Oil and Water: Environmental Policy and the Gulf Oil Spill

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26 March 2012
Date
On the morning of April 21, 2010, I awoke in my dorm room at Washington State University and flipped the TV on to CNN. I completed my morning ritual with the news playing in the background, brash headlines providing a dull white noise as I ate my cereal and checked my email. I soon realized, however, that something had happened—something that disrupted the normal cadence of daily life. I saw flames in the open water and Coast Guard response crews trying to put it out. I registered the fact that people had been hurt, and that the devastated oil well was leaking into the Gulf. But as soon as I turned the TV off, I proceeded with my day of work and classes, without giving a second thought to the morning’s breaking news.

In the days, weeks, and months that followed, the Gulf Oil Spill would come to dominate the 24-hour news cycle. It would be branded as the worst technological disaster in U.S. history. As a student of Natural Resource Sciences, I found myself consumed by the events that unfolded during the summer of 2010, fascinated by the interplay between BP and the Obama Administration. This thesis builds on my early fascination, exploring how interest groups—particularly the oil lobby—and policymakers’ values influenced the short- and longer-term policy response to the Oil Spill by the federal government. Using an analytic perspective grounded in public policy theoretical frameworks, I evaluated the federal response in three categories: regulatory reform, compensation for human victims, and ecological restoration. My hypothesis was that though the Gulf Oil Spill focused the nation’s attention on the issue of oil regulation, pro-oil interest group pressure and neo-conservative values prevented it from serving as a window to new, authoritative, and comprehensive environmental policies.

Over the course of my research, I discovered that decisive steps had been taken by the Obama Administration to rectify the damage wrought by the Oil Spill through reform of
regulatory rules and reorganization of the Minerals Management Service, the agency which had been responsible for oversight over oil development and production. Early on in the response process, the judicial system became the dominant venue for human compensation, while the administrative mechanisms triggered by implementation of the Oil Pollution Act of 1990 and the Clean Water Act of 1972 took on the task of ecological restoration. However, Congress has not independently passed any singular statute which unifies these disparate aspects of the response effort under a single “Oil Spill Bill.” Despite the fact that over 150 stand-alone bills related to the Gulf Oil Spill have been introduced in either the House or Senate, not one has graced the desk of the President. While some of this inaction can be attributed to the overall partisan gridlock that has characterized legislative policymaking over the past decade, at the heart of the matter is the fact that members of Congress are faced with the challenge of wrestling with a fierce contest in values surrounding environmental policy.

While the Gulf Oil Spill has been likened to such technological disasters as the Exxon Valdez and Santa Barbara oil spills, I contend that in the realm of environmental policymaking it stands apart. While the latter two incidents inspired Congress and other official policy actors to pass hard-hitting legislation and rules, becoming symbolic moments in the history of American environmental politics, the Gulf Oil Spill has not—at least, not yet. As the ongoing drama in the federal courts between BP and the Deepwater Horizon claimants plays out, it will be interesting to see whether the rulings impart a lasting stamp on the nation’s approach to energy development and environmental protection. This thesis should thus be read as a work-in-progress—a snapshot of a political process that will play out well into the next decade. As time progresses, I believe that the Oil Spill will prove a fascinating and unique subject of study to students of environmental policy.
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Introduction

Over the past four decades, environmentalists have warned the American public and the federal government about the human-instigated decline of vital ecosystems and the resources and services they provide. Environmental advocates have been continually met with fierce resistance by stakeholders in industries of natural resource extraction, who argue that environmental policy inhibits economic growth. The coalescence of a spectrum of differing and oftentimes opposing values concerning human-environment relationships has resulted in decades of contentious debate among policymakers, who must reconcile economic concerns, scientific data, and special interests with the public good (Layzer, 2012). According to Guerrier et al. (1995), the “essential differentiation” of these complex and multifaceted values makes it incredibly difficult to formulate public policy in response to environmental issues. One of the most high-profile and complex issue areas is that of energy and mineral resource management. The economic and industrial infrastructure of the United States is heavily dependent upon the continued availability of cheap and plentiful sources of energy, making regulation of these resources—oil in particular—politically controversial.

Since the 1970s, two conflicting mandates have reigned supreme in the arena of environmental politics and policy: that for environmental protection, as manifested in the passage of the National Environmental Policy Act (NEPA); and that for oil independence, as prompted by the OPEC oil embargo of 1973 (Oil Spill Commission, 2011). The solution to this conflict has been, historically, to combine the two priorities within the same regulatory and administrative framework of energy and natural resource management, leading to weakened federal oversight of the oil industry (Oil Spill Commission, 2011; Steffy 2011). The conflagrant demise of the Deepwater Horizon in April 2010 can be seen as a focusing event in the discordant
history of offshore drilling regulation by the federal government. For 87 days, oil flowed into the Gulf of Mexico from the ruined Macondo well, illustrating both a lack of industry preparedness for deepwater oil spills and a failure by the federal government to fully enforce regulatory standards throughout the well-leasing process.

The purpose of this thesis is to shed light upon the federal government’s environmental policy response to the Gulf Oil Spill of 2010 by examining the influence of interest groups, particularly the American Petroleum Institute oil lobby, and policymakers’ values. I argue that though the Gulf Oil Spill focused the nation’s attention on the issue of oil regulation, pro-oil interest group pressure and anthropocentric values prevented it from serving as a window to new, authoritative, and comprehensive environmental policies. This analysis is conducted from a public policy perspective, with particular emphasis on how the three branches of government as well as the administrative bureaucracy addressed issues of ecological restoration, administrative and regulatory reforms, and compensation for human victims through instruments and tools of public policy. First, however, I contextualize my analysis with an overview of the technical and managerial failings which immediately preceded the Oil Spill and a brief discussion of the relationship between the oil industry and the economy.

I. Economic Dependency: Setting the Stage for a Blowout

Crude oil is the lifeblood of the American economy. In 2010, petroleum accounted for almost half of total energy expenditures. That same year, the US consumed 19.2 million barrels per day of liquid fuels—the highest rate of consumption in the world (EIA, 2012). Of this number, about 10.3 million barrels were imported from foreign sources (CIA, 2012). The transportation sector dominates with 72 percent of total oil demand, of which 65 percent goes
toward fueling America’s estimated 250 million registered personal vehicles. Overall, Americans consume about 3 gallons of oil per day per capita. The aggregate effect of this dependence is that as oil prices increase, consumer spending decreases, thereby affecting the entire national economy (Sommer, 2012).

Over the course of 2010, world oil prices were steadily climbing back to pre-2008 levels, reflecting global concerns over the European debt crisis and increasing political instability in the Middle East. As gas prices increased, consumer expenditures on gasoline and motor oil increased by 7.4 percent (BLS, 2012). Meanwhile, the unemployment rate hovered around 10 percent and total consumer spending decreased by 2.0 percent from 2009 (BLS, 2011; 2012).

The dual specters of the energy crisis and the economic situation loom over the American psyche, dominating public opinion at the expense of the environment. A 2010 pre-oil spill Gallup poll showed that the majority of Americans—including Democrats, who typically lean towards higher valuation of the environment—prioritized economic growth over environmental protection (Dunlap, 2010). Likewise, in the 2011 Annual Environment Survey Gallup reported that 50 percent of Americans believe that government should emphasize the development of energy supplies over protecting the environment. This is in stark contrast with public sentiments expressed from 2001-2008, when the majority of Americans clearly valued the environment over both energy and the economy (Saad, 2011a). Though opinion polls have indicated a significant increase in pro-environment feelings in the months immediately following the 2010 Gulf Oil Spill, this reaction was short-lived. In fact, 60 percent of Americans now favor increasing offshore drilling for oil and gas in US coastal areas (Saad, 2011b). However, the documented increase in environmental concern among Americans should not be discounted, for it
demonstrates the salience of the catastrophe as it was framed by popular media in the summer months of 2010.

America’s economic and societal dependence on oil has given industry interests an incentive to expand domestic production by exploiting oceanic mineral resources, particularly in the Gulf of Mexico. According to the Council on Foreign Relations, 30 percent of all domestic crude production originates from the Gulf, which also accounts for 90 percent of all US offshore production (CFR, 2011). In 1990, only 4.4 percent of oil produced in the Gulf was extracted from deepwater; by 2009, the share of oil from deepwater had jumped to 80 percent. Of the oil giants present in the region, BP has been the dominant corporate power since the mid-1990s, with more than 650 oilfield tracts in deepwater (Oil Spill Commission, 2011). After a series of significant oil discoveries in the late 1990s and early 2000s, by 2002 BP had undertaken the ambitious task of developing multiple deepwater projects simultaneously. Meanwhile, the technology of deepwater drilling has been slow in its generation of solutions to complex problems associated with extreme water depths, geologically volatile conditions, and negative environmental impacts. Federal regulatory oversight has been even slower.

II. Blowout: Technical Difficulties and Management Failings

Although the events of April 20, 2010 are certainly marked in the nation’s memory as a tragic accident, hindsight reveals a disconcerting chronology of action and inaction on the part of industry and government in the decades prior to the blowout. A culture of complicity, inculcated within the Minerals Management Service (MMS) since its inception, helped to engender an overestimation of industry’s willingness to voluntarily comply with cornerstone statutes such as the National Environmental Policy Act of 1970 (NEPA), the Clean Water Act of 1972 (CWA),
the Outer Continental Shelf Lands Act Amendments of 1953 (OCSLA), and the Oil Pollution Act of 1990 (OPA). Meanwhile, the booming profitability of deepwater oil formations throughout the 1990s and 2000s prioritized profit and royalties over safety and the environment in the Gulf of Mexico, encouraging industry to cut corners and expand production and government to turn a blind eye to mismanagement and negligent oversight. In its 2011 report *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling*, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (referred to henceforth as “the Oil Spill Commission”) outlines in exacting detail the technical difficulties and management failings which were the unfortunate consequences of this *laissez-faire* approach to oil drilling oversight.

**What Happened: An Overview**

The story of the *Deepwater Horizon* involves four key players: BP, which possessed the lease to the Macondo drill site in Mississippi Canyon Block 252; Transocean, which owned the *Deepwater Horizon* semisubmersible drilling rig; Halliburton, the company contracted to cement the *Deepwater* drill pipe into the well; and MMS, the primary regulatory body charged with securing industry safety. In its report, the Commission implicates each of these actors in a complex aggregation of events during the two decades preceding the blowout. At the heart of the disaster itself are the myriad ways in which BP and its associates failed to ensure the integrity of the drill’s main line of defense: the blowout preventer.

On the morning of April 20, 2010, BP’s engineering team on the rig reported that the final cementing job at the Macondo well had gone smoothly. Four days previous, a Halliburton engineer had arrived at the lease site to help cement the 2.5 mile-deep well. The contractor had
run computer models which questioned whether BP’s plan for the well would fully seal the drill pipe to the well walls, recommending that BP utilize 21 stabilizing devices to position the drill in the center of the hole prior to cementation (Oil Spill Commission, 2011). Despite this recommendation, BP’s engineers believed that the job would be just as effective with only six stabilizers (Steffy, 2011). Halliburton went ahead with the task, and BP decided against a third-party evaluation of the cement, saving both time and a $128,000 inspection fee (Oil Spill Commission, 2011).

After forgoing the final cement inspection, BP’s crew aboard the Deepwater Horizon began preparing the well for temporary abandonment\(^1\). The Deepwater had been acquired from Transocean for the preliminary drilling phase only; a smaller, less expensive rig was to install hydrocarbon-collection and –production equipment. Before departing, the rig would have to remove its riser—the pipe that connects the machinery at the water’s surface with the blowout preventer on the sea floor—and the blowout preventer. The removal procedure for drill rigs centers around two major tests: a positive-pressure test, during which the crew increases pressure inside the seal assembly and the drill pipe’s steel casing within the well; and the negative-pressure test, which reduces pressure inside the well. This latter test is incredibly important—if pressure increases are seen during the negative-pressure test, then fluid (hydrocarbons, seawater, etc.) is leaking into the well from either the well casing or the bottomhole cement job (Oil Spill Commission, 2011).

In the case of the Deepwater Horizon, the positive-pressure test performed on April 20\(^{th}\) exhibited reassuring results. The negative-pressure test of the drill pipe, however, indicated volatile pressure conditions. After a second negative-pressure test in the blowout preventer

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\(^1\) See the Oil Spill Commission’s report to the President for a complete technical overview of temporary abandonment procedure.
mechanism appeared successful, the crew dismissed the initial readings as anomalous, concluding that the test was a success despite continued discrepancy between pressure inside the drill pipe and the blowout preventer. Four and a half hours later, at approximately 9:45pm, drilling mud began spewing upward through the drill pipe and onto the oil platform, signaling a major breach of the well’s integrity. The blowout preventer should have contained the flow of hydrocarbons to the rig, but it failed to seal the well. After the first explosion that accompanied the well breach, the crew attempted to engage the emergency disconnect system (EDS), which would have disconnected the *Deepwater Horizon* from the blowout preventer on the sea floor. The EDS failed, however, and the rig’s riser pipe remained connected to the blowout preventer as the rig sank. In the days following the blowout, the response team quickly realized that the broken riser was spilling crude oil in the Gulf at a rate of approximately 53,000 barrels of oil daily, although initial BP reports announced a flow rate of only 1,000 barrels per day (Oil Spill Commission, 2011; DOI, 2011).

While the problems that plagued the *Deepwater Horizon* and its crew were systemic and numerous, the failure of the BP Macondo team to properly respond to the results of the negative-pressure tests precipitated the calamity that followed. By sending home the third-party evaluator on the day of the spill, BP “chose to rely entirely on the negative-pressure test” in order to verify the efficacy of the final cement job (Oil Spill Commission, 2011, p. 118). But the oil company was not entirely to blame—at the time of the blowout, MMS had not promulgated any requirements or protocol for a negative-pressure test. Furthermore, the agency had not published any rule requiring oil well operators in the Gulf to have comprehensive plans for all known safety and environmental risks (Ibid.). Instead, BP and other oil companies had almost complete procedural autonomy in the planning and execution of deepwater oil exploration in the Gulf.
MMS: The Downfall of a Cross-Purposes Regulator

In retrospect, the failure of MMS to enforce stringent regulatory oversight in the area of deepwater drilling is unsurprising. The agency was created in 1982 by President Reagan’s Secretary of the Interior, James Watt, who intended to promote domestic energy supplies by expanding offshore drilling. The Minerals Management Services was tasked with four conflicting responsibilities: leasing, revenue collection and auditing, permitting and operational safety, and environmental protection (DOI, 1996). It conducted these responsibilities through the Offshore Energy and Minerals Management program and the Minerals Revenue Management program. The inclusion of these two programs within the same agency effectively ensured that MMS would prioritize one responsibility over all others: revenue maximization. Still, the agency attempted to fulfill the full extent of its regulatory mandate all while striving to bolster the coffers of the U.S. Treasury, publishing dense pages of technical requirements for pollution prevention, well production, production safety systems, and other industry activities. However, a lack of appropriations stifled the ability of MMS to engage in personalized inquiries into the management of specific oil operations, forcing regulators to limit inspections to explicit cases of non-compliance.

By the early 1990s, it had become apparent that MMS’s approach to oversight was inadequate in keeping pace with new deepwater drilling technologies and industry expansion. A January 1990 report by the Marine Board of the National Research Council recommended that MMS shift its regulatory emphasis from investigating incidents of non-compliance as they occur to preventing incident-producing situations before they happen. In addition, the Board suggested that the agency upgrade its program to better address the unique operating environment on the
OCS. Despite these prescient recommendations, the Marine Board’s report fell on deaf ears in Congress (Oil Spill Commission, 2011).

Congress’s reluctance to heed the pronouncements of the Marine Board did not stem from a lack constitutional authority to govern the oil industry. Article IV of the Constitution clearly grants management authority over the nation’s territories and common-pool resources, including crude oil (U.S. Const., Art. IV, §3). According to the Oil Spill Commission, the root of congressional disinclination toward the expansion of oversight has been political in nature. Short of branding MMS with agency capture—the phenomenon in which regulatory agencies become influenced and effectively controlled by the very industries they are tasked to regulate—the Commission states that “industry served as an initial impediment to MMS reform efforts—and has largely remained so” (Oil Spill Commission, 2011, p. 71).

As a result, over the course of the 1990s and 2000s MMS gradually loosened its early command-and-control approach to one that relied heavily upon voluntary compliance. This shift in management style coincided with a precipitous drop in the agency’s annual budget from approximately $250 million dollars in 1984 to a low of $125 million in 1997 (Oil Spill Commission, 2011, Figure 3.3). Personnel were spread thin, inspections became less effective, and both industry and MMS became reliant upon new, more advanced technologies to ensure safety. In addition, what personnel were available “suffered from a loss of essential expertise” through the absence of adequate training programs (Ibid., p. 76).

In the case of the Gulf Oil Spill, the management failings of the Minerals Management Service did not solely result in a gross neglect of oversight—they lead to the inadvertent deaths of 11 men aboard the Deepwater Horizon and the poisoning of economically and ecologically significant marine ecosystems. In the next section of this study, I detail the long-term aftermath
of the spill, paying particular attention to the use of policy tools by the federal government to
accomplish administrative and regulatory reforms, compensation for human victims, and
ecological restoration efforts in the Gulf. I evaluate these components of the response effort to
determine whether they were authoritative and effective before delving into how interest groups
and policymakers’ values influenced the government’s approach to reform.

III. Plugging the Leak: Elements of the Federal Policy Response

Regulatory and Administrative Reform

In the days and months following April 20th, the response to the Oil Spill involved the
coordination of 16 federal agencies as well as the Coast Guard, BP, Transocean, Gulf Coast state
governments, and other industry affiliates. The Commission’s report to the President outlines the
managerial and technical problems associated with such a sprawling interagency and
intergovernmental effort, an exacting discussion of which is beyond the scope of this paper.
Beyond the immediate efforts on-the-ground to halt the flow of oil from the Macondo well was
the swift recognition by the federal government of the need for regulatory and administrative
reform. Reform was necessary not only from a pragmatic, policy-oriented standpoint; in the
wake of such a deadly accident, it had vital symbolic significance as well.

Reorganization of the government body deemed responsible for the blowout was among
the first administrative actions taken by the Executive Office, satisfying the need for both a
practical and symbolic internal solution. A month after the initial blowout, Secretary of the
Interior Ken Salazar issued Secretarial Order No. 3299, which eliminated MMS and named a
new agency, the Bureau of Ocean Energy Management, Regulation, and Enforcement
(BOEMRE), to assume its responsibilities. In July 2010, the new BOEMRE was restructured into
three separate bureaus intended to individually administer the conflicting missions of MMS: the Office of Natural Resources Revenue, charged with royalty and revenue collection and disbursement; the Bureau of Ocean Energy Management (BOEM), responsible for managing the nation’s offshore mineral resources in an “environmentally and economically responsible way”; and the Bureau of Safety and Environmental Enforcement (BSEE), tasked with rulemaking and enforcement authority over issues of safety and environmental protection (BOEM, n.d.; DOI, 2010a). Section 6 of the Order establishes a separate mandate for the reorganization process to comply “with all applicable safety, environmental, and conservation laws and regulations” as well as follow a “scientifically-sound” approach (DOI, 2010a). By dismantling MMS, the President and his Cabinet aimed to assign public responsibility to a government entity and provide greater regulatory safeguards against future incidents without themselves assuming long-term political risk or blame.

The month of May 2010 saw other policy actions by which the administration sought to manage political blowback from the Oil Spill. On May 21, President Obama issued an Executive Order establishing the Oil Spill Commission, designating a three-pronged mission for the advisory body to:

a. Determine the root causes of the Deepwater Horizon accident and subsequent oil spill,
b. Develop recommendations for “guarding against and mitigating the impact of” oil spills using environmental, public health, and economic considerations, and
c. Submit a comprehensive report of its findings to the President (Exec. Or. 13543).

That same week, the Department of Interior announced a 6 month moratorium on all drilling on the outer continental shelf (OCS) at water depths equal to or exceeding 500 feet in both the Gulf and the Pacific Ocean. On September 30, 2010, Secretary Salazar announced new rules from BSEE strengthening requirements for well casing and cementing, blowout preventers, safety
certification, emergency response, and worker training (DOI, 2010b). Effective October 2010, compliance with these new rules, named the Drilling Safety Rule and the Workplace Rule on Safety and Environmental Management Systems, became a prerequisite for both shallow and deepwater drilling permits (Oil Spill Commission, 2011).

While the Executive branch grappled with the blowout through internal restructuration and regulatory mechanisms, its long-view efforts have been stymied by a lack of adequate appropriations and enabling legislation from Congress. The failure of the legislative branch to provide concrete assistance to federal agencies in the post-spill policy effort is highlighted by Oil Spill Commission Action, an outgrowth of the Oil Spill Commission comprised of co-chairs Bob Graham and William K. Reilly as well as the original five members. In April of 2012, the Action group published an implementation report card based on the recommendations made in the Deep Water report to the President. The report assigned grades to three official policy actors—the Obama Administration, the oil industry, and Congress—summarizing the authoritativeness or effectiveness of their part in the response effort. While the Administration was given a B and industry a C+, Congress was branded with a D. This grade is a reflection of the fact that in 2010 alone, over 150 proposed bills concerning the oil spill were introduced in the House of Representatives or the Senate and died before ever gracing the desk of the President (Oil Spill Comission Action, 2012; Ramseur, 2012). As of March 2013, no legislation has yet been passed codifying the permanent reorganization of MMS or any other administrative change.

Although a comprehensive “Oil Spill bill” has not yet been passed by Congress, regulatory provisions for restoration and reparation in the Gulf have been slipped into other statutes as riders. The Coast Guard Authorization Act of 2010 grants new rulemaking authority to the Secretary of the department in which the Coast Guard is operating (currently the
Department of Homeland Security) for the purpose of reducing the risk of oil spills (H.R. 3619). On January 3, 2012, President Obama signed the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (H.R. 2845) into law, which increases penalties for safety violations and “requires automatic and remote-controlled shutoff valves on newly constructed transmission pipelines” (Ramseur, 2012). Six months later, the President also signed the RESTORE Act, a rider on the federal Transportation Act which ensures that 80 percent of the fees and penalties collected from BP under the Clean Water Act and the Oil Pollution Act are devoted to Gulf Coast restoration (H.R. 4348, §1601).

Compensation for Human Victims

The human impact of the Gulf Oil Spill cannot be overstated. Eleven lives were taken, and innumerable others in the Gulf Coast region were permanently changed by damage to financial and health security wrought by months of poisoned marine waters. Clean-up workers have been plagued by unexplained health problems, while incidences of mental illness among Gulf Coast inhabitants has skyrocketed (Juhasz, 18 April 2012). Coastal communities in the Gulf depend heavily on tourism and fishing, which are highly sensitive to both public perception and direct ecosystem damage. For the summer of 2010, the region was essentially shut down as the National Oceanic and Atmospheric Administration (NOAA) and state fisheries agencies closed 88,522 square miles of coastline to commercial and recreational fishing (Oil Spill Commission, 2011). Local revenue flows were further staunched by the oil moratorium, which halted production of about one-third of all domestic oil.

As of January 2011, 483,000 people had filed claims with the Gulf Coast Claims Facility, an independently administered body headed by attorney Kenneth Feinberg and funded by BP
(Landrieu, 2011). At the President’s urging, in June 2010 BP had agreed to place in escrow a $20 billion for those seeking monetary redress for the economic impacts of the Oil Spill (BP, 2010). This fund does not represent a cap on the company’s liabilities, however, and does not include applicable fines or fees under federal statutes such as the Oil Pollution Act or Clean Water Act.

In June 2012, the Gulf Coast Claims Facility was disbanded and the Court Supervised Settlement Program, headed by a Court-appointed claims administrator, began (EDLA, 2012). This transition came as a result of a settlement proposal made in March of 2012, in which BP agreed to pay approximately $7.8 billion to settle a private claims lawsuit over economic and medical impacts of the Oil Spill (Juhasz, 18 April 2012). In the vacuum generated by Congress’ relative lack of legislative action on economic reparation in the Gulf, federal courts in the Gulf region have adopted a key policymaking role through implementation of the Program, over which the Eastern District Court of Louisiana (EDLA) has “continuing and exclusive jurisdiction” (EDLA, 2012, p. 8). The death of bills such as the Oil Spill Victims Redress Act (H.R. 6568) and the Oil Spill Compensation Act (S. 3542) in committee during the 111th Congress has effectively ensured that all claims made on the grounds of health or economic impact will be the sole responsibility of the independent judicial process.

Although litigation has historically proven to be a powerful tool for the enforcement and expansion of existing environmental statutes, neither common law nor the regulatory scheme under CWA guarantee relief to people who claim property loss due to water pollution (McSpadden, 1995; Rushefsky, 1995). Furthermore, constitutional and statutory limits on the federal courts’ jurisdiction constrain the extent to which they may serve as venues for policymaking. The adversarial drama of the legal system also means that there are clear winners
and losers in evolution of case law; in the case of environmental litigation, the winners may
sometimes be big business and industry.

It remains to be seen whether the legal cases brought against BP on behalf of human
victims will result in complete justice for their loss. While President Obama expressed deep
concern over threats to the livelihoods Gulf Coast citizens and saw to the establishment of the
Gulf Coast Claims Fund, his ability to ensure long-term economic compensation through
administrative mechanisms is limited by appropriations support from Congress (The White
House, 2010). While thousands of people in the Gulf have successfully filed claims for financial
redress, many thousands more may still be waiting for aid. Before the Gulf Coast Claims Fund
was transferred over to Court Supervised Settlement Program, in April 2012 the Department of
Justice found that 7,300 individuals and businesses had been wrongfully denied or shortchanged
by the Claims Facility (DOJ, 2012). Individuals or businesses that do not join the
property/economic damage settlement by the April 2014 deadline will be excluded from future
claims, although the medical settlement includes provisions for future health problems related to
the Oil Spill (Thompson, 11 Jan 2013; 14 Feb 2013). The claims process itself is long and
tedious; it may take more than a before the $20 billion escrow fund is totally disbursed.
However, environmental statutes such as the Oil Pollution Act do allow administrators to fold
compensation to human communities into broader ecological restoration activities.

Ecological Restoration

Even before the Deepwater Horizon disaster, the Gulf of Mexico has had to contend with
rapid marine and estuarine habitat loss or degradation. For several decades, a massive “dead
zone” of hypoxic water has bloomed off the shores of the Gulf Coast as a result of excessive
nutrient loading from agricultural runoff (Massefski and Capelli, 2012). Since the construction of levees along the Mississippi River in the 1930s, more than 2,300 square miles of coastal wetlands along the Gulf have been lost to erosion and hurricanes (Oil Spill Commission, 2011). Expansion of industrial fisheries has reduced habitat suitability for a number of marine mammals; of the 21 species found in the Gulf, all are listed as threatened under the Endangered Species Act (NOAA, 2012a). The negative impacts of existent habitat loss were compounded by the Gulf Oil Spill, which polluted more than 650 miles of at-risk coastal habitat (Oil Spill Commission, 2011).

Despite well-documented and numerous pre-existing ecological problems in the Gulf, restoration efforts following the Oil Spill have been plagued by a lack of baseline ecological and toxicological data. In his testimony before the House Subcommittee on Insular Affairs, Oceans and Wildlife, Dr. Timothy Ragen of the U.S. Marine Mammal Commission stated that understanding of the effects of oil and dispersants on marine mammals is “rudimentary,” and that NOAA’s stock assessment reports do not include adequate baseline information on mammalian species in the Gulf (Ragen, 2010). Dr. Ragen’s statement echoed that of Dr. Carys Mitchelmore, Associate Professor at the University of Maryland Center for Environmental Science. In her testimony before the House Subcommittee, Dr. Mitchelmore stressed that “significant data gaps” exist in empirical knowledge of the effects of both dispersants and chemically dispersed oil (Mitchelmore, 2010).

To fill this knowledge gap, wildlife advocacy groups, federal agency officials, and independent scientists began collecting data and samples immediately after the spill. From a policy perspective, the most significant policy tool in the facilitation of these efforts has been the Natural Resource Damage Assessment (NRDA) conducted by NOAA and the Department of the
Interior. Under the Oil Pollution Act of 1990, the federal government, as well as state, tribal, and foreign governments, is required to appoint trustees for the nation’s natural resources. The Deepwater Horizon Natural Resources Trustee Council (“Trustees”) consists of NOAA and DOI as well as state agencies in Louisiana, Alabama, Mississippi, Florida, and Texas. In the case of an oil spill, trustees are tasked with assessing damages, as well as with developing and implementing of “a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources” (OPA, §1006). According to NOAA’s Damage Assessment and Restoration Program (DARP), Restoration Plans are comprised of two parts: primary restoration, in which affected habitats are restored to baseline conditions; and compensatory restoration, in which human communities are monetarily or otherwise compensated for the losses incurred during the clean-up process (DARP, 1997). This approach utilizes an ecosystems-based decision-making framework in the determination of appropriate restoration activities and scales.

On December 21, 2012, NOAA released Phase II of the Early Restoration Plan and Environmental Review (ERP/ER) for the Gulf Oil Spill. This document “serves as the Trustees’ final selection of Phase II early restoration projects,” incorporating public comments made on both the Draft Phase I and Draft Phase II ERP/ER (Trustees, 2012). The projects enumerated therein are additions to those already selected during Phase I of the early restoration planning process. These plans do not represent a comprehensive fulfillment of NRDA restoration requirements, but rather prioritize those projects that necessitate expedient action.

As a responsible party, BP has elected to cooperate with and contribute to the NRDA process, providing $1 billion to these early restoration projects independent of other applicable penalties or fines (NOAA, 2011). Under OPA, responsible parties are “liable for the removal costs and damages” resulting from a discharge of oil—making NRDA fines the most important
tool for enforcing statutory liability in the case of oil pollution after CWA fines (OPA, §1002). The Clean Water Act of 1972 prohibits oil discharge in the nation’s navigable waters and establishes the use of civil and criminal penalties against non-compliant parties (CWA, §311). Civil penalties could reach up to $17 billion against BP pending the results of the civil trial commenced on February 25, 2013. In 2012, BP admitted to negligent violations of CWA’s criminal provision in a separate lawsuit, agreeing to pay $4.5 billion toward the Oil Spill Liability Trust Fund (Khan, 25 Feb 2013).

Under the RESTORE Act—one of the very few legislative responses to the Gulf Oil Spill actually enacted by Congress—80 percent of the penalties collected under CWA and the NRDA process will be earmarked specifically for Gulf Coast restoration. The Act established in the Treasury the Gulf Coast Restoration Trust Fund, creating a new independent administrative body—the Gulf Coast Ecosystem Restoration Council—to promulgate a Comprehensive Plan for fund disbursement (H.R. 4348, §1603[2][A]). On September 10, 2012, President Obama issued an Executive Order affirming the Restoration Council’s authority over the planning process in the Gulf and recognizing the continued role and autonomy of the Trustee Council. The Order also identified the EPA and U.S. Department of Agriculture (USDA) as additional trustees under the NRDA process (Exec. Or. 13626).

The authority granted to the federal government over the management of the nation’s natural resources allows for more concrete action on the part of ecological restoration than economic compensation for human victims of the Gulf Oil Spill. While the compensation process is dependent upon the tedious workings of the judicial system, existing environmental statutes trigger automatic mitigation or prosecution responses within a well-defined regulatory framework. However, unlike past technological disasters such as the 1989 Exxon Valdez oil spill,
the Gulf Oil Spill has not transformed from a focusing event into a policy window toward authoritative environmental policy.

According to John Kingdon’s multiple streams theory, policy windows represent the convergence of the problem, policy, and politics streams within a political system. During this small window of opportunity, issues are primed to be placed on the decision agenda by policy entrepreneurs: actors within a given system who are invested in making sure something gets done (Zahariadis, 1999). In the case of the Deepwater Horizon incident, the prevailing influence of pro-oil interest groups and policymaker values prevented the complete overlap of the three streams of policy formation, despite mobilization by pro-environment interest organizations. Thus, while some policies have been introduced or implemented—such as the RESTORE Act, litigation under OPA and CWA, and reorganization of MMS—these policies have not necessarily represented a definitive attitudinal shift toward more environmental or human protections.

IV: Interests Groups and the Post-Spill Policymaking Process

Interest groups—representative collectivities of individuals who share a common interest in a specific policy problem—have been a staple of American environmental politics since the 1960s. While groups such as the Sierra Club and the Wildlife Society were notable participants in national debates over resource conservation and habitat protection in the first half of the 20th century, the bulk of modern environmental interests first arose as organized outgrowths of the environmental movement (Ingram et al., 1995). The coalescence of environmental interest groups in the mid-20th century led to counter-mobilization by industry and business leaders, who perceived broad public support for pro-environment values as a threat to their privileged position
in the policymaking process (Kraft and Kamieniecki, 2007). While industry has been largely unsuccessful in its efforts to repeal major environmental legislation of the 1970s, it has managed to preserve its significant lobbying influence via access points within the federal bureaucracy and the legislature.

The American Petroleum Institute

Perhaps the single most important interest group in the Deepwater Horizon political aftermath is the oil lobby—specifically, the American Petroleum Institute (API)². Since 1919, this national trade association has represented America’s oil and natural gas industry both domestically and abroad for the express purpose of “influenc[ing] public policy” (API, 2013). Total lobbying expenditures in 2010 alone amounted to $7.3 million (Center for Responsive Politics, 2013a). In 2011, API announced that it would file to set up a political action committee (PAC) through the Federal Elections Commission in response to proposals from the Obama Administration to repeal oil subsidies and promulgate new emissions standards (Snyder, 23 Feb 2011). A year later it joined 89 other industry PACs in donating a total of $12.9 million to Republican candidates for federal office (compared to $2 million for Democrats, mostly from oil-dependent Gulf states) (Center for Responsive Politics, 2013b).

Although lobbying expenditures and political donations do not ensure interest group success in influencing the policy process, they certainly facilitate it. According to Duffy (2007), political parties increasingly serve as “patrons” of certain interest groups, recognizing that these groups serve an important role in candidate recruitment, fundraising, campaign advertising, and voter mobilization (p.66). The more resources a group has to conduct these activities, the more likely it is to propel sympathetic candidates into elected office or to bolster favorable

² In this paper, I use the term “lobby” and “interest group” interchangeably.
incumbents—satisfying both the group’s need for political access and the party’s desire for majority representation.

The advocacy coalition framework (ACF) developed by Sabatier (1999) helps to further explain the role of interest groups by positioning them as actors within a larger political subsystem (an advocacy coalition) centered around a specific policy area or issue. Within this coalition, interest groups interact and coordinate with agency officials, legislators, researchers, and other actors in order to advance a shared set of normative beliefs (Sabatier and Jenkins-Smith, 1999). Sabatier identifies “changes in rules, budgets, personnel, and information” as instruments by which to guide or alter governmental behavior in the coalition’s preferred direction through policy-oriented learning (p. 122). The degree to which a coalition member, such as an interest group, has access to governmental decision-makers determines the extent of its influence in the utilization of these instruments.

Both Fenger and Klok (2001) and Freudenburg and Gramling (2002) use the ACF in analyzing the development of advocacy coalitions surrounding leasing activities on the OCS during the late 1970s and 1980s. Freudenburg and Gramling (2002) identify two competing coalitions in this debate: pro-development, consisting of oil companies, the Department of Interior (via MMS), and industry support organizations; and pro-preservation, comprised by local and regional governmental organizations and environmental groups. While the early emergence of these two coalitions could be distinguished along partisan lines, with Republicans classified as pro-development and Democrats as pro-preservation, Fenger and Klok (2001) are quick to point out that officials in the Carter Administration shifted their policy stance toward development in response to the oil crisis in 1979-1980. Meanwhile, Freudenburg and Gramling assert that change in the “systemic governing coalition” and subsequent policy changes in the
OCS leasing debate involve “a change in the political party [in control of] the U.S. Presidency,” with Republican presidents being more likely to support deregulation of the oil industry and expansion of OCS leasing (p. 25). However, their findings ultimately corroborate Fenger and Klok’s. Although President Reagan ushered in a significant period of area-wide leasing, new information (policy learning) gained by President George H.W. Bush led to a decade-long moratorium on new leasing outside the Gulf of Mexico—which was ended by President Obama (Freudenburg and Gramling, 2002).

There is a surprising dearth of literature on the subject of pro- and anti-oil development advocacy coalitions in the new millennium. The case of the Gulf Oil Spill provides an intriguing opportunity to update and refine the pro-development and pro-preservation coalitions of the 1980s. An argument can be made that while the Republican Party continues to identify with a pro-development coalition that includes API, Democrats have not wholly embraced a pro-preservation position. Despite a Democratic majority in both the House and Senate in the summer of 2010, not a single bill relating to the Oil Spill was signed into law during that period. While this lack of action may be attributed to partisan gridlock, it may also be indicative of Democrats’ hesitance to come out as being against the expansion of domestic oil production during a time of economic stagnation and increasing oil prices. In July 2012, the House passed the GOP’s response to President Obama’s five-year plan for offshore drilling, drawing in support from 25 Democrats (Alpert, 25 July 2012). Meanwhile, Democratic Senator Mary Landrieu of Louisiana proposed a Senate bill which would have expanded drilling on the OCS, invoking the discursive frames of job creation and increased oil revenues for coastal states.

Senator Landrieu is not alone in her support for offshore drilling. Representative Charlie Melancon (D-LA) joined her in fighting against the 2010 moratorium on drilling in the Gulf,
while the 2012 Democratic Party platform was conciliatory toward expansion of domestic oil and gas production (Herszenhorn and Lightblau, 18 Jun 2010; Plumer, 4 Sep 2012). Just weeks before the *Deepwater Horizon* blowout, President Obama announced his decision to approve new offshore oil and gas drilling for the first time since the 1980s (a decision which was subsequently rescinded following the incident in the Gulf) (Eilperin and Kornblut, 1 April 2010). Clearly, the dual impacts of industry influence and public prioritization of energy independence (see Page 3) prevent the emergence of a fully realized pro-preservation advocacy coalition within either Congress or the Executive branch.

In addition to lobbying, API promulgates independent standards for industry operating procedures and equipment certification. Many of these standards have been incorporated into federal and state regulations, reflecting the fact that, as technical experts, oil industry representatives have an information advantage in the rulemaking process (Coglianese, 2007). Reliance upon the technical expertise of API helps to explain why Congress did not heed the recommendations of the Marine Board of the National Research Council to revamp MMS’s oversight procedures back in 1990. In light of the Gulf Oil Spill, however, API’s ability to serve as a standard-setter for the oil industry has been called into question. According to the Oil Spill Commission (2011), API faces a similar conflict in mandate as MMS: it cannot at once advocate for oil interests in public policy debates while simultaneously establishing science-based and objective operating standards.

Furthermore, API’s access to the rulemaking process through public comment procedures required by the 1946 Administrative Procedure Act (APA) has allowed it to substitute its minimum standards for the more vigorous ones proposed by regulatory agencies. For example, the Drilling Safety Rule and the Workplace Rule on Safety and Environmental Management
Systems (see page 12) issued by BSEE in October 2010 were fiercely contested by API. Although these rules reference API standards, the trade association urged changes to language (replacing “should” with “must” in reference to incorporated documents) which would have mandated some standards that API only deemed to be “discretionary” (API, 2010). In response, BSEE removed the mandatory language while emphasizing that the intent of the rule—to follow the regulatory provisions contained in reference documents—remained the same (BSEE, 2012). Although the rules still represent significant changes to drilling regulations, they are not devoid of industry input.

Environmental Groups

While API’s involvement in the post-spill policy process has stayed largely within the political shadows of congressional lobbying and administrative rulemaking, environmental groups such as the Gulf Restoration Network, Sierra Club Gulf Coast Protection, Earth Justice, and the Louisiana Environmental Action Network have been visible stakeholders in the judicial arena of the policy response. Though not nearly as financially endowed or ideologically unified as industry representatives, environmental interest groups have used litigation as a means to influence restoration efforts in the Gulf. This access strategy has long been a standard tool of groups seeking to expand and enforce environmental protection statutes (Ingram et al., 1995). Indeed, provisions for civil suits have been written into many keystone environmental statutes such as CWA, NEPA, and OPA. While the structure of the federal courts limits the ability of environmental groups to directly influence public policy, strategic maneuvering of a public debate to this policy arena guarantees equal consideration of arguments under the law. This tactic
becomes particularly useful when the federal bureaucracy or Congress is staffed by unsympathetic partisan opponents.

In the aftermath of the Deepwater Horizon blowout, a number of lawsuits have been filed against BP, its associates, and the federal government by an ad hoc coalition of both national and grassroots environmental groups (Alpert, 06 Aug 2012; Fausset, 21 Oct 2010; Geman, 17 Dec 2012; Thompson, 13 Dec 2011). These legal challenges range from criticisms of post-spill oil lease sales to allegations of wrongful take of endangered and threatened species in the Gulf. Some have already been successful. In January 2013, the Center for Biological Diversity won a decision by the U.S. 5th Circuit Court of Appeals to require BP to disclose the composition and potential health effects of toxic materials released during the Oil Spill (Schleifstein, 09 Jan 2013). However, among the risks of using litigation as an access tool is that there are winners and losers—and in environmental cases, sometimes the winner is industry. In February 2013, days before the commencement of the ongoing trial to determine BP’s criminal and civil liability under CWA and OPA, Judge Barbier of the Eastern District Court of Louisiana ruled that the 810,000 barrels of oil collected by BP from the ruptured Macondo well would not be fined under CWA (Reuters, 20 Feb 2013). This decision cut the maximum fine that can be levied against the oil company by as much as $3.5 billion.

Representatives of environmental groups have also taken advantage of a series of Congressional oversight hearings to advance their arguments against BP, Transocean, and Halliburton. Less than two months following the blowout, the House Subcommittee on Insular Affairs, Oceans and Wildlife convened a three-part hearing on the short- and long-term impacts of the Oil Spill on the nation’s natural resources. Among the testifying witnesses were David Cresson, Executive Director and CEO of Coastal Conservation Association Louisiana; Dr.
Donald Fry, Director for Conservation Advocacy, American Bird Conservancy; and Aaron Viles, Campaign Director of the Gulf Restoration Network. Each of these witnesses utilized the opportunity to advance policy proposals on the matters of restoration, compensation, and administrative reform. Cresson, citing the restoration planning phase of the NRDA process, proposed two potential projects for consideration by the Trustee Council: new artificial reefs and a large fish hatchery (Cresson, 2010). Dr. Fry recommended a moratorium on new oil leasing in Bristol Bay or the Arctic Ocean until procedures for adequate risk analyses were promulgated by DOI (Fry, 2010). Perhaps the most radical recommendations came from Aaron Viles, who called for an end to the use of dispersants in oil spill clean-up, advocated the creation of a Gulf Coast regional citizen’s advisory council, and decried the federal government’s delegation of response activities to BP (Viles, 2010).

While some these recommendations and calls to action have gone unheeded—such as delaying the sale of Arctic drilling leases, rulemaking on dispersant use, and distancing from BP—others have been incorporated in the federal government’s response plan. The Gulf of Mexico Citizen Advisory Committee (GMCAC) was established by EPA in May 2011 for the purpose of “provid[ing] independent citizen advice to the EPA Administrator on a broad range of environmental issues” (EPA, 2011). Among the Trustee Council’s early restoration projects is the Mississippi Artificial Reef Habitat Project (NOAA, 2012b). As the NRDA process progresses, environmental and citizen groups will have more opportunities for input in directing restoration projects during public comment periods.

On the whole, however, the observable successes of environmental groups in post-spill policymaking are more reflective of the institutionalization of environmental concerns than of new, concrete pollution prevention policy. Since the 1970s, the environmental bureaucracy has
become an embedded (albeit highly contested) component of government. While this institutionalization affords environmental interest groups an important opportunity structure from which to participate in agenda setting and proposal generation at the national level, it also expands the matrix of potential veto points and lowers the political salience of environmental issues. Thus, the function of the Gulf Oil Spill as a focusing event for energy or environmental policy served a largely internal purpose within the established institutional response network. According to Hoffman and Jennings (2011), absence of institutional policy entrepreneurs or brokers to spearhead the environmental response prevented groups from presenting a unified, strident front against BP and failed regulatory agencies. Fragmentation of the environmental response has been further exacerbated by groups’ strategic reliance on the federal courts as a policy venue, resulting in a situation in which “[issue framing] was left largely to the oil company and the Obama Administration,” thereby limiting the scope of potential policy actions to fit within their specific economic, technological, and political interests and values (Hoffman and Jennings, 2011, p. 108).

V. Policymakers’ Values

Among the reasons why the environmental response to the Gulf Oil Spill has been largely ineffectual in transforming it into what Hoffman and Jennings (2011) call a “cultural anomaly” is the simple fact that there is no single, overarching “environmental” paradigm in American public discourse. The American vein of modern environmentalism is not monolithic; though it lies on the left-most end of an ideal-state typological spectrum of values, the “environmentalist” worldview or paradigm is itself comprised of many different “environmentalisms.” These sub-values can be further defined in terms of whether they are ethically anthropocentric—focused on
human needs for and uses of natural resources—or ecocentric, meaning that they position humanity within a larger, interconnected biological web or ecological community (Layzer, 2012). Overlying this ethical dimension is a host of policy goals and associated means to achieve them (Dryzek and Lester, 1995). Thus, while two people may both call themselves environmentalists, one may argue for a utilitarian approach to resource management on public lands while the other advocates for total preservation of remnant “pristine” ecosystems.

At the right-most end of the values spectrum is what Layzer (2012) and Dryzek and Lester (1995) call cornucopianism, which prioritizes economic growth and argues that competitive market forces will naturally prevent resource depletion through technological or substitutive solutions. Layzer positions cornucopianism within the larger ideological framework of free market conservatism, in which the role of government is to assign property rights to natural resources and to protect the individualistic pursuit of liberty by limiting government interference. Dryzek and Lester differentiate cornucopians from neoconservative regulatory reformers, who argue for a laissez-faire approach to environmental regulations, and new resource economists, who seek privatization of public lands (p. 335). However, it can be argued that these designations merely distinguish among overlapping policy goals within the same essential worldview.

The complex, multidimensional construction of environmental problems along these value perspectives makes environmental policymaking inherently tricky. Public opinion and interest group influence further complicate matters for key policy actors in the environmental policy domain. Paul Burstein (2003) found that public opinion is most likely to be statistically significant in determining decision makers’ actions when a given policy issue is politically salient and contested by more than one interest organization. However, there are many different
“publics” with values arrayed along the entirety of the environmental values spectrum, and salience—which can be loosely defined as political importance—is difficult to measure. In the case of the Gulf Oil Spill, opinion polls conducted by Gallup and the Pew Research Center appeared to point toward a renewed interest in environmental protection during the summer of 2010 (Jones, 2010; Pew Research Center, 2010) (see Page 3). In the months immediately following the spill, the salience of the issue in the public imagination was undeniable. However, competing public goals and values—particularly economic security and energy development—soon outmatched concern over what was happening in the Gulf. With environmental interest organizations largely confining themselves to litigious responses, cornucopian perspectives were allowed to dominate post-spill public discourse.

Public opinion polls illustrating a brief spike in environmental concern also revealed partisan cleavages in environmental valuation. A May 2010 Gallup poll showed that, between March 2010 and May 2010, prioritization of environmental protection versus energy development increased by 15 percentage points among Democrats and Independents, while Republicans demonstrated no change in their priorities (Jones, 2010). This gap is mirrored by several other polls taken after the Deepwater Horizon accident (Jones, 2012; Saad, 2011a; Saad, 2011b; Pew Research Center, 2010). While at first glance there appears to be a link between partisan identity and environmental concern among the public, Buttel and Flinn (1978) found political ideology was a better predictor of environmental concern than pure party preference.

The relationship between ideology and environmental valuation becomes even more apparent when Congressional policymakers’ environmental values are analyzed. Gershtenson et al. (2007) found member ideology to be a strong predictor of voting behavior. However, they note that “rather than reflecting members’ personal preferences or attitudes, [votes] measure
members’ ‘revealed’ preferences which are influenced by constituency characteristics” (p. 75).
The structure of America’s political system ensures a degree of direct response between
members of Congress and their voting constituents. While the two political parties have become
increasingly polarized since the 1970s, they do still embody a wide variety of political ideologies
and associated values. Thus, although the Democratic Party is largely inclined to support
conservation and other environmental measures, individual Democrats in the House and Senate
are hesitant to initiate conflicts which may alienate important voting blocs, such as working-class
union members, oriented toward economic policy goals (Buttel and Flinn, 1978). Likewise, the
Republican Party finds itself responsible for representing blue-collar nature lovers, such as
hunters and fishermen, in addition to white-collar business interests.

Gershtenson et al. (2007) identify region as a significant determinant of environmental
attitudes, with some parts of the nation—such as the Northeast and Pacific Northwest—more
sympathetic toward environmentalist perspectives than the Midwest or South. Regional
differentiation in attitudes is in part a reflection of economic and demographic factors. This
helps explain why Democratic Senator Mary Landrieu, who represents the highly oil-dependent
state of Louisiana, would spearhead the fight against the 2010 oil drilling moratorium—despite
the fact that Democrats in Congress are consistently more supportive of the environment than
Republicans (Gershtenson et al. 2007).

An exhaustive catalog of the environmental values of all federal policymakers, including
those in the executive and judicial branches, is beyond the scope of this study\(^3\). However, the
preceding discussion hopefully provides a brief conceptual contextualization of the alternative
goals, frames, and policy proposals generated in response to the Gulf Oil Spill. While the pro-

\(^3\) It is important to note that ideological values of deregulation and unfettered economic growth informed the
mandates placed upon MMS by Secretary of Interior James Watt at the agency’s inception.
environment shift in public opinion following the Deepwater Horizon blowout could have become a distinguished component of the problem stream in a process toward concrete environmental policy, the prevalence of other, more salient concerns prevented it from doing so. In the absence of a unified, vocal environmental interest group response, Congressional policymakers followed the tide of public opinion toward a gradual de-prioritization of the ecological and human ramifications of the spill. Among Democrats, anthropocentric environmental concerns were paramount, while Republicans had little incentive to deviate from their characteristic, cornucopian orientation.

Conclusions

Undoubtedly, the Gulf Oil Spill provides a teachable moment on the risks of industry negligence and regulatory leniency. However, it also unveils the grim reality that not every technological disaster will autogenously become a clarion call for change. Political actors, from citizens to interest groups, need to first interpret it as such and then apply pressure on policymakers to perceive it the same way. There are multiple streams of values and problem definitions at work in any given policy debate. In the domain of environmental policy, the debate arena is further complicated by the inherent ambiguity of these values and definitions (Stone, 2012). While policymakers may be inclined toward one set of values on an attitudinal continuum, their constituents and interest groups may be pulling them toward another.

Such is the case of the federal policy response to the Deepwater Horizon blowout. Although the Obama Administration led the federal response by taking authoritative steps to reorganize MMS, ensure BP’s compensation of Gulf Coast communities, and push for inclusion of the RESTORE Act as a Transportation Bill rider, these measures have not in themselves
amounted to new, comprehensive policy. With the national agenda dominated by the state of the economy, liberal Democrats in Congress have not had the political incentive to pass the plethora of stand-alone Oil Spill bills introduced by members of either party. Indeed, the continued dominance of a pro-oil advocacy coalition and the absence of a fully realized pro-preservation coalition have worked in concert with the pull of public opinion to interrupt the Oil Spill’s transformation from a focusing event to a policy window.

Throughout the course of my research for this thesis, I was surprised by the scarcity of analytical secondary sources on the policy and political implications of the Gulf Oil Spill. Perhaps over the course of coming years, political scientists will begin to dissect the Oil Spill from empirical analytic frameworks such as the ACF and Kingdon’s multiple streams framework. Areas for future research include comparison and contrast between policy environments surrounding the Santa Barbara Oil Spill of 1969, the Gulf Oil Spill, and the Exxon Valdez; political analysis of the influence of media coverage on the federal policy response; evaluation of the role of federalism in negotiating the long-term policy outcome of the clean-up process; and assessment of other independent variables, such as electoral politics and institutional arrangements, which may have influenced the post-spill policy process. As the demand for and production of domestic oil increases, it will become increasingly important for policy analysts to understand the relationships between the oil industry and American governance. Such an understanding is vital not only from a theoretical perspective, but from a practical one as well. By uncovering the causal mechanisms behind management failures, we can help prevent future ecological and economic catastrophes from occurring.
Literature Cited


United States Constitution, Art. IV, §3.


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