

OIL FLOW RATE MORE THAN DOUBLE WHAT BP AND GOVERNMENT HAVE SAID

BP and the US government have yet again been dishonest about the nature and size of the oil gusher leaking into the Gulf of Mexico water; it is over twice the highest estimates to date.

CHAMBER OF COMMERCE FLIP-FLOPS ON RETROACTIVE LEGISLATION

As you've likely heard, the Chamber of Commerce has officially endorsed government welfare to limit corporate risk. (Again.)

The head of the United States Chamber of Commerce said Friday that his group is not yet lobbying against legislative efforts to raise BP's liability cap, viewing the issue as not yet "ripe."

He signaled, however, that his group would figure out a way to get the government to share in the cost of cleaning up the Gulf Coast.

"It is generally not the practice of this country to change the laws after the game," said Tom Donohue, the president of the U.S. Chamber of Commerce. ". . . Everybody is going to contribute to this clean up. We are all going to have to do it. We are going to have to get the money from the

government and from the companies and we will figure out a way to do that.” [my emphasis]

And like an obedient orange puppy, John Boehner has embraced the Chamber’s call for government welfare for corporations.

I do agree with Steve Benen that the Republican (and Mary Landrieu) embrace of big oil ahead of taxpayers ought to be a game changer.

But I’d also like to note how, um, opportunistic the Chamber is with its insistence that “it is generally not the practice of this country to change the laws after the game.” This is what the Chamber wrote to pressure the House to support a FISA amendment that invalidated a law holding telecoms liable for illegal wiretapping of private citizens.

The U.S. Chamber of Commerce, the world’s largest business federation representing more than three million businesses and organizations of every size, sector, and region, strongly supports S. 2248, the “FISA Amendments Act of 2007,” as passed by the Senate on February 12, 2008. The Chamber believes that this bill, in its current form, provides necessary, appropriate, and targeted relief commensurate with the threat to national security that arose in the aftermath of the September 11 attacks.

The Chamber represents companies across various industries which own or operate vital components of the nation’s critical physical, virtual, and economic infrastructures. The federal government continually depends upon such

industries for cooperation and assistance in national security matters, including homeland security programs and activities. The government also turns to these companies in times of crisis, when the speed, agility, and creativity of the private sector can be critical to averting a terrorist attack.

Therefore, the Chamber urges the House to consider S. 2248 and pass this bipartisan compromise legislation. **The Chamber firmly believes that the immunity provisions in S. 2248 are imperative to preserving the self-sustaining “public-private partnership” that both Congress and the Executive Branch have sought to protect the United States in the post-September 11 world.**

[my emphasis]

Of course, the Chamber is being utterly consistent on one point. That’s in lobbying to make sure big corporations never pay for the negative consequences—be they legal or financial—of their actions.

BHOPAL JUSTICE, SORT OF

Twenty-some years after one of the biggest industrial disasters in history, seven former Union Carbide executives have been sentenced to a few years in jail.

A court in central India ruled Monday that seven top executives and the company they worked for are guilty for their role in the 1984 industrial disaster that killed thousands in Bhopal, India. The leaking of poisonous gas from Union Carbide India Limited – the now-defunct local subsidiary of the American chemical company – was one of the world's worst industrial disasters. Plaintiffs had waited more than two decades for the verdict.

The convicted former employees have been sentenced to the maximum punishment allowed in the case. The judge imposed a two-year prison term and a fine of about \$2,000 each after convicting the men of negligence causing death, endangering public life and causing hurt.

While I'm happy that a handful of people will finally pay, however inadequate a price, I'm more interested in this because of the timing.

After Bhopal and a smaller-but still devastating-Union Carbide accident in West Virginia, the US passed regulations on similar volatile processes. During the 1990s, paper mills and chemical plants and oil refineries implemented new processes to make their plants safer for workers. But it didn't take long for OSHA to back off of big fines. So by the time BP's Texas City refinery disaster, some oil companies were already calculating that accidents would be less onerous than complying with the regulations passed in response to the Bhopal disaster.

The regulations passed in response to Bhopal specifically exempted drilling activities; **those** weren't the regulations BP took lightly in the lead-up to the disaster.

But the treatment of BP's violation of them at Texas City did contribute to the disaster. As *bmaz* has written, BP was already a corporate

convict because of its past indifference to safety and regulations. Yet that didn't prevent BP from having the opportunity to gamble with the entire ecosystem of the Gulf so it could profit.

I'm glad Union Carbide execs will finally see some prison time. But it's not enough to hold executives accountable 26 years after huge disasters. We need to get more serious about holding corporations—and corporate executives—accountable for their crimes.

BP WELL BORE AND CASING INTEGRITY MAY BE BLOWN, SAYS FLORIDA'S SEN. NELSON

Senator Bill Nelson indicates the most horrific possible outcome is at hand in the BP Gulf Oil Spill, namely that basic well integrity is truly shot and oil and gas have breached the well casing and well bore and are escaping into the rock and out into the ocean through the sea floor.

OUR FORMER COUP CLIENT SPEAKS

As I've said before, one of the best ways to see the absurd nature of the relationship between our government and BP as they partner to try to fix BP's disaster is to remember that fifty-some years ago, the CIA overthrew the democratically elected government of Iran because it had

nationalized BP's facilities.

I invite you to think about that fact while you read this exchange with BP's CEO Tony Hayward from the Beeb's Andrew Marr Show.

ANDREW MARR:

What happens if, as a lot of American politicians are talking about, the US government takes control of BP or at least BP's American operations? Is that plausible? Is that possible?

TONY HAYWARD:

I think you know what we're doing is focusing on the response. We're absolutely focused on the response. I think it's for the US authorities to determine what they wish to do. All I can say is that we're working hand in hand with the US authorities. I am talking all the time with Secretaries Chu, Salazar, Thad Allen, the incident commander to deal with the response.

ANDREW MARR:

Do you feel you're being unfairly treated by the American political system and the media given where we are in the electoral cycle?

TONY HAYWARD:

I think it's understandable when something of this scale occurs with this sort of environmental impact – the impact it's had on the Gulf Coast – that people are angry and frustrated and emotional. It's a perfectly reasonable thing. And you know I'm angry and frustrated and you know ...

ANDREW MARR:

I mean no British company has been on the receiving end of American presidential anger like this I think ever before. That and the possibility of

some political action and criminal action against the company has led people to start to ask whether BP itself is going to survive this.

TONY HAYWARD:

BP's a very strong company. Its operations today are running extremely well. It's generating a lot of cash flow. It has a very strong balance sheet. Our reputation has been based on thousands of people over a long period of time in BP doing the right thing, and we are doing everything we can to do the right thing. We are going to stop the leak. We're going to clean up the oil. We're going to remediate any environmental damage and we are going to return the Gulf Coast to the position it was in prior to this event. That's an absolute commitment, and we will be there long after the media has gone making good on our promises.

ANDREW MARR:

And once you've done all of that, will you be paying the dividend to your investors?

TONY HAYWARD:

We're going to take care of all of our stakeholders.

Don't worry, Hayward told his British audience. The US won't take over BP (or even its US operations). Nothing the US will do will prevent us from paying our dividend on time.

You see, the US can take over a country to serve BP's interests. But it would be absurd, Hayward clearly believes, to think the US would take over BP to serve its own people.

OBAMA MONTY HALL TO GIVE LOVELY PARTING GIFTS TO BP DEATH VICTIMS

Obama has suddenly announced his determination to have an empathy fest with the family and friends of the deceased victims of the criminally negligent BP Deepwater Horizon disaster. they deserve much better, and more, than that.

BP GULF DISASTER AND ITS FAILED RUSSIAN EXPERIMENT

A couple of interesting, tangentially related things happened today.

First, in a bid to wall off the PR disaster of the Gulf spill from the rest of the company, BP has assigned someone—an American BP employee—to take charge of cleanup efforts.

BP is to hive off its Gulf of Mexico oil spill operation to a separate in-house business to be run by an American in a bid to isolate the “toxic” side of the company and dilute some of the anti-British feeling aimed at chief executive Tony Hayward, the company said today.

The surprise announcement was made during a teleconference with City and Wall Street analysts in which Hayward attempted to shrug off the personal

criticism saying words "could not break his bones".

In tangentially related news, a business unit in BP's Russian subsidiary, TNK-BP, has filed for bankruptcy.

Russian-British oil venture TNK-BP says a subsidiary that holds the license to a huge Siberian gas field has filed for bankruptcy.

The oil company said in a statement Thursday that RUSIA Petroleum was unable to repay debts to its parent company.

Note, this is just one subsidiary of TNK-BP, but still presumably a significant deal.

I say it's tangentially related because the dude BP has put in charge of cleaning up our Gulf was run out of Russia a few years ago.

Responsibility for the leaking well and the clean-up strategy will be placed in the hands of Bob Dudley, one of the company's most able directors.

Dudley, a US citizen, has been looking for a suitable role in the company since he was thrown out of Moscow in a battle with the Russian shareholders of the TNK-BP joint venture in the middle of 2008.

Hayward said the clean-up business would be run separately by Dudley with his own staff but the finances and budget would come from the main BP group. The BP chief executive said the purpose of the split was to allow Dudley to concentrate on the Gulf problem while he and other directors were not distracted from keeping the main business on track.

Until 2008, Dudley was CEO of TNK-BP, when he got run off by the Oligarchs. The guy in charge

of negotiating with the Russians at TNK-BP during the same period was James Dupree.

Mr. Hayward delegated much of the handling of TNK-BP and the relationship with the Russian partners to James Dupree, the head of Russia and Kazakhstan for BP. He knew the business well, having worked as a senior TNK-BP executive. But that history also complicated relations in his new role, since he'd been formally a subordinate to some of the Russian shareholders, who also held management jobs.

"Dupree was a midlevel functionary who wasn't senior enough to make any decisions," said one person close to AAR. BP officials acknowledge they mishandled the relationship. A spokesman said Mr. Dupree wasn't available for comment.

Around the same time Dudley was run off, Dupree was replaced by a triathlon partner of Tony Hayward. Here's more extended background on BP's 2008 Russian fiasco.

Dupree was—at least when this whole mess started—BP's Senior Vice President for the Gulf of Mexico. He was the guy who first told Congress about the negative pressure tests the Macondo well failed, but neglected to mention the company pushed ahead on capping the well in spite of the tests (company lawyers corrected that version). I haven't heard a peep from Dupree since.

In addition to Hayward's triathlon partner, after Dudley was chased out by the Russian Oligarchs, BP brought in Lamar McKay.

Mr. Hayward also brought in a top troubleshooter with years of Russian experience, Lamar McKay, to take over talks with the AAR partners instead of Mr. Dupree, the executive who had worked for them inside TNK-BP.

Fearing detention, Mr. Dudley fled Russia in secret in late July. BP's board was meeting the day he left and several directors were stunned when told of the news, according to people close to the company.

Before being brought into save BP Russia, McKay had negotiated several of the legal settlements—for Texas City and Prudhoe Bay—for which BP remains on probation. McKay was in Russia for just a few months before he got put in charge of BP America. McKay's the guy who spent a chunk of time in the last month—as President of BP America—testifying before Congress.

Now, I don't know what any of this means. But I do think it worth noting that BP keeps putting the guys who had been in charge of its failed Russian project in charge of our Gulf. It makes me ask several questions:

- Some of the dudes who botched the Russia relationship are portrayed as very close to Tony Hayward. Is this part of a pissing contest between Hayward and Chairman Carl-Henric Svanberg? (The Guardian article that reported this has Hayward denying tensions between himself and Svanberg.)
- Is this, instead, an effort to isolate the ballooning financial responsibilities of BP from the rest of BP?
- Why has BP chosen to put a bunch of guys who fought the Russian Oligarchs—and

lost—in charge of our Gulf?

I can't help but wonder whether this move is about protecting Tony Hayward, rather than protecting what's left of the Gulf Coast.

NOAA DIRECTOR LUBCHENCO PLAYS DUMB ON PLUMES

I'm not aware of any studies before this spill, to follow up on those plumes.

That's what NOAA Director Jane Lubchenco claimed a week ago in response to a question from Louisiana Congressman Bill Cassidy.

Elizabeth Birnbaum, who was fired last week because she wasn't engaged enough with this issue (or maybe because they wanted a scapegoat), apparently **did** know of the studies MMS has been doing going back a decade on the topic.

Well, now Lubchenco is trying to play even dumber than she did last week. As Dan Froomkin reports, she refuses to acknowledge what scientists have shown evidence of for weeks: that much of the oil released from the BP gusher has formed gigantic plumes far below the surface of the Gulf.

Despite more than three weeks of accumulating scientific evidence that gargantuan plumes of oil lurk beneath the surface of the Gulf of Mexico — presenting an imminent threat to sea life and a possibly decades-long threat to the nation's coastlines — NOAA Director Jane Lubchenco on Wednesday refused to contradict BP CEO Tony

Hayward's statement over the weekend that "the oil is on the surface" and "there aren't any plumes."

[snip]

"I can tell you that there have been a number of anomalies identified by a number of different cruises," she told reporters in a conference call. "Those anomalies are features at various different depths in the water column that may be oil, they may be other features."

"It is quite possible that there is oil beneath the surface," Lubchenco finally acknowledged under repeated questioning. "I think there is reason to believe that may be the case." But that's as far as she would go.

More troubling, those ongoing studies Lubchenco boasted of to Congressman Cassidy? NOAA is sitting on the data.

HuffPost has learned that a NOAA-commissioned research cruise the week of May 10 took extensive samples up and down the water column near the Deepwater Horizon spill site – and that those samples have in fact been processed, and logged in with the incident command.

Deborah French McCay is the director of Applied Science Associates, an environmental consulting company based in Rhode Island that is working as part of NOAA's Natural Resources Damage Assessment. She told HuffPost she organized a mission on the private research vessel *Jack Fitz* more than three weeks ago.

"They went out and sampled all the way up and down the water column," she said. That included tests for chemistry, oil concentration, temperature, salinity,

oil droplet size and so on. Preliminary descriptions clearly indicated the presence of oil beneath the surface – and the final lab results, she said, came in Monday night.

But NOAA hasn't publicly released those results and a video showing the oil.

Remember how BP stalled before it agreed to release live videos of the oil gushing from its well? Presumably, BP didn't want Americans to know just how bad this disaster is.

This NOAA stonewalling may be worse. The video may not so much evoke the emotional responses that the gusher and the robots do. But it shows that the disaster is far far worse than BP currently admits (and that estimates of the total flow may not have accounted for a significant portion of the oil). Worse, it suggests that the dispersants, which may be making the plumes worse, serve only to hide the damage.

BP has real incentives to hide the abundant evidence that the spill is far worse than we know—and may be doing grave danger underwater where we can't see it.

But you and I pay Director Lubchenco to protect our seas and oceans. And instead, she seems increasingly complicit in BP's efforts to cover-up the extent of their disaster.

DICK CHENEY'S WYOMING'S FACE AT MMS

✖ Since we've been discussing the way that BP has adopted Dick Cheney's face for its Deepwater Horizon disaster, I thought I'd link

to this article, noting how close the Mineral Management Service and Cheney's state of Wyoming are. (h/t POGO)

The federal agency cited for an overly "cozy relationship" with the energy industry, which may have contributed to the Deepwater Horizon drilling disaster, has enjoyed extensive Wyoming political and economic connections since its creation in 1982 by then-Secretary of Interior James G. Watt, a native of Lusk in eastern Wyoming.

[snip]

The Wyoming connection was especially evident from 2000 to 2008, during the two administrations of President George W. Bush and his vice president, Wyoming native Dick Cheney. A former chief executive of Halliburton, Cheney took an early and very active interest in energy policy and placed several Wyoming political friends in key positions in the Department of Interior.

Before he took office, for example, Cheney selected David J. Gribbin III, a high school and college friend from Wyoming, to be his transitional liaison with Congress. Gribbin previously worked for Cheney as Halliburton's chief lobbyist in the capital.

Cheney then chose Thomas Sansonetti, a prominent Cheyenne lawyer and GOP activist, to head the team choosing top personnel for the Department of Interior, which oversees Minerals Management Service.

Sansonetti, a member of the conservative Federalist Society, picked Gayle Norton to head Interior. Although not from Wyoming, native Coloradan Norton was a longtime protégée of James Watt in the Mountain States Legal Foundation, of which Watt was the founding director.

Like Sansonetti, Norton was a member of the Federalist Society.

Norton, in turn, named former Sheridan, Wyoming, lawyer Rebecca W. Watson as assistant Interior Secretary for Land and Minerals Management. Watson was responsible for the Bureau of Land Management, the Office of Surface Mining and the Minerals Management Service.

[snip]

Most importantly, from 2002 to 2008, the Minerals Management Service was directed by two former Wyoming GOP legislators, Rejane "Johnnie" Burton of Casper and Randall Luthi, of Freedom.

Burton, who had managed the Wyoming Department of Revenue under former Gov. Jim Geringer, in 2007 resigned under fire from her \$168,000-a-year Minerals Management director's job after the Department of Interior Inspector General found widespread corruption in the agency's Colorado-based royalty collection office, and questions were raised in Congress about Burton's handling of offshore leases.

[snip]

Burton now works as a \$49,000-a-year aide for longtime friend and former legislative colleague Wyoming U.S. Rep. Cynthia Lummis.

There's lots, lots more at the link.


Lummis, Wyoming's only Congressperson, is one of the many BP apologists on the Natural Resources Committee. But I guess it must be easy to be such an apologist, given that you've got former top Administration staffers working for you for less than a third of what they used to get in DC.

All of which suggests that one of the reasons

the regulatory agency overseeing drilling on public lands is so lax is that it is captive to a bunch of Wyoming hacks who use the revenue from drilling in lieu of income taxes. You see, we've just sacrificed the Gulf's ecosystem because a bunch of folks from Wyoming want to pretend that drilling creates free money.

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HOLDER EMPHASIZES 11 DEAD WHEN DISCUSSING DOJ INVESTIGATION OF BP DISASTER

 While it is not news that DOJ is conducting an investigation of the Deepwater Horizon disaster, Eric Holder's speech in New Orleans about the spill reiterated that DOJ is doing so. I'm most interested in the particular emphasis Holder placed on the 11 men who died in the explosion.

There is one thing I will not let be forgotten in this incident: In addition to the extensive costs being borne by our environment and by communities along the Gulf Coast, the initial explosion and fire also took the lives of 11 rig workers. Eleven innocent lives lost. As we examine the causes of the explosion and subsequent spill, I want to assure the American people that we will not forget the price those workers paid.

True, Holder focused primarily on civil

liability and named statutes that focus on fines. But he also said that Department attorneys were reviewing "other traditional criminal statutes" with regard to the accident, which might include things like negligent homicide (bmaz described negligent and reckless homicide, as well as other relevant statutes, in this post). (This would be particularly useful, IMO, as an HJC hearing last week made it clear that there were some limits to the support BP can be made to pay the families of those who died.)

Mind you, as always with this Administration, I'm not holding my breath. But given the mounting evidence that BP was using a negligent well design and proceeded with attempts to close the well in spite of signs of looming disaster, I do hope DOJ gives due consideration to the deaths that such corporate negligence may have caused. Treating those 11 deaths with the seriousness it deserves may well be the only thing that might teach BP a lesson here.