

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
June 17, 2010

Opening Statement Of Chairman Patrick Leahy,
Senate Judiciary Committee Executive Business Meeting
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Today we can complete our consideration of John McConnell's nomination to the Federal District Court in Rhode Island. I thank Senator Whitehouse for his patience, and know that both he and Senator Reed strongly support this nomination. I was struck that the Chamber of Commerce has come out in opposition to this nomination. I do not recall that organization opposing a district court nominee. Of course, if Mr. McConnell had represented those corporations who added lead to their products, I suspect the Chamber would be supporting him. The fact that he has represented children and families harmed by these lead-based products means that they and, it seems, some Republican members will oppose him despite his qualifications.

I also hope that today the Committee will take up and approve the Environmental Crimes Enforcement Act that I introduced in the wake of the British Petroleum oil spill. This is a common sense piece of legislation to ensure that those who destroy the lives and livelihoods of Americans through environmental crime are held accountable. I thank Senators Whitehouse, Feinstein, and Kaufman for joining as a cosponsor of this bill, and I hope that Senators from both parties will join us to better ensure accountability.

It has been almost two months since the collapse of BP's Deepwater Horizon Oil Rig, which killed 11 men. We had a family member, the brother of one of those men, testify before us just last week. I have introduced a bill to assist those families that I would also like to see passed without delay.

Oil continues to flow into the Gulf of Mexico, and deadly contaminants are washing up on the shores and wetlands of Louisiana, Mississippi, Florida, and Alabama. This catastrophe threatens the livelihood of thousands of people throughout the Gulf region. The people responsible for this catastrophe must be held accountable. The Environmental Crimes Enforcement Act aims to deter environmental crime, protect and compensate its victims, and encourage accountability among corporate actors.

This bill is set up to deter schemes that damage our environment and hurt hard-working Americans by increasing sentences for environmental crimes. All too often corporations treat fines and monetary penalties as merely a cost of doing business to be factored against profits. To deter criminal behavior by corporations, it is important to have laws resulting in prison time. In

that light, this bill directs the United States Sentencing Commission to consider the sentencing guidelines for environmental crimes to reflect the seriousness of these crimes.

Criminal penalties for Clean Water Act violations are not as severe as for other white-collar crimes, despite the widespread harm the crimes can cause. As the current crisis makes clear, Clean Water Act offenses can have serious consequences to people's lives and livelihoods, which should be reflected in the sentences given to the criminals who commit them. This bill takes a reasonable approach and should have a deterrent effect.

This bill also aims to help victims of environmental crime - the people who lose their livelihoods, their communities, and even their loved ones. To do that, it makes restitution mandatory for criminal Clean Water Act violations. Currently, restitution in environmental crimes - even crimes that result in death - is discretionary, and only available under limited circumstances. Under this bill, those who commit Clean Water Act offenses would have to compensate the victims of these offenses for their losses. That restitution would help the people of the Gulf Coast rebuild their coastline and wetlands, their fisheries, and their livelihoods, should criminal liability be found.

Importantly, this bill could allow the families of those killed to be compensated for criminal wrongdoing. As we have seen in the BP case, arbitrary laws can shut down crucial forms of civil recovery for the families of those killed in tragedies like this one. This bill would ensure that, when a crime is committed, the criminal justice system can provide for restitution to victims, allowing the families of those killed to obtain the means to carry on. This is something Senator Whitehouse highlighted at our hearing last week.

This bill then makes two common sense improvements to the law - well-reasoned increases in sentences and mandatory restitution for environmental crime. These measures are tough but fair. They are important steps toward deterring criminal conduct that can cause environmental and economic disaster and toward helping those who have suffered so much. I hope all Senators will join us in supporting these important reforms.

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