

RESPONSE CAPABILITY: CAN ECONOMICS JUSTIFY SUSTAINABILITY?¹

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ABSTRACT

This paper explores the motivations for corporate engagement in environmentally sustainable behavior. Although there are several reasons for companies to apply environmentally sustainable business practices, the most enticing are economic. Like a pendulum, the Oil Pollution Act of 1990 responded to a full left swing of potential major disasters and brought the weight to the far right. These regulations established requirements for the response equipment/personnel needed in the event of a worst-case discharge. Also due to the significant efforts of established pollution prevention regulations, the past decade has seen a drastic drop in the number of spills and the amount of oil discharged.

The strides toward improvement are impressive, but the reduction in spills, seems to be leading toward regionalization of local response assets and elimination of excess duplication by not replacing unserviceable equipment. Effective responses are also a key part of environmental sustainability. The end result could be a very expensive response, which could be simply averted by retaining current levels of local response capability.

Understanding that the primary objective of any company is profit, environmental protection can provide one path toward financial reward. This includes, but is not limited to a “green” public image, which generally increases the consumer base and profits. The economic benefits of environmentally sound business practices, however, are not always initially apparent. Therefore, monetary gain may not always present sufficient motivation. In this case, proponents of environmental sustainability can cite social responsibility as cause, or look to the federal government for support and control.

In an effort to stop the swing of the pendulum between a major disaster and the inability to respond, companies should be encouraged to maintain response capabilities at their current levels and to recognize that a loss of local response resources could be both an environmental and financial nightmare.

DISCUSSION

Social Responsibility

When UN Secretary-General Kofi Annan addressed the World Economic Forum on January 31, 1999, he presented the UN Global Compact for the first time. The Global Compact was a challenge to the world’s businesses and their leaders to construct the “social and environmental pillars required to sustain the new global economy and make globalization work for all the world’s people (UN Global Compact, 2001).” Mr. Annan said,

...let’s choose to unite the powers of markets with the authority of universal ideals. Let us choose to reconcile the creative forces of private entrepreneurship with the needs of the disadvantaged and the requirements of future generations...(UN Global Compact, 2001)

By definition, social responsibility is “the idea that businesses should not function amorally, but instead should contribute to the welfare of their communities” (Investorwords, 2001). Because of the recognized relationship between businesses and the environment, social responsibility has, within the last quarter century, taken on more significance. Authors on this subject approach this concept from very different angles. Some consider social responsibility philosophically. Others disagree, including C.J. Barrow who writes that many companies seemingly in it only to make money are actually run by some very altruistic people who “realize the value of public good,” which may in fact prompt them to incorporate environmental strategies (Barrow, 1995). And there are those, like myself, who will argue that a company’s motives may not matter at all, as long as they are not causing undo stress and harm to the environment. Some stress is inevitable, but limiting it through prevention and maintaining a quick, effective response capability mitigate that impact.

But moral incentives might not be a sufficient push for corporations to risk quarterly reports in support of future environmental protection. Profit is a strong motivator and economic incentives may be the best solution, even though moral conduct can have a “beneficial economic payoff” (Bowie, 1999).

An economic incentive can be either positive or negative and is designated as one or the other based on whether or not a company profits or loses money. Several examples of positive incentives will be covered in the next paragraphs, such as insurance premiums and extended consumer bases. Negative economic incentives refer to such things as avoidance of fines and higher taxes.

The UN Global Compact lists nine separate reasons why a company should consider including socially responsible activities in its daily practices. Overall, the compact argues, “good environmental performance makes good business sense” (UN Global Compact, 2001). Good business sense to most includes good economic sense. The UN statement implies that by adhering to socially responsible practices, a company can, in addition to other benefits, actually achieve higher economic returns. In other words, there is more money to be made in protecting the environment than in destroying it. Franz Doorman noted,

preventing pollution to the extent possible...makes economic sense. Undoing pollution, if possible at all, is terribly expensive, as the clean up of toxic dumps and contaminated

soil has shown. Avoiding pollution is therefore a lucrative investment, certain to generate huge savings in the future (Doorman, 1998).

It is true that today many companies are “shifting from regarding environmental protection as a necessary evil to viewing it as an essential aspect which can also generate business” (Barrow, 1995).

One of the UN’s first reasons is purely economic in purpose and offers a positive incentive. The UN compels companies to pursue environmentally responsible practices because “insurance companies prefer to cover a cleaner, lower risk company,” (UN Global Compact, 2001) i.e. how likely it is that a company will be responsible for an oil spill or will be required to provide worker’s compensation resulting from a hazardous situation. Not only will it be easier for a company to get insurance, but the rates will also be lower. Barrow agrees, “advantages to the company include possible savings in insurance premiums” (Barrow, 1995).

Another reason reads, “banks are more willing to lend to a company whose operations will not burden the bank with environmental lawsuits or large clean-up bills” (UN Global Compact, 2001). Cleaner, safer practices equal a lower risk for accidents, i.e. good processes eliminate risks to people, property and the environment (Chevron Texaco, 2004). Similar to an insurance company, a bank does not want to lose money. Lower risk of mishaps results not only in more of a chance for a company to get a loan, but also possibly in lower interest rates. Peter Roberts states that, “any company that fails to convince its bankers, insurers or investors of its environmental credentials risks endangering or limiting its own future success” (Roberts, 1995).

Some reasons can be both economic and moral at the same time. Environmental stewardship has been shown to have a positive effect on a company’s image.² This can be both financially and morally rewarding. On the other hand, environmental damage tarnished Exxon’s image so badly following the Valdez incident in 1989 that many customers chose to cancel their Exxon credit cards and boycott Exxon gas stations entirely. Exxon also spent much time and money renaming their other vessels in order to disassociate them from the incident.

In essence, the UN wants companies to acknowledge that doing the ‘right’ thing for the environment makes them look better in the eyes of financiers and consumers alike. And it follows that a more positive public image will encourage more support from the government, financial institutions and consumers. All of this leads to financial savings as well as higher sales because of the increased customer satisfaction and support.

Capabilities and Readiness

All in all, everyone agrees that environmental protection through *prevention* is both necessary and beneficial. But the risk of a release is still a real concern and a discord seems to exist between Oil Spill Response Organizations (OSROs) and oil producing corporations on *response preparedness*, including capacity and readiness factors. Environmental protection includes quick, effective responses in order to minimize damage to the environment. And this is where the benefit of competent OSROs shines brightest.

The larger oil companies generally feel comfortable in overall response capability. Based on several interviews with local companies, prominent U.S. oil corporations insist that they are still 100% engaged in environmental protection, regardless of reductions in number, frequency and amount of oil spills as well as the focus on and redirection of capital toward new security requirements. Also, they are convinced that should an unfortunate large spill happen, they would have no problem effectively responding quickly and safely to protect the environment.

The OSROs disagree. Many OSROs have had to expand their business scope in order to remain financially viable. That is to

say that no longer can a spill response organization remain solely engaged in oil spill clean up response without suffering economic loss and ultimate financial ruin. Several OSROs are now working with their clients in more expansive roles, acting as Qualified Individuals, Persons-in-Charge, writing response plans and operations manuals, as well as security plans. Tank cleaning operations and other industrial services are also popping up in traditional oil spill response companies.

For those organizations that have managed to successfully broaden their horizons and expand their scope of business, we must offer kudos. This, however, is not the case for every OSRO. Many have merged with other companies or simply shut down entirely due to a lack of job opportunities. What impact does this have on the response community and overall preparedness?

Consider this: A facility, as defined by 33 Code of Federal Regulations (CFR) Part 154 is required to develop and comply with a Response Plan. This plan includes, among other things, specific details on response equipment. Per 33 CFR 154.1045(c), each response plan “must identify response resources that are available, by contract or other approved means...to respond to the facility’s average most probable discharge.” This includes oil recovery devices, storage capacity and “1,000 feet of containment boom or two times the length of the largest vessel” that regularly visits the facility to conduct transfers, whichever is greater. Based on my findings, a majority of oil production corporations fulfill this “contract” requirement through an agreement with an OSRO in the area. The CFR dictates that these response assets must be able to arrive on-scene within one hour of the detection of a spill.

If an area boasts five OSROs for example, and each one maintains 10,000 feet of boom, there is a total of 50,000 feet of boom available for responses. If one company shuts down and two others merge leaving only three valid OSROs, what would happen to the extra stores of boom? There is no requirement for OSROs to have a set amount of boom in their warehouses. In fact, it is very possible that the three remaining companies may not have the financial ability to acquire or maintain the extra boom. If they do, an OSRO typically will not repair or replace damaged boom that is in excess of classification, contract or planning requirements. Essentially, over time a region’s access to what was 50,000 feet of boom will drop to only 30,000 feet and the ultimate response capability will be significantly diminished.

Why is this happening? Undeniably, across the board, the cost of response, including such things as retainer fees and drill participation, has increased dramatically over the past several years. Most attribute this increase to simple inflation. But a lack of spill response opportunities due to the decrease in number of spills has resulted in a drop in overall income to cover continued rising overhead expenses. OSROs have no choice but to raise prices in order to stay in business. It is the theory of supply and demand at its finest.

And with a reduction in the number of responses, OSROs also face a decrease in the amount of real life experiences and expertise available. Drills that require equipment deployment teach mechanics and execution, but fail to provide the intuition that is derived from actual fieldwork. With fewer spills, there are fewer chances to learn. Additionally, as OSROs cut their workforce from full-time staff to contracted labor with minimal qualifications (and therefore lower wages), the service degrades even further.

The larger scale oil production corporations are confident they can handle any release. Shell, BP-Amoco and Chevron-Texaco, for example, maintain internal response capability as well as use contracted OSROs. In the event that a response organization was not immediately available for any reason, oil companies with their own responders contend that they could easily provide the first response.

But consider the plight of the smaller, less extensive, independent oil production companies. The increased cost of

maintaining a contracted OSRO and the inability of maintaining specific, designated internal first responders forces the smaller corporations to place environmental response lower on their list of priorities. They only have so much money in their operating budgets. To maintain production, invest in capital improvements or meet the requirements of the new security regulations requires them to spend less money on response preparedness. This spells a potential tragedy, both economic and environmental.

As for the larger corporations' internal response groups designated to act as the field level first responders, this assignment is often a collateral duty and not a priority. These corporations spend a lot of time on training and contend that each and every member is trained extensively in safety and response. But once again, a limited number of spills results in a limited amount of first-hand, real-world experience.

We must also consider the impact on public agencies like the Coast Guard (USCG) and the Environmental Protection Agency (EPA). The fact remains that there are plenty of spills where the Responsible Party (RP) may be unknown or unwilling to respond. A spill may follow a terrorist attack or natural disaster. These public agencies rely on commercial OSROs too. As the CG and EPA rely more and more on contracted commercial OSROs versus government response forces, their plight is similar to the oil companies. They, too, face a lack of resources, experience and availability.

The Major Concern

This lack of experience and available resources is a tragedy because although overall the number of spills has decreased and the amount of oil spilled has decreased, the risk of another major oil spill remains the same. In recent events, Hurricane Ivan blew through the Gulf of Mexico toppling rigs and platforms and delaying production for days. The human factor still exists, as it always will and all the prevention protocols taken will never remove the chance that an operator will "fall asleep at the wheel", will not be feeling well or will be distracted by another emergency and will not be able to man his/her post at all times. Humans are fallible and we always will be.

We are moving vast amounts of oil and other products daily. That will only increase as human consumption needs increase. As the population of the world grows, the demands for more energy, more resources and more products will continue to grow as well. The probability that there will be another large spill is fairly high, regardless of the source be it a tank vessel, cargo vessel or a pipeline.

Recent events highlight this. The ghost of the M/V NEW CA-RISSA still lies in its shell on the beach of Coos Bay, Oregon. The explosion and sinking of the M/V BOW MARINER on February 28, 2004, left three persons dead and 18 missing. The M/V BOW MARINER was carrying ethanol. The Kinder-Morgan pipeline release in Sacramento, California on April 29, 2004 caused approximately 1,500 barrels of diesel fuel to enter a sensitive marsh area. These are just a few examples of the constant threats and risks faced every day.

Based on the aforementioned mergers, closures and diversification, there are at least some members of the oil industry, on the response side, that question whether or not they will have what it takes to quickly, efficiently and effectively respond to a major oil spill disaster. It will get cleaned up, but at what cost? How long will it take? How much longer will the response take without immediate access to equipment and trained personnel? Where will the resources have to come from? What will that extra time mean for the environmental impact? How many more birds and other wildlife will die because we were unable to get the oil out of their habitat fast enough? What about the economic impact on the corporation? How long will they have to stay shut down? What will the public think if they see that a corporation isn't doing enough

fast enough to clean up the mess? How many third parties will be affected and for how long?

CONCLUSIONS

The history of oil spills is not young. Although we stand today leaps and bounds above the pre-OPA 90 standards of prevention and preparedness, the complacency with which we consider the risk of a major pollution incident fueled by competing demands for ever shrinking profit margins lends itself to the repetition of history. From my position as a first responder concerned with the protection of the environment, I wrestle with the perception that the response vs. disaster pendulum is steadily swinging back toward the left; that is to question if our response preparedness is waning. If asked in the years prior to OPA 90, I would venture to say that oil companies would have confidently proclaimed that they were ready for a major response. I do not believe that we are as ill-prepared today as we were then, but we may be leaning in the direction of another major disaster without being able to effectively respond to it.

Prevention is necessary and it has done much to ease the burden and reduce the potential for oil spills. But nothing will ever make that risk equal to zero. "So long as there are ships, and humans steering them, accidents will happen and maybe huge ones" (Knickerbocker, 1999).

And we cannot rule out the impact that the new MTSA regulations may have on pollution prevention and response preparedness. As the facility owners, vessel owners and port directors around the country continue to improve port security and increase vigilance, both funding and personnel will be reallocated to prevent and prepare for a response to a new kind of threat on our environment. This new focus should not be to the exclusion of a potential pollution incident. In fact, many fear that should terrorism impact our nation again, it would be with the goal of interrupting the economy (Reuters, 2004). An attack on an oil tanker in or near a U.S. port would bring the Maritime Transportation System to a grinding halt as every port would be immediately shut down. And that tanker may release millions of barrels of oil into the water as a result of the damage. In this case the response would be multi-faceted ranging from criminal investigations to pollution response. This scenario highlights the ultimate link among security, pollution prevention and the economy.

So how should we, as a nation, as a community deal with this dichotomy? As capitalists we might choose to let the market set the price of response preparedness. The problem with this is the inevitable time lag between realizing the demand for responders and their equipment and actually supplying it. It can be argued that the demand will only be recognized once another major pollution incident has occurred. And that is where the pendulum was in 1989. Instead, maybe we should treat response preparedness as more of an insurance policy. Spending now to ensure access to experienced personnel, adequate types and amount of equipment at a reasonable cost in the event of a spill is the key to minimal environmental damage and impact. Perhaps the federal government should consider subsidizing such "insurance policies".

What about other federal tools, such as fines and increased taxes that would in effect make the cost of non-compliance greater than the cost of compliance? There are positive economic incentives that can be offered such as tax breaks, subsidies or trade permits. Complying with federally established operational conditions opens the way to greater business opportunities. For example, any oil shipping company not using double skinned hulls greatly increases their cost of doing business—more tugs required for entry, fewer ports allowing them to enter at all. Is it possible that improved OSROs could offer operational benefits through relaxation of some restrictive conditions required in the regulations?

All businesses are aware that in order to do business they must comply with federal and state regulations. Economics and environmental policy should not be separated, but rather entwined together to achieve the optimal course of action. Without voluntary compliance and maintenance of existing response readiness, companies may face increased government enforcement, perhaps through unannounced drills, stiffer penalties for response failures or even more invasive inspections to ensure readiness.

A favorite saying notes that in order to make money, one has to spend money. I'd like to alter that just a bit by noting that spending money on pollution prevention makes money. Spending money on pollution response does not. Any and all actions taken to maintain highly effective response capabilities around the nation will require financial expenditures due to the low dual use of oil skimmers and boom in non-oil spill related profit generating endeavors. These tools cannot be used in other fields for other purposes unlike boats, for example.

But the financial risk of not providing for immediate and efficient oil spill response will be much greater. As readiness declines and the ability to carry out fast, immediate post-incident actions degrades, impacts from spills will increase. More shorelines and wildlife will get oiled. More lawsuits for damages, higher insurance costs, and higher fines across multiple jurisdictions will follow.

At this time, it is difficult at best to accurately pinpoint where the pendulum hangs in its arc. To be prudent we need to avoid assuming that we are safe from disaster, but rather ensure that we, as a nation, find a way to maintain our response preparedness at effectual and sustainable levels.

BIOGRAPHY

Lieutenant Junior Grade (LTJg) Sharon Grau has a MA in Environmental Policy and Management. Before joining the Coast Guard she worked at the U.S. Department of State. LTJg Grau earned her commission in February 2003 and is currently the Chief of Port Operations at Marine Safety Unit Houma, LA.

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1 The opinions expressed in this paper are those of the author and do not represent any other organization.

2 Several cosmetic companies have managed to capitalize on consumers' interests in animal rights and natural vs. chemical solutions to skin care. An excellent example of this is The Body Shop.