



Written by [Dave Bohon](#) on June 16, 2010

## Constitutional Concerns Raised as President Pledges to Make BP Pay for Spill

Speaking to the nation from the Oval Office of the White House on the evening of June 15, President Obama addressed the ongoing oil spill in the Gulf of Mexico and promised that he would demand that British Petroleum (BP) set up an account for compensating businesses and workers affected by one of the most devastating oil spills in U.S. history.



Nearly two months after an explosion destroyed an off-shore BP rig, killing 11 and injuring another 17, an estimated 1.5 to 2.5 million gallons of crude oil continue to gush into the Gulf daily. The President called the resulting catastrophe “the worst environmental disaster America has ever faced,” adding that “unlike an earthquake or a hurricane, it’s not a single event that does its damage in a matter of minutes or days. The millions of gallons of oil that have spilled into the Gulf of Mexico are more like an epidemic, one that we will be fighting for months and even years.”

Painting a grim picture of a disaster that only the full force of the federal government would be equipped to address, Obama assured the nation that he and his team of expert scientists and engineers “will fight this spill with everything we’ve got for as long as it takes. We will make BP pay for the damage their company has caused. And we will do whatever’s necessary to help the Gulf Coast and its people recover from this tragedy.”

The President said that he would meet with BP’s chairman “and inform him that he is to set aside whatever resources are required to compensate the workers and business owners who have been harmed as a result of his company’s recklessness. And this fund will not be controlled by BP. In order to ensure that all legitimate claims are paid out in a fair and timely manner, the account must and will be administered by an independent third party.”

In tandem with the President’s pledge, on June 14 Democrats in the U.S. Senate sent a strongly worded letter to BP demanding that it set up an account to be used to pay for economic damages and cleanup costs associated with the spill. “In order to ensure BP fully and quickly covers the costs of this disaster,” the Senators wrote, “we are calling on BP to immediately establish a special account of \$20 billion, administered by an independent trustee, to be used for payment of economic damages and clean-up costs. Establishment of this account would serve as an act of good faith and as a first step towards ensuring that there will be no delay in payments or attempt to evade responsibility for damages.”



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While no one has suggested that BP is not liable for the damages that have been caused in the Gulf, serious questions have been raised about what constitutional authority the President has to make official demands on the company. In an editorial published following Obama's address to the nation, Terence Jeffrey, editor-in-chief of the Conservative News Service, asked aloud what many Americans were wondering: "Where does the President get the lawful power to order any private-sector company — BP or any other — that it must surrender its money? Should not courts and normal legal proceedings determine who is responsible, who has been harmed, and who owes what to whom in regards to the Gulf oil spill?"

Calling the President's actions toward BP tantamount to extortion, Representative Michele Bachmann (R-Minn.) was quoted by the Conservative News Service as saying that there is "a misreading of the Constitution and a misunderstanding of jurisdictional limits from this White House on what the extent of executive power is." Bachmann said that what Obama and company seem to want is to "create a pot of money for themselves that they can control, and that's not what the Executive is supposed to do. There is a real misreading of jurisdictional limits, and they continue to stretch those limits beyond all bounds."

Noting that the Fifth Amendment to the Constitution ensures that no person shall be "deprived of life, liberty, or property, without due process of law," Jeffrey wondered what rights BP's stockholders would be left with if the President has his way. "Does Obama think he can 'inform' persons and corporations to surrender or exchange their property without due process of law?" he asked. "Will Congress, the legislative branch of the federal government, have a say before Obama takes unilateral executive action in regard to how the government treats BP?"

The answer to that question is no, unless more voices like Bachmann's — on both sides of the aisle — are raised to challenge the President's heavy-handed assumptions.

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