

How to Regulate the Gulf

My 30-year legal career—including experience as a prosecutor during the Iran-contra affair and inspector-general of the Justice Department—has been defined by law enforcement. So I was surprised when the White House and Interior Secretary Ken Salazar asked if I'd like to run the Minerals Management Service, the regulatory body in charge of offshore oil and gas drilling. I also wasn't sure I wanted the job, which would mean leaving a thriving private practice to head an agency under more investigations than any in memory. "I'm not there yet," I told Secretary Salazar after our first face-to-face meeting about the work. I was still undecided after the president reached me the following day, although his call had an enormous impact on my thinking.

As someone committed to public service, I really couldn't say no. On reflection, I also realized that I was well prepared to lead the troubled institution. During the past decade I monitored the D.C. police department's implementation of new policies on the use of force, investigated breakdowns in the Houston Police Department Crime Lab, and helped the state of Delaware shore up problems with its inmate health care. These experiences—each involving a serious, well-publicized breakdown of performance followed by a comprehensive reform of strategy—will guide me as I reform the MMS, which we recently renamed the Bureau of Ocean Energy Management, Regulation and Enforcement (not the shortest or most euphonious name, I know, but one that better reflects the agency's core mission of ensuring safe and responsible energy production in federal waters).

I've learned that few embattled organizations are truly rotten from the top down; certainly BOEMRE is not. Its reputation has been severely damaged, sullied by reports of coziness with oil companies and by politicians who blame regulators for the ongoing disaster in the Gulf of Mexico. But the bureau contains honest and deeply committed public servants, many of whom have been working day and night to address the crisis offshore. They want to work for an agency that earns the public's trust.

It remains to be seen whether the Deepwater Horizon tragedy could have been prevented. The preliminary evidence suggests that BP and other companies cut corners or made grave errors that led to the explosion. But that's not to deny there's room for more aggressive regulations and enforcement. Late last month I announced a new Investigations and Review Unit, which will look into allegations of misconduct against the companies we regulate, as well as against bureau personnel. We're now building that team, recruiting prosecutors, investigators, scientists, and other experts who can handle the complex technical issues involved and be proactive in their pursuit of the facts. If people fail to cooperate, they could be dismissed from their jobs or their company's drilling permits could be -suspended. And if we find serious wrongdoing, we'll refer it to the Justice Department for possible prosecution. At my direction, the team will explore conflicts of interest, real or perceived, and devise broader structural solutions where needed.

Some areas for change are already obvious. The bureau needs more aggressive investigators, more robust reviews of applications for drilling permits—including more thorough environmental analyses—and more research into spill control. We also need more funding, an issue even our fiercest critics acknowledge.

For now I can at least promise that the next steps, while potentially aggressive, will not be hasty. As inspector-general I often clashed with one of my colleagues whose opinions differed from my own. When I left the post, however, we shook hands. “This is what I tell people about you,” he said, “you always listened. You never made up your mind until you heard what I had to say.” I don’t know how comforting that is to genuine rule benders, but it’s true: I don’t make snap judgments. If I did, it seems, I would have said no to this job.

Bromwich is director of the Bureau of Ocean Energy Management, Regulation and Enforcement.