations for improvement. Unfortunately, this bill neglects to address one of the key recommendations of the National Oil Spill Commission and the Administration, which is to extend the existing deadline to review exploration plans to at least 60 days. The existing 30-day deadline on reviewing exploration plans led to inadequate environmental reviews and contributed to the lack of preparation to respond to the BP Gulf oil disaster.

Instead of commemorating the one-year mark of the nation's worst oil spill—and the death of 11 workers—by irresponsibly accelerating new dirty and dangerous ocean drilling, lawmakers should instead focus on legislation that will improve the safety of offshore drilling, and better protect the workers, wildlife, and communities that populate our oceans and coasts. Such legislation should include significantly raising the existing cap on liability for oil spill polluters, sending a portion of fines levied in the BP oil spill to the Gulf region for ecosystem restoration, and increasing the safety of offshore drilling by codifying important new safety and environmental reforms.

