Obama sheltered BP's Deepwater Horizon rig from regulatory requirement

By Tom Eley
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Last year the Obama administration granted oil giant BP a special exemption from a legal requirement that it produce a detailed environmental impact study on the possible effects of its Deepwater Horizon drilling operation in the Gulf of Mexico, an article Wednesday in the *Washington Post* reveals.

Federal documents show that the Department of the Interior's Minerals Management Service (MMS) gave BP a "categorical exclusion" on April 6, 2009 to commence drilling with Deepwater Horizon even though it had not produced the impact study required by a law known as the National Environmental Policy Act (NEPA). The report would have included probable ecological consequences in the event of a spill.

The exemption came less than one month after BP had requested it in a March 10 "exploration plan" submitted to the MMS. The plan said that because a spill was "unlikely," no additional "mitigation measures other than those required by regulation and BP policy will be employed to avoid, diminish or eliminate potential impacts on environmental resources." BP also assured the MMS that any spill would not seriously hurt marine wildlife and that "due to the distance to shore (48 miles) and the response capabilities that would be implemented, no significant adverse impacts are expected."

Kierán Suckling, director of the Center for Biological Diversity, told the *Post* that the Obama administration's exemption effectively "put BP entirely in control," adding, "The agency's oversight role has devolved to little more than rubber-stamping British Petroleum's self-serving drilling plans."

In fact, BP's self-assessment of the potential for a disaster reproduced that of federal regulators. In 2007, under the Bush administration, the MMS carried out three studies of the potential environmental impact of deep sea drilling in the Gulf of Mexico, including one that pertained specifically to the area where Deepwater Horizon was ultimately deployed, known as "Lease 206." The MMS determined that a "deepwater spill" would not reach the coast and would not exceed 4,600 barrels.

The most conservative estimates now put the Deepwater Horizon spill at about 72,000 barrels and counting. The real figure could already be as high as 350,000 barrels, about 75 times the MMS's worst-case-scenario prediction. In closed-door congressional hearings on Tuesday, BP executives admitted that the well could begin to emit as many as 60,000 barrels, or 2.5 million gallons, a day. At such a pace it would eclipse the size of the Exxon Valdez spill every five days.

The Obama administration's delivery of a special exemption for Deepwater Horizon in April 2009 is the latest in a litany of examples that reveal the close collaboration between the MMS and BP.

Only 11 days before the explosion, BP requested a broadening of the April exemption, and in a separate letter dated September 14, 2009, a BP vice president for operations in the Gulf, Richard Morrison, requested that the Obama administration not put in place new guidelines that would have required audits of its rigs every three years. "We are not supportive of the extensive, prescriptive regulations as proposed in this rule," Morrison wrote. BP favored voluntary self-regulations, which, Morrison said, "have been and continue to be very successful."

As late as March 2010, the MMS approved new deep sea oil drilling operations for another Gulf lease, referred to as "215." The approval cited the safety of other drilling operations, including Deepwater Horizon's Lease 206. (http://www.gomr.mms.gov/PDFs/2010/2010-003.pdf.)

At the end of March, Obama announced a dramatic expansion of offshore drilling in Florida's Gulf waters, the Atlantic seaboard, and the northern waters of Alaska—basing himself largely on MMS claims that new drilling poses no major risks to the environment.

The MMS is, even by the standards of Washington, openly in the embrace of the oil industry. A September 2008, Inspector General's report revealed that MMS regulators had for years accepted gifts and money—and even drugs and sex—from the same oil industry executives they were ostensibly tasked with monitoring. The Obama administration's rubber-stamping of "self-regulation" for the oil industry makes clear that while the top political appointees at MMS have changed since the Bush years, the policies have not.

As more details emerge, it is becoming increasingly clear that federal regulators under both the Bush and Obama administrations ceded enforcement of legally-mandated safety and environmental regulation to the oil industry, while providing governmental approval for unproven methods. It is these policies that led directly to the deaths of eleven workers on the Deepwater Horizon and the environmental catastrophe overtaking the Gulf of Mexico.

The Obama administration's and BP's protestations that the Deepwater Horizon disaster was unforeseeable are lies. In fact, not only had scientists and environmentalists warned for years that an uncontrollable spill from a deep water oil rig was likely, sources in the Bush and Obama administrations had made similar warnings.

The National Oceanic and Atmospheric Administration (NOAA) sharply criticized the very MMS studies that Obama used to approve the Deepwater Horizon site, it has been revealed. Public Employees for Environmental Responsibility (PEER), which supports whistleblowers among federal employees, published a memo sent by NOAA Administrator Jane Lubchenco in October 2009 to the Department of the Interior ridiculing MMS assessments of drilling operations.

Among other comments, Lubchenco called the MMS studies "understated and generally not supported or referenced, using vague terms and phrases such as 'no substantive degradation is expected' and 'some marine mammals could be harmed.' This is particularly problematic for expanding oil and gas production."

The internal warnings go back as far as 2004. The *Wall Street Journal* on Monday reported the contents of a study, commissioned and reviewed by the MMS that year, which raised serious doubts as to whether blowout protector mechanisms—the equipment that failed to seal the Deepwater Horizon well after its piping ruptured—could even function in the deep sea. The devices were simply untested under such oceanic pressures. The study warned that “this grim snapshot illustrates the lack of preparedness in the industry to shear and seal a well with the last line of defense against a blowout” in deep water.

Obama's decision to disregard scientific evidence is not the result of a mistaken policy, however. It is the result of definite class interests.

According to a report from the Center for Responsive Politics, BP gave more campaign donations to the Obama campaign in the 2008 election cycle than to any other politician—$71,000 in all—though in total it gave slightly more to Republican candidates. BP also took the step of hiring the Podesta Group, the lobbying firm headed up by Obama confidant John Podesta and his brother Tony, paying the firm $720,000 since 2008. All told, BP has spent just shy of $20 million on federal lobbying over the last two years.

The close working relationship between BP and the Obama administration has continued even in the wake of the Deepwater Horizon disaster.

The administration’s first reaction to the explosion was to reiterate its support for lifting moratoriums that currently block thousands of miles of US coastline from drilling. “The president still continues to believe the great majority of that can be done safely, securely and without any harm to the environment,” Press Secretary Robert Gibbs said on April 23, three days after the explosion. “I don’t honestly think [the disaster] opens up a whole new series of questions, because, you know, in all honesty I doubt this is the first accident that has happened and I doubt it will be the last."

Obama has since ordered a "30 day review" before new permits are issued, but this is a patently hollow gesture since no new permits are up for consideration in the coming month. In a bid to lessen mounting popular outrage, administration officials have combined this meaningless review with tough talk about holding BP financially liable for the spill's damages.

In fact, a law passed after the 1989 Exxon Valdez oil spill, the Oil Pollution Act, caps at $75 million oil firms' total liability for economic and environmental damages to private parties. This reactionary piece of legislation, disguised as an effort to protect the environment, passed the US House by a vote of 375-5 and the Senate by acclamation before being signed into law by President George H. W. Bush, a former oilman.

The markets on Wednesday signaled their confidence that a deal will be worked out to protect BP, with its share values increasing by 1.5 percent and a London financial analysis firm upgrading its stocks to "buy."