



Written by [Michael Tennant](#) on June 21, 2010

## Gulf Oil Spill Greases the Skids for Federalism

One of the few good things to come from the BP oil disaster in the Gulf of Mexico is Americans' increasing realization that the federal government is both incapable of, and mostly uninterested in, protecting their local communities from the onslaught of petroleum. In addition, they are even learning that Washington is to some degree responsible for the mess, as Judge Andrew Napolitano explained:



After the *Exxon Valdez* disaster off Alaska in 1989 had been cleaned up and nearly paid for by Exxon, the oil companies lobbied the Congress for liability limits — maximum amounts that they could be held to pay for in the event of a disaster.

A Republican Congress and President Clinton together made it the law that oil companies would be limited to pay \$75 million for cleanups and the taxpayers — that would be you — would pay the rest. In return, the feds would be able to tell the oil companies where to drill.

In the case of BP, it asked the state of Louisiana if it could drill in 500 feet of water and Louisiana said it could. The federal government vetoed that and told BP [it] could only drill in 5,000 feet of water.

Never mind that no oil company had ever cleaned up a broken well at that depth and never mind that the feds had never monitored a broken well at that depth and never mind that BP only needed to set aside \$75 million in case something went wrong. The feds trumped BP's engineers and the feds trumped the wishes of the folks who live along the Gulf Coast and the feds decided where this oil well would be drilled.

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Furthermore, the Coast Guard actively interfered with cleanup efforts in Louisiana, halting oil-sucking barges because the Coast Guard, [reports ABC News](#), "needed to confirm that there were fire extinguishers and life vests on board, and then it had trouble contacting the people who built the barges." Put simply, typical bureaucratic red tape got in the way.

Then there's the [Jones Act](#), a 1920s law that protects unionized labor from foreign competitors by prohibiting work in U.S. waters by vessels that either were built outside the U.S. or are not manned by Americans. Because of this act, numerous foreign countries with ships that could assist in cleaning up the Gulf are forbidden from doing so. Although the law allows the Executive Branch to waive the Jones Act — the George W. Bush administration did so after Hurricane Katrina — the Obama administration, beholden to labor unions, has yet to do so, potentially delaying vital cleanup assistance.

Is it any wonder, then, that local communities are increasingly telling the feds to stuff it and let them protect their own property, even when doing so risks jail time for those who defy Uncle Sam?



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In Magnolia Springs, Alabama, local volunteer fire chief Jamie Hinton is leading the charge to protect his town's waters from the approaching oil by deploying nine spud barges flanked by containment boom. Hinton, [reports the \*Christian Science Monitor\*](#), "was faced with the possibility of being jailed for violating the federal and state chain of command" at one time but persisted because he loves where he lives. The feds, and even most members of the state government, couldn't care less about Magnolia Springs; what matters to them is holding onto their power.

Hinton recalled being told by county officials that he "was blowing things out of proportion," according to the *Monitor*, which added:

Others told him the government would handle it. He scoffed. He remembered the *Exxon Valdez*, hurricane Katrina, hurricane Ivan. If anyone was going to save Magnolia Springs, it wouldn't be the feds, BP, or environmental activists. It would be the thousand-odd people who live here. After all, the locals knew the water — knew every twist and turn of Magnolia River, Fish River, and Weeks Bay. They would handle things the way they always did — together.

In the end, Hinton's plan was approved, and perhaps Magnolia Bay will be saved, no thanks to President Obama or anyone else in Washington.

Meanwhile, [CNN reports](#) from the Sunshine State: "The Okaloosa County Commission voted unanimously this week to allow their emergency managers to override and overrule federal emergency managers and take on the responsibility of saving the sand and beaches that provide about 50 percent of their economy." The report continues:

"This is our home, and in my home I have responsibility to take care of what is necessary around my home," said Okaloosa County chairman Wayne Harris.

"I certainly don't expect someone from across the U.S. to come and save the day for us," he said.

But they did wonder if they'd be going to jail for defying the federal government's cleanup operation.

"We knew that was the possibility," Harris said.

"In fact the Coast Guard had told us that, 'Commissioners, if you do that there's a potential you would go to jail,' and we said, 'Well, so be it, but we gotta protect our waterways and our people,'" he said.

Naturally, Admiral Thad Allen, the national incident commander for the Coast Guard, disagreed that it was a local issue, saying that "there is an overriding federal interest in those waterways, and the safety of those waterways is the responsibility of the Coast Guard." Given the bang-up job the Coast Guard is doing in protecting the waterways of Louisiana, Texas, Alabama, and other Gulf states, it's no wonder the county commissioners took little comfort in Allen's assertion of authority. In the end, the Coast Guard gave them the go-ahead to defend their own property.

CNN asks, "With constant criticism of the Obama administration's response to the spill, this small part of Florida may have just opened a political can of worms, especially if oil begins to push east. Will other counties also want to take over their local battles against crude?"

Harris's response was right on target: "I certainly hope they do. That's what you're paid for or that's what your responsibilities are when you are the leader."

The Gulf oil spill may be the best opportunity for a revival of federalism — the idea that state and local governments, who are closest to the people they are serving, ought to bear the bulk of the responsibility, with Washington doing relatively little — that the United States has experienced in



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decades. Add to that the states that are fighting implementation of ObamaCare and the REAL ID Act, among other federal usurpations, and we may have a genuine 1776-style revolution (albeit, one hopes, a bloodless one) on our hands.

Now get out your fife and start practicing “Yankee Doodle.”

*Photo: Members of the Fish River Marlow Fire Dept. work to anchor oil containment booms at the mouth of Weeks Bay in Magnolia Springs, Ala., Sunday, June 6, 2010.: AP Images*



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