

Focus Area: Political Demands

Observation:

The Deepwater Horizon oil spill, which early on was designated a Spill of National Significance, challenged the entire oil spill response community in the United States and brought the unprecedented involvement of elected officials in the management of the event. Politicians at all levels of government (including high ranking state and federal appointed agency personnel) were drawn into the event in ways unimaginable prior to the 22 April 2010 sinking of the rig. Although elected officials have a sworn duty to represent the interests of their respective constituent groups, and the sincerity of their motivation is not being questioned in this discussion, the nature and extent of their impact on the response was largely negative. In fact, individuals tasked with and designated by law with the direct management of the event, spent an inordinate amount of time dealing with the unrealistic expectations and unrealistic requests of elected officials, who were largely unfamiliar with response policy in the U.S. Decisions affecting the acquisition, deployment and eventual demobilization of spill response assets were frequently compromised based upon political considerations.

Discussion:

Unlike a response to a natural disaster, which if a Presidential Disaster Declaration is made is managed pursuant to the Stafford Act, oil spills in the U.S. are managed according to the National Contingency Plan (NCP). The two management constructs are distinctly different in nature. The Stafford Act is a “bottom up” system whereby federal assistance is pushed to the local level to address local impacts and needs. State and local elected officials enjoy a legitimate sense of empowerment in a Stafford Act incident. The NCP on the other hand, is “top down” system that places ultimate incident management authority with either the EPA or the USCG depending on the location of the event. The federal lead agency directs and oversees the actions of the “responsible party” to ensure the incident is efficiently and effectively mitigated. In the case of the Deepwater Horizon incident, the USCG was the lead federal agency.

One of the most fundamental and notable failures of the Deepwater Horizon event, which led to a profound level of political involvement, was the lack of familiarity by state and local elected officials of the NCP. The NCP is the basic foundation of any spill response in the U.S., and coupled with the more regional Area Contingency Plan, these two plans have a proven track record of success. Unfortunately, the ignorance of the plans by politicians along the Gulf Coast compromised the successful implementation of the NCP/ACP. Given the scope of the Deepwater incident, the locals were more inclined to treat the incident as a Stafford Act response, and as such, were expecting the response to be handled in the “bottom up” style they utilized during hurricane events. This profound disconnect, which was mentioned by many interviewees from all sectors interviewed, was most responsible for the unprecedented and largely negative involvement of elected officials – state and local officials did not understand the management system that, by law, was to be implemented to manage the event.

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An additional overlay and complicating factor was the lack of familiarity of the National Incident Management Systems/Incident Command System (NIMS/ICS, hereinafter NIMS) by local and state elected officials. Like the NCP, NIMS is a tested and proven incident management system which clearly delineates a response structure and roles for any hazard. By federal law, it is the management structure that will be utilized for “all hazards.” NIMS spells out specific roles for federal and state governments, responsible parties and provides a mechanism for local concerns to be addressed. Since there was a designated “responsible party” for the Deepwater event i.e., BP, they too were a part of the incident management command structure, or “Unified Command.” The Unified Command consists of a representative from the federal government (USCG), state government (state agency, which differed from each of the affected Gulf states) and a representative from BP. By design, local concerns are supposed to be conveyed upward to the Unified Command through the state representative. Again, however, it was apparent that across the spectrum of state and local governments, elected officials were by and large unfamiliar with NIMS.

Because elected officials were unfamiliar with the NCP/ACP and NIMS, or reluctant to embrace them, the tendency was to reject them and revert back to a construct they understood – the Stafford Act. It is important to note that a Presidential Disaster Declaration was never issued, and as such, the Stafford Act was never invoked.

Many individuals interviewed for this project expressed great frustration with how politics and political demands permeated the Deepwater response. And although elected officials are frequently invited to participate in spill response exercises and contingency planning meetings, which would expose them to spill management fundamentals, it is noted they seldom appear or send representation. This unfamiliarity with spill response at it’s most basic level complicated the execution of the response for this event. And when unrealistic expectations were not met, elected officials either took matters into their own hands (Stafford Act) or went to one of the many media outlets to unfairly criticize response management.

Several examples of unrealistic expectations or uninformed input by elected officials demonstrate the point.

- Officials in many jurisdictions requested that containment boom be deployed in triplicate along their respective coastlines, assuming the redundancy would enhance the level of protection. Despite the efforts by seasoned spill response professionals to inform the officials that containment boom is not suitable for high energy environments, or that boom cannot prevent tarballs from hitting beaches (tarballs are typically neutrally buoyant and float below the surface), boom was deployed to appease the elected officials. In a short period of time the forces of nature rendered the boom useless.
- Likewise, local officials also requested that containment boom be deployed along emergent marshes to keep oil out of the marsh. Again, despite the advise that boom has its limitations, boom demands were met. Once again, high winds and

high sea states rendered the boom useless and often pushed it into the marsh resulting in more damage to the environment than if nothing were done.

- High current passes and cuts are virtually impossible to boom. As best, deflection booming strategies may steer the oil to desirable locations where collection and recovery may be facilitated. But on several occasions and despite the advice of professional responders, elected officials requested that passes be boomed or the mouth of bays be closed. In all cases these strategies failed and resulted in the expenditure of millions of dollars and used equipment resources that could have been better deployed to other areas.
- It was noted that officials in several locations impeded or prevented the lawful redeployment of spill response resources out of their respective jurisdictions for fear that they would be “left short.” In these cases, the redeployment of the resources was from areas that were not threatened by oil to areas that were in harm’s way. Further, it was noted that equipment that was to be moved inland in advance of a threatening hurricane was not allowed to leave for fear that it would “not make it back.”
- In some jurisdictions, local officials became directly involved in hiring decisions related to the local workforce. Professional spill response contractors were pressured to hire locals that were neither trained nor physically up to the task. This was driven by officials’ preference for local labor over “outsiders.”
- The dispersant pre-authorization protocol was also impacted by interest group and political considerations when the application parameters were significantly modified mid-course. These modifications were done outside the RRT process and essentially short-circuited the existing arrangements.
- It was noted by several interviewees that the decision to “triple resources” even though massive quantities of spill response equipment were already on scene and more was cascading into the region, complicated the response and did not, practicably speaking, enhance the response.

The difficulties and challenges of mounting a massive spill response effort were not well understood by elected officials, nor was their understanding of the management systems in place to manage the event. In some cases, this frustration pitted jurisdiction against jurisdiction for resources when in fact, a decision apparatus was available to mediate these disputes.

Lessons Learned:
Next Week

Recommendations:
Next Week
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