

United States Senate

WASHINGTON, DC 20510

July 15, 2010

The Honorable Patrick J. Leahy
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy:

As the crisis caused by the explosion of the Deepwater Horizon oil rig in the Gulf of Mexico continues to spread, we are concerned about potential conflicts of interest among the judges who will oversee the many cases that will determine the legal and financial responsibilities of energy companies doing business in the Gulf. In particular, we are concerned by reports that the judge who issued a preliminary injunction vacating the Interior Department's six month moratorium on deep-water drilling, Martin Feldman, holds a number of stocks in energy companies that would be affected by the moratorium.

Judge Feldman, a U.S. District Court Judge for the Eastern District of Louisiana, showed a high level of support for offshore drilling in his decision, suggesting that oil and gas drilling was "simply elemental" to Gulf communities. We are concerned, however, that his ruling may have been influenced by his extensive stock holdings in energy and oil companies that would be financially impacted by the moratorium. Judge Feldman also sold his stock in Exxon Mobil just hours before ruling on the moratorium, an action that seems to indicate he recognized the potential conflicts his financial holdings posed – yet he still did not step away from this case. We are troubled by the fact that he was trading shares of a company the same day that he was ruling on an issue that might affect the value of those shares. Given this apparent financial conflict of interest, we are very interested in understanding why Judge Feldman did not recuse himself in this case, and are hopeful that the committee will investigate whether or not he should have. We do not bring up this potential impropriety lightly, but given the gravity of the situation and the evidence available, we believe that this specific case merits investigation by the committee.

Unfortunately, this is not the only case of judicial conflict of interest with energy companies. The Associated Press reported on June 6:

"Thirty-seven of the 64 active or senior judges in key Gulf Coast districts in Louisiana, Texas, Alabama, Mississippi and Florida have links to oil, gas and related energy industries, including some who own stocks or bonds in BP PLC, Halliburton or Transocean — and others who regularly list receiving royalties from oil and gas production wells, according to the reports judges must file each year."

We believe that the Judiciary Committee should address this widespread potential conflict of interest before further important rulings are made that will impact the response to the crisis in the Gulf of Mexico. Judges who derive income from companies that benefit from offshore drilling should not decide cases that will affect the future of offshore drilling. We urge you to investigate

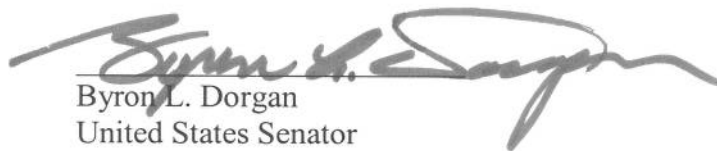
both whether Judge Feldman should have recused himself in the moratorium case as well as the implications of the larger question of judicial conflicts of interest in cases involving the legal issues raised by the Gulf oil spill. While the toll of devastation on the Gulf's wildlife, communities and businesses has yet to be calculated, the country cannot afford to allow the validity of any court rulings to be cast in doubt because of the personal financial interests of judges involved in legal proceedings related to this disaster. Only a thorough and independent investigation by the committee could guarantee that outcome.

We look forward to working with you to find solutions to these issues.

Sincerely,



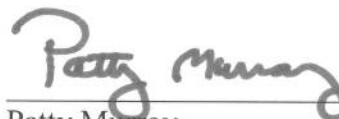
Ron Wyden
United States Senator



Byron L. Dorgan
United States Senator



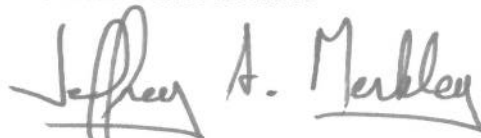
Russell D. Feingold
United States Senator



Patty Murray
United States Senator



Jeanne Shaheen
United States Senator



Jeff Merkley
United States Senator