

## What if drilling goes really wrong?

PUBLISHED MON, JUL 05, 2010 02:00 AM  
MODIFIED SUN, JUL 04, 2010 11:20 PM

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CHAPEL HILL -- As the Deepwater Horizon disaster enters its third month, we are finding out more about what went wrong. It appears that corners were cut, and that none of the drilling operations had realistic plans for what would happen if a blowout occurred and backup systems failed. We also know that the Minerals Management Service (MMS) did not demand realistic assessments of what could go wrong pursuant to the National Environmental Policy Act (NEPA) review procedure.

NEPA requires that federal agencies analyze the environmental risks before they agree to permit activity under their jurisdiction (like drilling and operating a deepwater oil well). We know that in the Deepwater Horizon case, the MMS approved the drilling and operating permits without undergoing full NEPA analysis, instead allowing the permitting under a NEPA exception known as a categorical exclusion, an exception to be used only when there are definitively *no* risks of impacts on the environment.

We now know clearly that deepwater oil drilling *does* impose major risks of environmental impacts, and not requiring an analysis was a legal and regulatory failure. But it also appears that even if the MMS had not categorically excluded an environmental analysis, that we still would not have taken steps to prevent this disaster.

Why? Because BP as well as all of other deepwater operators claimed that there was very little risk of a blowout, and that in case of one, they had the necessary tools (the blowout preventer systems) to stop anything bad from happening (which is how they got the categorical exclusion in the first place). And the MMS would have accepted this because it did not have independent resources to verify these analyses.

So how do we prevent this and other things like it from happening again? One easy step would be to make a simple regulatory change to NEPA so that in cases where there is any uncertainty about environmental impacts, the applicant must produce what is known as a "worst-case analysis." Then at least the MMS (and the public) would have understood and realized that if a blowout occurred and the blowout preventer systems failed, that there would likely be deaths, and that we had no way of immediately stopping the gushing of oil from causing severe environmental harm.

A worst-case analysis in the Deepwater Horizon permitting application might have prompted the MMS to examine how likely a blowout would be to occur, and ask for at least some changes based on that likelihood.

For instance, in issuing the drilling moratorium, the MMS conducted tests showing that the "shear ram" part of blowout prevention failed between 7.5 percent and 50 percent of the time in ultra deep water. This suggests that having two rams in tandem would be an important safeguard (Deepwater Horizon only had one).

The same principle would apply in other federal licensing and permitting. As your mother always told you, "better safe than sorry." Such an analysis was required under NEPA until the Reagan administration, and it worked without huge costs and major disruptions in federal permitting.

Yet the entrenched economic interests in deepwater drilling have already been active in trying to stop "worst-case analysis" even though it could avoid future disasters. In documents submitted to the White House's Council on Environmental Quality, oil and gas companies, and their major lobbyist the American Petroleum Institute (API) claim that the blowout and spill were "unforeseeable," and that there should not be any major changes to environmental review. "One accident does not mean that the practice and procedures of MMS are inadequate to implement NEPA's requirements, especially when the cause of the accident has yet to be determined," stated the group.

This is simply not true and the public and lawmakers should not let these companies muddy the factual waters as they have soiled the gulf. Happily, Sen. Jeff Bingaman, D-N.M., and Sen. Lisa Murkowski, R-Alaska, have introduced new legislation amending the Outer Continental Shelf Land Act to, among other things, statutorily require applicants to provide a scenario for a potential blowout and how it would work to relieve the harm. Lawmakers of both parties should support this common sense protection of the public and our environment.

Whether it comes from new legislation or simply changing how we administer NEPA, a realistic worst-case analysis in deepwater oil drilling should be absolutely necessary if we are to continue such activities.

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