

by Plaintiffs of BP's persistent, ongoing violations of regulations key to the safety and protection of the environment and public health.

II. STATEMENT OF FACTS

First producing oil in 2007, the BP Atlantis Facility is one of the deepest moored floating dual oil and gas-production facilities in the world. It has a production capacity of 8.4 million gallons of oil per day and 180 million cubic feet of gas per day.

A. PLAINTIFF MR. ABBOTT OBSERVED AND REPORTED TO DOI AND MMS BP'S FAILURE TO COMPLY WITH ENGINEERING DOCUMENTATION PROTOCOL

In August 2008, Plaintiff Kenneth Abbott, a BP contractor who had been hired to supervise the BP's databases that maintain critical project documentations, became aware that BP did not have a large number of "as-built" drawings for the subsea components of the BP Atlantis Facility, and specifically, that it did not have accurately coded and complete "as-built" drawings for its producing subsea components, including "as-built" risers and Piping and Instrument Diagrams ("P&IDs"). Engineering projects such as the BP Atlantis Facility involve multiple phases of engineering documents, beginning as design concepts and ending with "as-built" engineering documents. The phases and phraseology of BP document production include:

- a. First Phase — "Issued for Approval" engineering documents by the contractor for BP comments;
- b. Second Phase — "Issued for Design" engineering documents by the contractor after BP comments or concerns are incorporated;
- c. Third Phase — "Issued for Construction" engineering documents with BP's approval as correct for actual fabrication and construction of the project;

d. Fourth Phase — “As-Built” engineering documents that represent the “final” specifications of the component or system.

Because engineering documents may change drastically from the first phase “issued for approval” documentation to the final phase “as-built” documentation, “as-built” engineering documents are critical to operations as they reflect precisely the design of the component and system, and can be likened to vital “blueprints” for an incredibly complex structure involving millions of moving parts and systems. Simply put, without properly maintained “as-built” engineering documents, persons operating the BP Atlantis Facility are flying blind, and have no way to assure the safety of offshore drilling operations, and no way to assure that another calamitous oil spill, like the Deepwater Horizon oil spill, will not reoccur.

BP management has been aware of the documentation problems since at least August 2008. An internal email from management acknowledged that “there are hundreds if not thousands of subsea documents that have not been finalized[,]” and “[t]he P&IDs for Subsea are not complete [and] have . . . not been approved or handed over to Operations . . .” Exhibit A, Email From Barry Duff, August 15, 2008. BP management similarly recognized the gravity of this problem, stating that using the incomplete, unapproved drawings, “*could lead to catastrophic Operator errors due to their assuming that that drawing is correct. Turning over incomplete drawings to the Operator for their use is a fundamental violation of basic Document Control, the IM Standard[,] and Process Safety Regulations.*” *Id.*

Specifically, the BP Atlantis Facility lacked accurately coded and complete “as-built” drawings for its producing subsea components, including “as-built” risers and Piping and Instrument Diagrams (“P&IDs”), and as of November 28, 2008, according to the database for Drill Center 1 and as described in the chart below: (1) only 50 of the

project's 7,176 drawings (less than 1%) detailing its subsea components had been "approved for design" by an engineer; (2) only 459 drawings (less than 7%) had been "approved for construction"; (3) only 274 (less than 4%) had been approved as "as built"; and (4) 6,393 (90%) had never been engineer approved. In sum, federal law requires 100% engineer approved "as-built" drawings for most subsea components and systems. Yet, MMS and DOI are allowing the BP Atlantis Facility, a facility with a much greater capacity than Deepwater Horizon, to operate with a ninety percent failure rate in terms of complying with federal law.

Sector No.	Total	Issued For Design	Issued For Constr.	As-Built	Not Approved	%Not Approved
30 Subsea Systems (wellheads, manifolds, flowlines and risers)	1,266	27	86	101	1,052	83%
31 Wellheads	22	0	0	0	22	100%
32 Trees	570	1	9	1	559	98%
33 Manifolds	161	5	4	0	152	94%
34 Pipelines/Flowlines	2,383	1	108	0	2,274	95%
35 Controls	1,351	14	36	36	1,265	94%
36 Umbilical	454	2	201	56	195	43%
37 Risers	750	0	1	80	669	89%
38 Installation	219	0	14	0	205	94%
TOTALS	7,176	50	459	274	6,393	89%

Exhibit D, Summary Chart of Subsea Document Status From Drill Center -1 BP Atlantis Facility, November, 2008.

On February 3, 2009, after months of contacting management regarding these problems, Mr. Abbott was terminated. On March 4, 2009, via email, Mr. Abbott reported the documentation issues to BP's Ombudsman. As recently reported on May 15, 2010, Stanley Sporkin, a former federal judge whose firm served as BP's ombudsman during that time, acknowledged the allegation to be substantiated.¹

Mr. Abbott also reported the documentation problems to the Inspector General for the DOI, and in June, 2009, Mr. Abbott participated in a conference call with DOI Solicitor and MMS staff to discuss the documentation problems at the BP Atlantis Facility.

Plaintiff FWW similarly began reporting the documentation problems to MMS in July, 2009, and FWW, pursuant to the Freedom of Information Act ("FOIA"), additionally made multiple requests for records pertinent to determining whether BP had submitted documentation compliant with MMS regulations, including specific requests for "as-built" documentation for the subsea components and systems of the BP Atlantis Facility.

B. MMS INACTION

Since Plaintiffs' notifications, the only cognizable action taken by MMS has been to discuss with BP which "as-built" documents MMS would to examine. MMS then provided BP approximately three weeks to produce these previously discussed "as-built" documents, which were limited only to drawings of the topsides and hull despite Mr. Abbott's assertion of BP's failure to maintain documents for its subsea components.

¹ Ramit Plushnick-Masti & Noaki Schwart, *BP's Own Probe Finds Safety Issues On Atlantis Rig*, The Seattle Times, May 15, 2010, available at http://seattletimes.nwsourc.com/html/business/technology/2011873247_apusgulfoilsplillbpsafety.html

With respect to FWW's multiple FOIA requests for records proving BP's adherence to MMS regulations, MMS provided FWW a number of documents, it however failed to establish any BP compliance whatsoever. Notably though, in denying a request by FWW for expedited FOIA treatment, MMS stated that "whether or not BP has in its possession documents labeled 'as-built' [as it] would not impact MMS's assessment of BP's compliance with MMS production safety system regulations." Exhibit B, MMS Denial of Expedited Processing, p. 2, October 30, 2009. MMS has recently admitted that **it has not investigated whether any subsea documentation exists on the BP Atlantis Facility**, incorrectly arguing that MMS does not require "as-built" drawings. Exhibit C, MMS Denial of FWW's Third FOIA Request, p. 2, April 30, 2010 (emphasis added). Accordingly, no verification has taken place by DOI or MMS to determine whether the critical subsea components and systems of the BP Atlantis Facility have proper documentation.

III. LEGAL ARGUMENT

Despite MMS's statement that it does not require "as-built" documentation for subsea components, DOI and MMS regulations in fact do require such, and MMS's failure to take action accordingly has created an imminently disastrous situation warranting preliminary injunctive relief.

A. STANDARD OF REVIEW

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, the Court may issue a preliminary injunction pending resolution of Plaintiffs' claims on the merits. Fed. R. Civ. P. 65; *Univ. of Tex. v. Camenish* 451 U.S. 390, 395 (1981). Preliminary injunctive relief is proper upon Plaintiffs establishing the following elements:

- (1) a substantial likelihood that he will prevail on the merits,
- (2) a substantial threat that he will suffer irreparable injury if the injunction is not granted,
- (3) his threatened injury

outweighs the threatened harm to the party whom he seeks to enjoin, and (4) granting the preliminary injunction will not disserve the public interest.

Lake Charles Diesel, Inc. v. GMC, 328 F.3d 192, 195 (5th Cir. 2003) (quoting *Mississippi Power & Light Co.*, 760 F.2d 618, 621 (5th Cir. 1985)). However, “[i]n the context of a request for a preliminary injunction the plaintiff need not demonstrate an absolute certainty of success on the merits.” *Chambers v. Coventry Health Care of Louisiana, Inc.*, 318 F.Supp.2d 382, 389 (E.D. La. 2004) (citing *Washington Metro.*, 559 F.2d at 844)). Instead, a sliding scale approach is taken, and “[o]ne moving for a preliminary injunction assumes the burden of demonstrating either a combination of probable success and the possibility of irreparable injury or that serious questions are raised and the balance of hardships tips sharply in his favor.” *Washington Metro. Area Transit Comm’n v. Holiday Tours, Inc.*, 559 F.2d 841, 844 (D.C. Cir.1977).

B. A SUBSTANTIAL LIKELIHOOD EXISTS THAT PLAINTIFFS WILL PREVAIL ON THE MERITS

At issue in this matter is DOI and MMS’s failure to enforce their own regulations and temporarily prohibit operations at the BP Atlantis Facility for continuing violations to the following: (1) the Platform Approval Program, 30 C.F.R. § 250.904(a); (2) Platform Verification Program, 30 C.F.R. § 250.904(b); (3) Deepwater Operations Plan, 30 C.F.R. § 250.293; (4) the general promulgated requirements for production systems, 30 C.F.R. § 250.800; 30 C.F.R. § 250.903; and (5) Risk Management Plan, 40 C.F.R. § 68.150. Defendants are required to temporarily prohibit operations under an oil and gas lease “if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas lease or not leased), or to the marine, coastal or human environment.” 43 U.S.C. § 1334(a)(1)(B). Cancellation of the lease is likewise proper “[w]henver the owner of any

producing[sic] lease fails to comply with any of the provisions of this Act, of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled.”

43. U.S.C. § 1334(d).²

Because of the imminent threat posed by Defendants’ failure to enforce their own regulations, Plaintiffs seek preliminary injunctive relief requiring DOI and MMS to immediately prohibit operations at the BP Atlantis Facility. Despite DOI and MMS’s claims to the contrary, BP has violated MMS regulations and the immediate prohibition of operations is critical to the protection and safety of the environment and the public health.

1. Violations to the Platform Approval Program & Platform Verification Program

MMS requires that the construction of deepwater platforms comply with the Platform Approval Program and the Platform Verification Program. 30 C.F.R. §§ 250.904(a) & (b). In order to obtain “approval” and “verification” under these programs, BP must submit a statement certifying that “[t]he design of this **structure** has been certified by a recognized classification society, or a registered civil or structural engineer or equivalent, or a naval architect or marine engineer or equivalent, specializing in the design of offshore structures. The certified design and **as-built plans and specifications** will be on file at (give location).” 30 C.F.R. § 250.905(j).

In response to a prior FWW FOIA request, MMS asserts that this certification

² Plaintiffs are cognizant of the procedural due process rights guaranteed to an oil and gas operator prior to the cancellation of a lease. Accordingly, Plaintiffs have limited their requested relief to an injunction pursuant to 43 U.S.C. § 1334(a)(2) requiring Defendants to temporarily prohibit operations at the BP Atlantis Facility. Nonetheless, because MMS regulations are promulgated for the purposes of protecting the environment and the public health, a violation of a MMS regulation constitutes a violation of 43 U.S.C. § 1334(a)(1)(B) and requires temporary prohibition. Further, BP’s blatant disregard for regulatory authority serves as further support of the imminent threat the BP Atlantis Facility poses despite Defendants failure to prohibit operations.

requirement does not extend to subsea components.³ Exhibit B, p. 3. In other words, MMS argues that the term “structure” within 30 C.F.R. § 250.905(j) does not extend to subsea components or systems. This, however, contravenes the basic canons of statutory construction for where a statute’s language is ambiguous, “[i]nterpretation of a word or phrase depends upon reading the whole statutory text, considering the purpose and context of the statute, and consulting any precedents or authorities that inform the analysis.” *Dolan v. U.S. Postal Service*, 546 U.S. 481, 486, 126 S.Ct. 1252 (2006); *see also Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307, 81 S.Ct. 1579, 6 L.Ed.2d 859 (1961) (“[A] word is known by the company it keeps— a rule that is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to the Acts of Congress.” (internal quotations omitted)). Because the term “structure” is not defined by MMS regulations nor does it retain a commonsensical application, it is necessary to consider the term in the context of the regulation as a whole. *See Dolan v. U.S. Postal Service*, 546 U.S. 481, 486, 126 S.Ct. 1252 (2006).

Looking at 30 C.F.R. § 250.905 as a whole, it is evident that the term “structure” includes subsea components and systems. Subsection (d) of this section lists examples of what are considered to be within the scope of the “structure”: “cathodic protection systems; jacket design; pile foundations; drilling, production, and pipeline risers and rise tensioning systems; turrets and turret-and-hull interfaces; mooring and tethering systems; foundations and anchoring systems.” 30 C.F.R. § 250.905(d) (requiring a “[c]omplete set of structural drawings”). Notably, “pipelines risers and rise tensioning systems,” are subsea components and systems, and their documentation was tracked

³ In response to FWW’s FOIA request, MMA cited to 350.905(j). This regulation, however, is not applicable MMS and it is likely that MMS intended to reference 30 C.F.R. § 250.905(k), a subsection to the Platform Approval Program regulation.

within the subsea document database at the BP Atlantis Facility. Furthermore, the term “structure” applies to other subsea components and systems. The definition of piping under MMS regulation 30 C.F.R. § 250.105 is “the piping, risers, and appurtenances installed for transporting oil, gas, sulphur, and produced waters.” *Id.* Thus, at the very least, the term “structure” includes the “pipelines risers and rise tensioning systems” and likely includes the various “appendages” attached to the pipelines or risers. 30 C.F.R. §§ 250.905(d) & (k).

Accordingly because the BP Atlantis Facility only had eighty “as-built” riser drawings out of 750 (less than 11%), BP could not have had all the “as-built plans and specifications...on file[,]” as required by the certification provision of 30 C.F.R. § 250.905(j). Consequently, BP has failed to “compile, retain, and make available to MMS representatives for the functional life of all platforms:...the as-built drawings...[,]” as required under 30 C.F.R. § 250.903(a)(1). Further, with regard to other subsea components and systems of the BP Atlantis Facility, there exists a lack of requisite “approved for construction” documentation under 30 C.F.R. § 250.905(d) for subsea systems, wellheads, trees, manifolds, pipelines/flowlines, controls, umbilical, installation. *See* Exhibit D. Out of a 7,176 documents, only 459 (less than 7%) have “approved for construction” documentation and thus violating the requirements of the programs. *Id.*

Finally, a requirement unique to the Platform Verification Program calls for the approval of a fabrication verification plan. 30 C.F.R. §§ 250.912(b)(3)(ii) & (vi). This plan must include “welding procedures” and “methods and extent of nondestructive examinations for welds and materials.” *Id.* However, less than three percent (3%) of Atlantis’s subsea Welding Procedure Specifications and Procedure Qualification Records were listed as “issued for construction” or “issued for design.” Ninety-five

percent of the records had no final approval at all, calling into question the quality of thousands of critical welds on subsea components. Accordingly, because BP has failed to maintain the requisite a complete set of “as-built” documents and a similar fabrication verification plan, BP is not in compliance with the Platform Approval Plan or the Platform Verification Plan.

2. *Violations to the Deepwater Operations Plan*

MMS requires that all deepwater oil and gas operators obtain approval of a Deepwater Operations Plan, 30 C.F.R. § 250.293. Such plan requires completion of a safety hazard analysis pursuant to 30 C.F.R. § 250.292(j), and must comply with the American Petroleum Institute Recommended Practice for Design and Hazards Analysis for Offshore Production Facilities, API RP 14J.

To comply with API RP 14J:

(a) A facility must maintain P&IDs and certain other drawings, as the “(t)he minimum safety and environmental information, which forms the basis of any hazards analysis.”

(b) Any Hazards and Operability Studies require a “complete set of . . . P&IDs” and other documents.

(c) P&IDs and certain other drawings needed for a hazards analysis of even the lowest risk facilities must be “up-to-date.”

(d) P&IDs and certain other documents need to be “maintained throughout the life of a facility.”

BP has failed to adequately maintain P&ID documentation. Of the 2,108 P&IDs detailing the subsea components of Atlantis Project, only 303 (14%) had been approved by engineers for design and construction. Accordingly, because BP has not maintained a complete, accurate, and up-to-date, or “as-built,” set of P&IDs throughout the life of the

Atlantis facility, BP is not in compliance with API RP 14J, and consequently, 30 C.F.R. § 250.292(j).

3. *Violations to General Promulgated Requirements of Systems*

MMS also requires that all oil and gas operators abide by the general regulations “govern[ing] the production safety system” promulgated under 30 C.F.R. § 250.800. MMS incorrectly asserts that regulations requiring “as-built” documentation do not “govern the production safety system,” and that “as-built’ drawings are not required to complete the hazard analysis required under 30 C.F.R. § 250, Subpart H.” Exhibit C, p. 3. MMS’s position ignores its own regulations governing production safety systems. Specifically, 30 C.F.R. § 250.801, a regulation within Subsection H, also requires compliance with API RP 14J, which instructs the facility to maintain complete and accurate “as-built” P&IDs and other drawings independent of other regulatory provisions.

Notably, compliance with the API RP 14J is also required for a Deepwater Operations Plan. As established *supra*, because BP has not retained the necessary documents required under the Deepwater Operations Plan, BP consequently failed to meet the requirements of API RP 14J. *See* 30 C.F.R. § 250.800.

MMS also requires that all oil and gas operators abide by the requirements set forth under 30 C.F.R. § 250.905 requiring operators to “compile, retain, and make available to MMS representatives for the functional life of all platforms . . . the ‘as-built drawings.’” 30 C.F.R. § 250.903(a) (2006). BP likewise failed to maintain the requisite “as-built” documents for its subsea components and systems. Of the 7,176 documents, only 274 (less than 4%) retained “as-built” status, leaving the majority of documents in violation of MMS general requirements.

MMS further requires that all operators “must . . . use, [and] maintain . . . all platforms and related structures on the Outer Continental Shelf . . . so as to ensure their structural integrity for the safe conduct of drilling, workover, and production operations.” 30 C.F.R. § 250.900(a) (2006). To ensure structural integrity, it is necessary that operators retain “as-built” documentation, and BP ‘s failure to maintain such documentation foregoes the possibility that the BP Atlantis Facility is structurally sound.

4. Violations to the Risk Management Plan

To prevent chemical and petro-chemical releases, Risk Management Plan regulations require, among other things, operators to submit a risk management plan certifying that management has documentation proving that equipment conforms to appropriate engineering design codes. 40 C.F.R. § 68.65. To comply with a risk management plan, documentation of P&IDs must exist. 40 C.F.R. § 68.65(d).

BP failed to maintain P&IDs. Of the 2,108 P&IDs detailing the subsea components of Atlantis Project, only 303 (14%) had been approved by engineers for design and construction. Accordingly, because BP had not maintained a complete, accurate, and up-to-date, or “as-built,” set of P&IDs throughout the life of the Atlantis facility, BP is not in compliance with 40 C.F.R. § 68.65(d).

As established above, DOI and MMS have failed to ensure that the BP Atlantis Facility is complying with the Platform Approval Program, the Platform Verification Program, the Deepwater Operations Plan, the Risk Management Plan, and other general promulgated requirements. Such failure poses an imminent risk to the environment and public health, and swift reaction in order to prevent irreparable harm to Plaintiffs.

C. A SUBSTANTIAL THREAT EXISTS THAT PLAINTIFFS WILL SUFFER IRREPARABLE INJURY

If allowed to continue, DOI and MMS's failure to enforce their own regulations will inevitably lead to another catastrophic event in the Gulf of Mexico causing Plaintiffs irreparable injury. Plaintiffs, Mr. Abbott and FWW members, live near or on the Gulf of Mexico, and their aesthetic, recreational, and professional interests depend upon the survival, health, and well-being of the natural resources, wild fish and other species in the Gulf of Mexico. Currently, these interests are suffering due to the recent Deepwater Horizon incident. The ramifications of Deepwater Horizon oil spill exemplify the injuries Plaintiffs will suffer if Defendants are not enjoined to take action. Plaintiffs will face the loss of their natural resources and wildlife habitats that define their Gulf Coast community, including the loss of shrimp, oysters, crab, menhaden, and game fish such as speckled trout and red drum. These losses, as noted in a 2007 study, will be long lasting, and the explosion of the ticking time bomb that is the BP Atlantis Facility will render Plaintiffs' losses permanent. Exhibit E, Jeffrey W. Short, et. al., *Slightly Weathered Exxon Valdez Oil Persists in Gulf of Alaska Beach Sediments After 16 Years*, 41 ENVIRON. SCI. TECHNOL. 1245, 1249 (2007). Further, Plaintiffs' ability to ensure the health of food originating from the Gulf of Mexico that they and their families eat, and their ability to continue to visit, observe, and enjoy the wild species and natural resources of the Gulf of Mexico, will experience immediate and irreparable harm from an accident at the BP Atlantis Facility.

Plaintiffs will also face economic loss should Defendants nonfeasance persist. Plaintiff FWW's members include commercial fishermen who derive significant income from fishing in the Gulf of Mexico. Such members would suffer irreparable harm as BP's own worst-case scenario indicates that an oil spill from the BP Atlantis Facility

would be much larger than the damages caused by the BP Deepwater Horizon oil spill. As of now, Gulf Coast fisheries are closed, and undoubtedly, another oil spill in the Gulf of Mexico would lengthen the duration of such closures.

Ultimately, a spill from the BP Atlantis Facility would kill a vast number of fish and other marine life that Plaintiffs professionally use and personally enjoy, resulting in irreparable harm to Plaintiffs' precious aesthetic and recreational interests and economic livelihoods. The gravity of this situation, as recognized by Mr. Mike Sawyer, an independent engineer who evaluated data from the BP Atlantis Facility, is pronounced. "Time is of the essence in avoiding . . . [an] environmental disaster." Exhibit F, Michael E. Sawyer, P.E., CSP, BP Atlantis Report, May 12, 2009, p. 1. Accordingly, Defendants must be compelled to temporarily prohibit operations at the BP Atlantis Facility.

D. PLAINTIFFS' THREATENED INJURY OUTWEIGHS DEFENDANTS' THREATENED HARM

Any threat of harm posed by Plaintiffs' request for preliminary relief is minimal when compared to the gravity of Plaintiffs' potential injuries. As noted above, the calamitous effects of an oil spill impute long term or permanent damages to natural resources and marine habitats. For example, a study of the Exxon Valdez oil spill revealed that subsurface oil remained present at significant levels 16 years after the fact. Exhibit E, p. 1249. More haunting, though, is that even after 16 years, the persistence of this subsurface oil continued to pose a contact hazard to many marine species, including otters, ducks, and birds. *Id.* Given the rich ecological ecosystems of the Gulf of Mexico Coast, the permanency of oil would have disastrous effects, and again would impair Plaintiffs' abilities to professionally and personally use and enjoy the natural resources and marine habitats of the Gulf Coast.

Further, the only potential threat of harm to Defendants resides in loss of royalty revenue. This revenue loss, though, pales in comparison to the significant costs of remediation efforts and damages related oil spills, which are oftentimes passed down to taxpayers. The Exxon Valdez disaster cost approximately \$7 billion and as discussed above, still left permanent damages to the Alaskan Coast. Further, it is debatable whether loss of revenue can ever be considered a potential harm given Secretary Salazar's recent declaration that "he intends to restructure the Minerals Management Service (MMS) in order to establish a separate and independent safety and environmental enforcement entity. [Secretary] Salazar said the MMS's inspection, investigation, and enforcement operations will be separate and independent from the agency's leasing, revenue collection, and permitting functions."⁴ Accordingly, this new division of MMS tasked solely with enforcement of MMS regulations will suffer no threat of monetary harm from Plaintiffs' requested relief. As such, the potential injuries to Plaintiff caused by an incident at the BP Atlantis Facility far outweighs any perceivable threat to DOI and MMS.

E. GRANTING A PRELIMINARY INJUNCTION WILL SERVE THE PUBLIC INTEREST

As hurricane season quickly approaches, it is critical that DOI and MMS prohibit operations in order to protect the public interest. The BP Atlantis Facility lacked documents that are crucial for safe shut-down and start-up of operations, which are often critical during a hurricane. Tropical storms can wreck havoc on energy platforms in the Gulf of Mexico, posing serious harm to the marine environment and the local

⁴ Press Release, Salazar Launches Safety and Environmental Protection Reforms to Toughen Oversight of Offshore Oil and Gas Operations, May 11, 2010, *available at* <http://www.doi.gov/news/pressreleases/Salazar-Launches-Safety-and-Environmental-Protection-Reforms-to-Toughen-Oversight-of-Offshore-Oil-and-Gas-Operations.cfm>.

fishing communities. For example, in 2008, 60 platforms were destroyed as a result of Hurricanes Gustav and Ike., and Hurricanes Katrina and Rita destroyed 113 platforms.

An accident at the BP Atlantis Facility could threaten public health, the marine environment, and the local fishing communities. Oil is toxic to the plants and animals at the base of the marine food chain. It also sickens and kills birds, mammals, and fish. Oil spills can severely harm coastal economies, including the country's \$32 billion commercial fishing and \$60 billion ocean and coastal tourism and recreation industries. Finally, as evidenced by the tragic deaths caused by Deepwater Horizon disaster, the increased risk of catastrophic errors from BP's apparent failure to maintain proper documentation could lead to harm or death to platform workers. The sanctity of human life calls for its utmost protection, and such can be accomplished through the enforcement of MMS regulations.

Accordingly, in order to protect the public interests, time is absolutely of the essence. As noted by Robert Bea, an University of California Engineering Professor and an oil pipeline expert, "[r]unning an oil rig with flawed and missing documentation is like cooking a dinner without a complete recipe," and "[t]his is symptomatic of a sick system. This kind of sloppiness is what leads to disasters. The sloppiness on the industry side and on the government side. It's a shared problem."⁵

IV. CONCLUSION

To fulfill the policy of the United States, DOI and MMS must either enforce applicable regulations or be compelled to do so. Here, DOI and MMS have failed to enforce those regulations, and unless relief is granted by this Court, a catastrophe is

⁵ Ramit Plushnick-Masti & Noaki Schwartz, *BP's Own Probe Finds Safety Issues on Atlantis Rig*, THE SEATTLE TIMES, May 15, 2010, available at http://seattletimes.nwsourc.com/html/business/technology/2011873247_apusgulfoilsplillbpsafety.html

certain to occur at the BP Atlantis Facility, which will undoubtedly cause unprecedented, irreparable damages to the environment in and surrounding the Gulf of Mexico and the general public health.

**XII.
PRAYER FOR RELIEF**

WHEREFORE Plaintiffs respectfully pray that this Court grant Plaintiffs' Motion for Preliminary Injunction, and similarly request:

- (a) The Court entering the following as a finding of fact:
 - (i) The court finds as a fact that oil and gas production from the BP Atlantis facility is in violation of the statutes and applicable regulations, and that continued production from the facility constitutes and creates an imminent threat of immediate and irreparable harm to the environment of the Gulf of Mexico and waters of the United States located therein, the court further finds that the violations are so wide-ranging and pervasive that it would be impossible for such violations to be remedied within a short period of time and that an immediate shutdown of production from such platform is necessary for the protection of the environment of the Gulf of Mexico and waters of the United States located therein.
- (b) The Court prohibit Defendants from the following actions:
 - (i) continuing to allow oil and gas production from the BP Atlantis facility until the facility is brought into full compliance with all statutes and regulations of the United States which are designed to protect the environment from harm;
 - (ii) allowing further production of oil and gas from the BP Atlantis Facility until such facility has complied with all of the statutes and regulations (1)

the Platform Approval Program, 30 C.F.R. § 250.904(a); (2) Platform Verification Program, 30 C.F.R. § 250.904(b); (3) Deepwater Operations Plan, 30 C.F.R. § 250.293; (4) General Promulgated Requirements for Production Systems, 30 C.F.R. § 250.800; 30 C.F.R. § 250.903; and (5) Risk Management Plan, 40 C.F.R. § 68.150.

(c) The Court compel Defendants to perform the following actions:

(i) requiring compliance with the statutes and regulations of the United States as a condition of production of oil and gas from the BP Atlantis Facility.

Respectfully submitted:

/s/ Mikal C. Watts

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing pleading was served on all counsel of record through electronic notification pursuant to the electronic filing in the United States District Court for the Southern District of Texas this 17th day of May, 2010 as well as on the following parties:

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