US appeals court rejects moratorium on deepwater drilling

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A federal appeals panel ruled late Thursday against the Obama administration's request to maintain its temporary ban on deepwater drilling in the Gulf of Mexico. The 2-1 decision by a three-judge panel of the Fifth Circuit Court of Appeals leaves intact an injunction by District Judge Martin Feldman.

The Department of the Interior issued the order to suspend deepwater drilling for six months in the wake of the BP oil disaster. The order stopped work on a relative handful of wells being drilled at water depths of greater than 500 feet, like BP's Macondo well, which exploded April 20. The vast majority of Gulf oil wells are unaffected because they are already in production or because the drilling is in shallow water.

Thirty-two offshore oil drilling companies filed suit and won the order from Judge Feldman, who has extensive stockholdings in both petroleum and oil services companies. The drilling companies had the support of both Republican and Democratic politicians in the Gulf region, most notably the Republican governor of Louisiana, Bobby Jindal, and the state's senior U.S. senator, Democrat Mary Landrieu.

In the course of a lengthy oral argument in a New Orleans courtroom, Michael Gray, the attorney for the Department of the Interior, declared the moratorium is "necessary to make sure we're not faced with a second oil spill while we're still struggling to contain and clean up the spill from the Deepwater Horizon incident. I think it's beyond question that there's a threat of serious harm to the marine or coastal environment."

Judge W. Eugene Davis told attorneys for both sides, "We expect to rule by early next week at the latest." But only 90 minutes later, the 2-1 decision was issued. The majority justices ruled that the administration had failed to show irreparable harm would occur if the stay of Judge Feldman's order was not granted, because there was no proof that any deepwater drilling would be resumed during the appeal of the lower court's order, which they set for a hearing August 30.

No oil company has resumed deepwater drilling in the Gulf since Feldman's order, in part because of the enormous cost of another shutdown in the event that the Obama administration prevails on appeal. Several companies have begun moving rigs and skilled workers overseas for other projects.

Interior Secretary Ken Salazar said before the ruling that he would issue a new version of the moratorium order to block deepwater drilling, in a form more likely to withstand judicial review.

Whatever the technical and legal issues immediately involved, from a political standpoint the appeals court ruling demonstrates the virtually unlimited power of the oil companies over every branch of the government. Even under conditions where the BP disaster is destroying the Gulf of Mexico and befouling more than 500 miles of coastline, the oil industry still reigns supreme in the federal courts.

Their direct personal involvement with the industry did not lead the Fifth Circuit judges to recuse themselves. Judge Davis has investments in Edge Petroleum and Progress Energy. Chief Judge Edith Jones has held stock in BP, ExxonMobil and Pennzoil, while her colleague Edith Clement has investments in BP, ExxonMobil, Conoco and Chevron.

In addition to this personal stake, and more decisively, the federal judiciary is bound by a thousand threads to the class interests of the ruling elite. Every federal judge, in the district courts, appeals courts and the Supreme Court, is a tried and trusted defender of the capitalist system and the "rights" of property and wealth.

Meanwhile, the *Washington Post* supplied another

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reason for the Obama administration's kid-glove treatment of BP, reporting Monday that the Pentagon continues what it called "immense purchases of aviation fuel and other petroleum," to the tune of nearly $1 billion in the current fiscal year.

"In fiscal 2009, BP was the Pentagon's largest single supplier of fuel, providing 11.7 percent of the total purchased," the newspaper reported, citing a spokeswoman for the Defense Logistics Agency. A BP spokesman told the newspaper that at least one "big contract" has been signed since the Gulf oil disaster.

Citing statements by a former lawyer for the Environmental Protection Administration, the *Post* reported that an EPA proposal for possible debarment of BP from government contracting was blocked after the Pentagon told her that BP was supplying 80 percent of the fuel used for US military operations in the Middle East.

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