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Congress Should Follow Oil Spill Commission Recommendations

The Oil Spill Commission

According to its charter, the oil spill commission was established by executive order to examine the root causes of the Deepwater Horizon explosion that took place in the Gulf of Mexico on April 20, 2010, and develop options to guard against, and mitigate the impact of, any oil spills associated with offshore drilling in the future.

The commission convened for the first time in July. Its final report is due on January 11. Below are the preliminary recommendations presented by the commission staff at the final public meeting held in early December. It is important to note that many of the commission's recommendations echo changes that are already in motion or that have been included in oil spill legislation that never got to the president's desk; although they passed the House of Representatives last Congress, they died in the Senate after the petroleum industry unified in its opposition to the bill. Reforms requested by the commission and mandated by the House-passed legislation last year would protect taxpayers and make offshore drilling safer for workers, while also protecting the environment and Gulf Coast businesses from future oil spills that damage wetlands and hurt the region's fishing and tourism industries.

The commission concludes that BP's decision-making leading up to the explosion was heavily influenced by a compulsion to get the well completed – the project was 45 days behind schedule at the time of the explosion. This prioritization of profits over safety can be addressed only through the strengthening of public protections over the industry. In addition, the Commission cites the culture of lax government regulation as contributing to the root cause of the accident. Due to a lack of subpoena power, the commission has acknowledged that unanswered questions and complete intelligence about the explosion and spill response still remain.

Further, the poor communications and conflicting reports exacerbated by media censorship throughout the spill response undermined public trust of both the government and the industry's handling of the crisis. Finally, the long-term effects of the oil and chemicals used to disperse it are unknown.

In general, Public Citizen supports the preliminary recommendations set forth by the commission. However, there are areas that could be strengthened. And while several recommendations can be carried out administratively, others will require congressional action. The most pressing issue that could deter enactment of the commission's recommendation is budgetary; more resources will be needed to bolster the existing regulatory regime and create

new safeguards and monitoring of offshore drilling activity. Absent the financial commitment by industry and government to make the necessary amendments to the inadequate approach to offshore drilling, current offshore drilling activity should be scaled back and future drilling should be reconsidered.

1) Safety Culture in the Offshore Drilling Industry

Finding summary:

Commission staff found BP, Halliburton and Transocean's safety lapses to be chronic. Due in part to poor safety culture, these industry majors have failed to protect workers, the economy of the Gulf of Mexico and the broader public interest.

The Deepwater Horizon disaster has demonstrated that voluntary compliance with safety norms is grossly insufficient. Instead, increased industry accountability and oversight of oil and gas exploration and production is needed. To this end, the commission has looked to the nuclear industry's peer accountability program as a possible model to improve the pervasive poor safety culture within the oil and gas industry.

Recommendation:

The commission has looked to the nuclear industry's peer accountability program – Institute for Nuclear Power Operators (INPO) – as a possible model for the oil and gas industry. The institute is intended to police industry standards, management and safety operations from within. To that end, the commission is seeking a peer-based audit program for operators with a core mission to “achieve excellence in system safety across offshore oil and gas industry.” Criteria include an independent auditing function; the Institute cannot lobby Congress; company CEOs and boards of directors need to provide leadership and ensure engagement of employees with it; and the Institute will be empowered to use real rewards and sanctions to achieve compliance with safety and environmental standards.

Public Citizen Response:

If the program were embraced industry-wide, it could serve as a strong tool to pressure the worst actors, but some companies are already shunning the idea because of proprietary concerns. Implementation of this type of program would require an extreme shift in industry behavior. The oil and gas industry is incredibly competitive. Companies do not exchange technical information, and there are no real best practices with the industry.

The historic laissez faire relationship between the oil industry and its regulators might be deepened by the perception that the oil industry is policing itself. The INPO model cannot replace the need for stronger government oversight of oil and gas activities. Further, the INPO model lacks public transparency.

Whether the industry commits to an INPO-type program, other measures can be taken to improve the safety standards and culture within the oil and gas industry including: increasing penalties and fines for safety and environment violations, excluding repeat offenders from federal contracts, enforcing strong whistleblower protections, protecting employees from retaliation (the current culture is plagued with under-reporting of injuries), and giving regulators

stronger authority to suspend, prohibit or cancel exploration or production activity if the operator is not in compliance with safety standards.

2) Regulatory Oversight

Regulatory Agency

Finding summary: The commission confirmed the administration's assertion that the Minerals Management Service's (MMS) role of awarding oil drilling leases while regulating operations creates a conflict of interest. The finding comes as no surprise since two previous government reports have concluded the same thing. A 2007 investigation recommended the same reorganization of the agency that was carried out after the BP disaster. The commission also pointed to the inadequacy of agency resources and regulators' inability to keep pace with industry expertise related to the rapid changes in technology, practices and risks in the field.

The commission further found that MMS has lacked certain regulatory tools that could have assisted with oversight. The Safety and Environmental Management System is used by regulators in other countries but has been a voluntary program in the U.S. with very limited participation. Efforts to make the program mandatory were met with tremendous industry resistance.

Recommendations: The commission suggests that the four functions of the regulatory regime – offshore leasing, revenue collection and auditing, permitting and operational safety, and environmental protection – must be housed in distinct and separate offices under the Department of Interior. Additionally, it recommends the creation of an independent safety and environmental authority housed in the Department of Interior with direct access to the Secretary.

Further, the commission envisions the establishment of a training academy for the initial and continued training of both newly hired and experienced oil and gas inspectors in all aspects of health, safety, environmental and operational inspections.

Public Citizen Response: Since the April 20 explosion, several administrative actions have already taken place to reorganize the Minerals Management Service. President Barack Obama split the agency into three divisions – the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), the Bureau of Safety and Environmental Enforcement, and the Office of Natural Resources Revenue – and appointed new leadership (Michael Bromwich) to oversee the restructuring process.

House bill H.R. 3534 provides for the reorganization of the oil and gas regulatory regime and includes language that would make completion of a safety and environmental management plan mandatory before an operator could obtain a drilling permit.

The commission vision of adding an independent layer of authority within the regulatory regime and should be embraced by decision-makers. Regarding the training facility, it should be cautioned that industry participation in the curriculum and training process would undermine efforts to break with the conflict of interest phenomena that plagued the former regulatory body.

Regulatory Approach

Finding summary: The two main findings guiding the commission's recommendation over the current regulatory approach are that the current regulatory review and approval process for exploration plans, permits for deepwater wells and oil spill response do not require adequate risk evaluation and management planning, and that production has historically trumped safety. The regulatory and inspection process has been subject to political and industry pressure, which has resulted in the expediting of operations over critical technical review. And policy guiding offshore drilling, specifically the language of the Outer Continental Shelf Lands Act, has been interpreted as elevating the goal of "expeditious and orderly development" above the requirements of safety and environmental protection. Moving forward, science should inform leasing decisions instead of the current pro forma approach.

Recommendations: The commission advocates a regulatory approach that integrates risk assessment and risk management practices into its oversight of the offshore industry. That is, the current regulatory regime should evolve from one of basic prescriptive regulations to a system of augmented baseline regulations supplemented with a proactive risk-based performance approach specific to individual facilities, operations and environments. The commission supports a "Safety Case" approach to the application process whereby the operator must demonstrate safety.

Further, the commission puts increased emphasis on ultra-deep water, complex geology and any other "frontier" areas, and the need to set competence standards as a prequalification for bidding. New regulations must require the lessee to demonstrate acceptable risk assessment and risk management in higher-risk areas prior to commencing drilling.

The commission acknowledges the unique case of the BP spill in that the companies' "deep pockets" have allowed for financial recovery where other companies would have gone bankrupt, leaving the taxpayers to shoulder the cost of clean-up and economic and ecological recovery. To this end, the commission has recommended that companies seeking access to deepwater drilling must also demonstrate financial responsibility in the event of a worst-case scenario. This recommendation is in line with language included in H.R. 3534, which states that every five years, the minimum financial responsibility requirements for leases shall be reviewed.

Public Citizen Response: Regarding regulatory changes, the new agency released a host of new requirements for blow-out preventers, and casing and cement design. By law, all operators are required to submit a general certification that they are knowledgeable about all the changes to operating regulations and that they are conducting their operations in compliance with those regulations. Failure to provide this certification will result in the issuance of an incident of non-compliance and may result in a shut-down order.

To ensure that subsequent administrations cannot reverse the new regulatory practices, the Department of Interior worked with members to include the regulatory changes related to blow-out preventers and other design features in the House oil spill bill (H.R. 3534).

A title to amend the Outer Continental Shelf Land Act (OCSLA) was also included in H.R. 3534. Changes to OCSLA are intended to reinforce a regulatory approach that balances safety

and environmental protection with oil and gas production. These proposed changes also would have given regulators more explicit authority and increase rulemaking transparency and public participation.

Specifically, the term “safety case” – a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment – was added to the Act.

Other examples of new language: The outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, that should be managed in a manner that—recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources; minimizes the potential impacts of development of those resources on the marine and coastal environment and on safety; and acknowledges the long-term economic value to the United States of the balanced and orderly management of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;”;

Exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that minimizes— harmful impacts to life (including fish and other aquatic life) and health; damage to the marine, coastal, and human environments and to property; and harm to other users of the waters, seabed, or subsoil; and”;

The rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity **should be** considered and recognized;

Operations in the outer Continental Shelf **should be** conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillage, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life

3) Environmental Review

Findings: The commission response to the environmental review within the leasing and permitting processes for offshore oil and gas activity reflects the findings outlined in the above regulatory section – production of oil and gas has trumped the need for sound environmental analysis of the impacts of the activities on the marine and coastal ecology. Further, no commitment has been made to monitor ongoing environmental impacts or implement mitigation tactics. Perhaps the most telling practice within the regulatory agency that represents its attitude

toward environmental protection is the consistent granting of categorical exclusion from environmental review for offshore lessees.

Recommendations: The commission findings highlight the gap in scientific information as it relates to offshore drilling practices. Therefore the commission has recommended a scientific approach be used in drilling activities and a joint government research program (including National Oceanic and Atmospheric Administration, U.S. Geological Study, etc.) should be created to systematically collect data and fill research gaps needed to characterize offshore ecosystems and processes. The commission also recommends an Environmental Studies Program - the purpose of which is to obtain the information needed for the assessment and the management of environmental impacts; to predict impacts on marine biota; and to monitor the human, marine, and coastal environments to provide time series and data trend information - reviewed by National Academy of Sciences every five years; government-developed ecological monitoring protocols implemented by industry; a formal response to National Environmental Policy Act comments submitted by other federal agencies; formal consultation with NOAA at the five-year program and leasing stages (consultation is not often done because it's a huge financial/resource burden); development and public access to a NEPA implementations handbook; Environmental Impact Statement conducted for Exploration Plans and Development and Production Plans in frontier areas; removal of the OCSLA 30-day deadline for approval of exploration plans whereby applications are not deemed "submitted" until all environmental consultations are complete; improved regulations, guidance and review process for Oil Spill Response Plans (OSRP); incorporation of worst-case scenario calculations from OSRP into environmental reviews and consultations; and credible outside party review of "MMS Oil Spill Risk Analysis" models.

Public Citizen Response: The commission puts forth an essential set of recommendations to prioritize the role of environmental review. The commission suggests removing the OCSLA 30-day deadline for approval of exploration plans whereby applications are not deemed "submitted" until all environmental consultations are complete. Public Citizen highly supports this recommendation and would like to see the categorical exclusions for detailed environmental reviews eradicated from regulatory practice. The administration is proposing a 90-day deadline.

4) Oil Spill Response

Findings: The commission concluded that neither the National Contingency Plan - the federal government's blueprint for responding to both oil spills and hazardous substance releases - nor the industry plans were up to the challenge of a major spill. Regarding the involvement of state and local authorities throughout the spill response, the commission determined that they had incorrect expectations about their roles. In large part the misunderstanding was attributed to the fact that these officials were not adequately involved in oil spill contingency planning.

In terms of response technology, the commission found that the use of dispersants was appropriate, with the caveat that ongoing monitoring of the effects of dispersants is needed.

Recommendations: The commission calls for greater government and scientific community involved during a spill of national significance. Specially, it suggests strengthening government

oversight of the responsible party, based on the plan's requirement that the government "direct" the response when a spill poses a substantial threat to public health or welfare; augmenting the National Response Team and Regional Response Team structures to establish additional frameworks for providing interagency scientific and policy-making expertise during a spill; developing procedures to facilitate review and input from the scientific community; creating a communications protocol that accounts for participation by high-level officials who may be less familiar with the National Contingency Plan; establishing a communications center within the National Incident Command to facilitate the provision of consistent and complete information; and requiring interagency review of operators' spill response plans to ensure plans are realistic and supported by adequate expertise and equipment.

State and local involvement recommendations: To increase state and local involvement, the commission suggests changing regulations or issuing guidance to increase state and local involvement in spill contingency planning and training; incorporating local officials from areas at high risk for spills into training exercises; establishing liaisons between the Unified Command and affected local governments at the outset of a spill response; adding a local on-scene coordinator position to the Unified Command structure; and providing additional clarification and guidance on the differences between emergency response under the Stafford Act and under the National Contingency Plan.

Dispersants recommendations: Regarding the use of dispersants to mitigate the effects of an oil spill, the commission recommends that the Environmental Protection Agency should update the dispersant testing protocols required by the National Contingency Plan to mandate more comprehensive testing prior to product listing or pre-approval; the EPA and Coast Guard should modify pre-approvals for dispersant use to establish procedures for further consultation based on the temporal duration, spatial reach, and/or volume of the spill and of the dispersants sought to be applied; and the EPA and NOAA should conduct and encourage further research on dispersants, including on the impacts of high-volume and subsea use, the long-term fate and effects of dispersants and dispersed oil, and the development of less toxic dispersants.

Response technology recommendations: The commission's investigation revealed that little investment is being made by the industry to advance oil spill response technology. To address this issue, the commission believes that the most powerful incentive may be stronger response plan requirements. Therefore, it recommends that agencies revise regulations to encourage the development of more efficient oil recovery equipment; Congress and the administration encourage investment in response technology; and Congress increase federal funding for spill response research, potentially by revising the Oil Pollution Act to make the oil spill research funding authorized in the act a mandatory appropriation.

Public Citizen Response: While it's clear there is a huge need for better interagency coordination of spill response plans, there should also be ample opportunity for public review and input.

We also agree that ongoing monitoring of dispersants impacts is necessary - House bill H.R. 3534 included a long-term, comprehensive marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico that will

include *the fate, transport, and persistence of chemical dispersants applied in-situ or on surface waters*. However, we are not as confident that dispersants were appropriately used during the oil spill response.

5) Liability Caps and Financial Responsibility

Findings: A critical understanding of the BP oil spill disaster is that if a company with less financial means than BP had caused the spill, the company would likely have declared bankruptcy long before paying anything close to the damages caused. This raises the issue of whether smaller companies should be able to participate in activities that could require payouts well beyond their means. Under the Oil Spill Pollution Act, lessees are required to demonstrate financial responsibility in an amount of \$35 million to \$150 million. If the responsible party is not able to cover all of the damages, the Oil Spill Liability Trust Fund is available to cover damages up to \$1 billion per incident. Therefore, the commission found that under the current regime the liability cap creates little incentive for offshore drillers to take actions to mitigate the risk of spills; and if there is another spill of the magnitude of the BP spill, a significant portion of the injuries caused to individuals and natural resources could go uncompensated, or the taxpayer will bear the burden of compensating victims.

Recommendations: The commission is proposing to amend the Oil Spill Pollution Act to raise the liability caps by using a phased-in approach; raise financial responsibility requirements, using a phased-in approach; and increase the per-incident limits on payouts from the Oil Spill Liability Trust Fund. The commission is also suggesting that either regulators or insurance companies perform an evaluation of risk to set criteria for financial responsibility levels in determining premiums.

Public Citizen Response: H.R. 3534 would have removed a \$75 million limit on liability for oil spill damages and raised maximum evidence of financial responsibility from \$150,000,000 to \$300,000. The House also approved an amendment to help smaller oil companies compete for Gulf of Mexico drilling projects under the proposed reforms. The amendment would have allowed them to pool their resources to demonstrate that they have the financial resources to deal with potential oil spills.

That said, companies must show they have the financial capacity to pay for their mistakes. The argument that raising liability and financial requirements will price out small companies is not compelling in the face of what is at stake. Companies should not be allowed to socialize risk for privatized public resources. All companies should be able to demonstrate a level of financial responsibility that bears some resemblance to the magnitude of potential costs from a spill. If not, they are too small to fail.

6) Oil Spill Containment

Findings: The commission based its oil spill containment recommendations on six key findings: 1) At the outset of the spill, beyond attempting to activate the blowout preventer and drilling a

relief well, there were no proven options for controlling a deepwater blowout; 2) MMS (now BOEMRE) and the Coast Guard did not have the capacity to thoroughly analyze and challenge BP's spill control proposals; 3) early in the response, the lack of such expertise may have given the public the impression that the government was not in charge of BP's spill-control operations; 4) once Energy Secretary Steven Chu's science team, the national labs and other sources of scientific expertise became involved, the government was able to force BP to consider contingencies and justify its chosen path forward; 5) although government officials found input from industry officials valuable, industry interactions with the government were disorganized. Issues such as conflicts of interest, sharing of proprietary information and potential liability for participants were never resolved; and 6) prior to the Deepwater Horizon spill, MMS was the only agency that reviewed spill response plans, and its review was not thorough or searching.

Industry Preparedness Recommendations: The commission asserts that the industry's oil spill response plans should contain detailed plans for source control, which demonstrate that an operator has access to immediately deployable containment technology; and at the well design stage, operators should provide an additional source-control analysis specific to each well, filling in gaps left by the spill response plan and demonstrating that the well will be compatible with their existing containment technology.

Government Response Recommendations: The commission maintains that the government needs in-house source-control expertise. To that end, an interagency team – including representatives from the Department of the Interior, Coast Guard and the national labs – should develop and maintain this expertise, potentially through public-private partnerships. Further, the EPA should amend the National Contingency Plan to define and institutionalize the role of the national labs and other governmental sources of scientific expertise in providing source-control oversight. The EPA should also amend the National Contingency Plan to create a mechanism for involving outside industry experts in source-control oversight and require the responsible party to obtain accurate flow-rate or spill-volume estimates early in a source-control effort.

Public Citizen Response: Some of the penalties and fines levied against responsible parties are calculated based on the amount of oil that spills. Therefore, it is vital that the government have the capacity to monitor flow-rate and spill volume estimates during an accident because industry cannot be relied on to submit accurate estimates. Additionally, the goal of containment must supersede a company's protection of proprietary information. The responsible party should not be able to deny assistance from other industry majors or international authorities who may have the expertise or technology to contain an oil spill.

7) Impacts

Findings: The commission focused on three areas of impact: economic, ecological and human health. In general, it found that the Deepwater Horizon oil spill inflicted great harm on humans, animals, plants and economies. The spill compounded existing regional hardships and created unprecedented and unforeseen issues that the current regulatory framework for compensation is not equipped to deal with. For example, the sizable loss of consumer confidence in Gulf seafood and in Gulf tourism is not compensable under current law.

Further, current law related to oil drilling activity does not provide compensation for harm to human health resulting from an accident. The commission found that the oil spill mentally and/or physically impacted people around the Gulf. Given the scale of the response and the need to enlist local help, many response workers were not screened for pre-existing medical conditions before being put to work.

Regarding the state of oil spill science, the commission found that field study of oil spills and their environmental, economic and human impact is largely opportunistic and limited. This knowledge gap impedes the ability to make fully informed decisions regarding the trade-offs and risks associated with the future of offshore drilling. Unfortunately, during the crisis, scientists were denied access to coastline and other impacted areas by BP.

Recommendations: To address the impacts inflicted on the region's economy, ecology and public health, the commission has identified areas for additional and increased funding: the Natural Resource Damage Assessment process should ensure that adequate restoration funds are invested in areas directly impacted by the oil spill, including the offshore marine environment; funding for scientists should be provided to promote sustained independent and coordinated scientific research of oil spill impacts during emergency responses; the government and the responsible party should consider restoration of consumer confidence (i.e. in Gulf tourism and seafood), if deemed necessary as an appropriate place to allocate funding when calculating fines and settlements; and the EPA should amend the National Contingency Plan to add distinct plans and procedures to address human health impacts during a spill of national significance.

Public Citizen Response: The findings of the commission underscore that the link between a healthy environment and a healthy economy is no longer debatable. The areas the commission has identified for increased funding should bring environmental and economic goals into alignment. However, the scope of the impact should have included an investigation into the botched response's impact on public trust – specifically, worker contracts that restrict workers from speaking to media, exclusion of public lands to citizens, the detainment of independent researcher specimens and the use of prison labor by response contractors. These practices were reported by local sources and national media, but have not been formally investigated to determine whether BP and its contractors overstepped their authority. Public Citizen believes that they did.

H.R. 3534 did seek to amend the Oil Spill Pollution Act to include human health provisions. The bill proposed the following language *damages to human health, including fatal injuries, which shall be recoverable by any claimant who has a demonstrable, adverse impact to human health or, in the case of a fatal injury to an individual, a claimant filing a claim on behalf of such individual.*

8) Gulf Coast and Marine Restoration

Findings: The Gulf Coast region supports diverse and at times competing livelihoods and so is an area of national import. Damage caused by oil and gas activities does not recognize state borders. Restoration needs to be coordinated at the regional level.

Recommendations: In light of the damage done by the BP oil spill on an already fragile ecosystem under stress from oil and gas activities, the commission has recommended a set of actions not only to address the direct impacts of the spill but also to reverse the trend of ecological degradation in the region. To that end, the commission has suggested the following:

- Dedicated, sustained funding is necessary to accomplish nationally significant, long-term Gulf ecosystem restoration. Congress should direct 80 percent of civil and criminal Clean Water Act penalties to this work, which would support the implementation of a region-wide comprehensive plan.
- Global settlement of litigation should include Supplemental Environmental Projects, criminal restitution and community service projects that direct payments to the Gulf.
- Gulf Coast Ecosystem Restoration Council priorities and decisions should be informed by meaningful input from a Citizens Advisory Council that represents the diverse stakeholder interests in the Gulf.
- The federal government should establish and fund a Gulf Restoration Science Program that dedicates resources to research Gulf ecology.
- A project-focused review panel should evaluate individual projects for scientific validity and consistency with the comprehensive plan.
- Long-term monitoring of potential harm to Gulf seafloor habitats, the water column and valued species – bluefin tuna, shrimp and many others – is critical to successful restoration.
- Coastal and marine spatial planning can optimize marine resources use and lessen conflict among users. Plans for coastal and marine resource use should be aggressively vetted in public. It now has the backing of a presidential executive order. Congress should fully appropriate the money requested by the White House for fiscal year 2011 to fund regional planning bodies.
- National marine sanctuaries must pass through a rigorous public process and provide protection and enhance the region's biodiversity. Current budget restrictions should be reconsidered to allow proposals for new sanctuaries.
- Marine scientists have emerged from the Deepwater Horizon incident with more precise questions to investigate and a better sense of Gulf monitoring needs. To that end: Responsible federal agencies should direct industry and the scientific community to expand the Gulf of Mexico Integrated Ocean Observing System by installing and maintaining a network of instruments deployed on selected production platforms.

Public Citizen Response: The recommendations put forth by the commission are in the spirit of both H.R. 3534 and the Gulf Coast long-term recovery report written by Secretary of the Navy Ray Mabus, which also recommends that a significant amount of any civil penalties obtained from parties responsible for the Deepwater Horizon oil spill be put into a Gulf Coast Recovery Fund and used to address long-term recovery and restoration efforts in the Gulf.

H.R. 3534 would have established a Gulf of Mexico Restoration Program for the purposes of coordinating federal, state and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity and ecosystem functions in the Gulf of Mexico. The Gulf Coast Restoration Task Force under the program would create a Citizen Advisory Council that would provide recommendations to the Task Force regarding its work. A primary goal of this program is to create a long-term, comprehensive marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico.

The citizen advisory council for Gulf restoration is separate from the Gulf Coast Regional Citizens' Advisory Councils that would provide comprehensive oversight and monitoring of oil and gas development, and have a role in monitoring oil spill prevention and response plans. Public Citizen is in full support of both bodies. The public must be included in future energy industry decisions in the Gulf.

Conclusion: The oil spill commission recommendations illustrate just how much policy and regulations related to oil and gas activity are lagging behind. It is unfortunate that it took an accident of this magnitude to question whether it was smart to allow the oil industry to self-regulate itself; and examine the investment needed to mitigate the impacts of industry activity in the Gulf.

And while the commission has presented a comprehensive sweep of recommendations to improve the safety of offshore drilling and help restore the Gulf region, the biggest hurdle is still ahead: putting these changes into law. After the Exxon Valdez disaster, Congress acted quite quickly. But nine months after the Deepwater Horizon explosion, the necessary legislation to enact changes that are clearly needed have not been made. It is a tremendous disservice to those that lost their lives and livelihoods to delay any further. We can no longer tolerate institutionalized practices that put profit over safety and show so little regard for the environment.