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November 23, 2010

Senator Bob Graham
Co-Chair
National Commission on the BP Deepwater Horizon
Oil Spill and Offshore Drilling
One Thomas Circle, 4th Floor
Washington, DC 20005

The Honorable William K. Reilly
Co-Chair
National Commission on the BP Deepwater Horizon
Oil Spill and Offshore Drilling
One Thomas Circle, 4th Floor
Washington, DC 20005

The Honorable Donald C. Winter
Chair
Committee to Investigate the BP Deepwater Horizon Drilling Unit Failure
The National Academy of Engineering and National Research Council
500 Fifth Street, NW
Washington, DC 20001

Dear Senator Graham, Mr. Reilly and Dr. Winter:

I am writing today to ask that, as part of your ongoing investigation into the BP Deepwater Horizon spill, you fully examine whether the Deepwater Horizon spill could have been prevented had the oil industry and U.S. oil regulators properly heeded the warning signs of the Montara oil spill off the western coast of Australia in 2009.

In the aftermath of the Deepwater Horizon oil spill, it was common to hear officials from BP and the administration say that the spill was unforeseeable and unprecedented:

- “I don’t think anybody foresaw the circumstance that we’re faced with now.” — BP spokesman Steve Rinehart [AP [5/2/10](#)]
- “The sort of occurrence that we’ve seen on the Deepwater Horizon is clearly unprecedented.” — BP spokesman David Nicholas [AP [4/30/10](#)]
- “We’re actually defining it as we go. This is an unprecedented anomalous event.” — Admiral Thad Allen [CBS News [5/24/10](#)]

But was the Deepwater Horizon incident truly unprecedented or unforeseeable? As you know, the Montara spill followed a blowout of the wellhead platform on August 21, 2009, and continued leaking until November 3, 2009. This spill, the worst in Australian history, was

similar to the Deepwater Horizon spill that occurred earlier this year in several respects. Both spills occurred as the result of offshore drilling, both spills occurred after a blowout, both spills were reportedly caused at least in part by failures of the cementing process, and the cementing contractor involved in both spills was Halliburton. These similarities suggest that the Deepwater Horizon spill was foreseeable and it also begs the question of whether the Deepwater Horizon spill could have been avoided had the industry or oil regulators taken the Montara spill seriously.

On November 19, 2009, the Senate Energy and Natural Resources Committee, on which I serve, held a hearing on offshore drilling that fostered a robust discussion of the Montara spill. During questioning, I was assured by Dr. Walter Cruickshank of the now defunct Minerals Management Service (MMS) that I should not be overly concerned about the Montara spill because it could not happen in U.S. waters. I found it troubling that an agency charged with regulating an industry would so boldly and uncritically defend the safety of that industry. Therefore, after the hearing, I submitted a written question for the record asking Dr. Cruickshank specifically why he was so confident a spill like the Montara spill could not occur in U.S. waters. He responded as follows:

“Regulations governing U.S. OCS drilling operations provide that on the U.S OCS—

- The drilling program would have to be submitted to MMS as required in the regulations. The program would have to satisfy MMS engineers before it was approved by the MMS District Supervisor.
- The casing would have to be cemented in accordance with the requirements in the drilling regulations.
- The casing would have to be pressure tested to 70% of the minimum internal yield for 30 minutes with less than a 10% pressure drop. This test would have likely identified the problem with the primary cement job on the Timor Sea well.
- For suspended wells, the operator would have to set a secondary plug in the casing as described in the decommissioning regulations.
- The operation would be inspected by MMS personnel at least once during the course of the drilling operations, and all casing, cementing, and testing information would be closely reviewed.

Each of these requirements separately, and certainly all of them together, should have prevented the drilling operations that occurred in the West Timor Sea, as we understand them.”¹

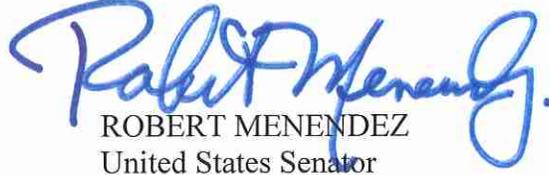
MMS assured me this spill could not happen in U.S. waters in essence because it had faith in MMS planning oversight, its cementing regulations, its required cementing tests, and MMS inspections. While your investigations are still ongoing, it appears, as a preliminary matter, that each of these safeguards failed and led to the Deepwater Horizon disaster.

¹ S. Hrg. 111-303, *Offshore Energy Production*, Senate Committee on Energy and Natural Resources, November 19, 2009 (emphasis added).

So, it is with a measure of frustration that I now request that each of your panels definitively answer the following question: Could the BP Deepwater Horizon explosion and oil spill have been prevented had the industry and regulators properly heeded the warnings of the Montara spill in Australia?

I thank you in advance for your help and for the important work you are doing to help prevent tragedies like the Montara and Deepwater Horizon spills from ever happening again.

Sincerely,



ROBERT MENENDEZ
United States Senator