Column - Kathleen Hartnett White

Opinion
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AUSTIN - The federal government has enlarged the destructive aftermath of the explosion at BP's Macondo well in the Gulf of Mexico. With the oil flow's increasing coastal intrusion and an inept response by the federal government to containment, government edict now adds a greater blow to the regional Gulf economy. The Obama administration issued a blanket moratorium on all pending, approved and currentoffshore drilling at depths below 500 feet in the Gulf of Mexico and the Pacific Ocean.

At least 150,000 jobs are directly tied to the 3,600 offshore drilling rigs in the Gulf. At a rate of 1.6 million barrels per day, the Gulf provides 31 percent of domestic oil production. Loss of this production could increase U.S. dependency on foreign oil to more than 70 percent and increase the risk of oil spills.

Does this oil spill justify halting drilling across the Gulf? A federal judge says no. On June 21, the Federal Court in the Eastern District of Louisiana issued an injunction against enforcement of the six-month moratorium issued by the Department of Interior.

U.S. District Judge Martin Feldman in Louisiana concluded that the immense scope of DOI's moratorium lacked any factual justification as required by law. "The blanket moratorium, with no parameters, seems to assume that because one rig failed and although no one yet fully knows why, all companies and rigs drilling new wells over 500 feet also universally present an imminent danger."

The Outer Continental Shelf Lands Act allows the Mineral Management Service to suspend drilling when there is a threat of irreparable harm. Suspension, however, must be justified by facts about "the individual case." DOI inspected the 33 actively-drilling deepwater rigs immediately after BP's explosion and allowed continued drilling.

Although DOI claimed the moratorium was recommended by experts from the National Academy of Engineering, a majority of those experts disagree. Eight of the 15 experts wrote that the moratorium would increase risk of spills, devastate the Gulf economy and weaken national security. Shutting down a well was what BP was doing when the well casing ruptured and the blow-out preventer failed. With Gulf production lost, more tankers filled with foreign oil will cross the Gulf. Globally, tanker spills out-number drilling spills by a factor of 7-1, and have released four times more oil than drilling.

The endgame emerges. The Obama Administration is using the horrific Gulf oil spill to force an unrealistic energy policy in which oil is viewed as a villainous and dispensable part of the U.S. energy supply. Similarly, a recently formed presidential commission to prevent another oil spill consists of ecologists and environmental activists but no experts in oil and gas production. Sniffing a foregone conclusion, The Wall Street Journal called this group the "Anti-Drilling Commission."

Under current law, federal agencies cannot exert coercive power because "it feels like the right thing to do." Agencies can only act within the limits of statute and constitutionally guaranteed due process.

Judge Martin Feldman's rebuke of the Obama administration's reckless moratorium is a welcome return to the rule of law. Perhaps the courts, the third and co-equal federal power, will have the last word.

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