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You may remember Judge Martin Feldman from his decisions last summer [enjoining enforcement](#) of Interior's first effort at a deepwater drilling moratorium, and more recently declaring that the Department [must pay the legal fees](#) of the plaintiffs in that case because it was in contempt of the injunction order. (For my take on those decisions see [here](#) and [here](#).)

No doubt the Department wished it could just slink out of the Gulf and never have to face Judge Feldman again. But all good things come in threes, right? And today Interior reached three of kind; three big losses in Judge Feldman's courtroom that is.

This [latest ruling](#) orders BOEMRE (the Interior bureau in charge of offshore drilling) to act on five pending applications for permission to drill in the Gulf within 30 days. As I understand the ruling, all of these applications are for wells for which there is an approved exploration plan. Even after that approval the OCSLA allows, and Interior regulations require, an additional approval step before drilling. Whereas the statute sets up a 30-day deadline for review of the exploration plan, it does not specify a deadline for review of the application for a permit to drill. Nor do the regulations. Last month, Judge Feldman [refused to set a deadline](#). But after additional briefing, he's now reversed that decision.

There are some questionable touches to the latest opinion. The judge somehow managed to find that the company would suffer "more than economic" harm by reason of the delay, although the only supporting fact he mentions is that one of its rigs has been sent to another region. Really? That's costing the company something other than money? For all that appears on the face of the opinion, it's not even costing them that. And he gave no credence at all to the possibility of another accident, instead writing that because nearly a year has passed since the Deepwater Horizon incident (10 months, but who's counting?), there can't be any remaining justification for delays. Non-sequitur, anyone? Indeed, according to Judge Feldman,

Beginning to process permit applications will restore normalcy to the Gulf region and repair the public's faith in the administrative process.

My own faith would be better restored by assurances that the causes of the

Deepwater Horizon blowout and the associated failure to contain it had been fully identified and corrected, but Judge Feldman may be right that many Gulf interests will feel better when the U.S. goes back to its pre-Deepwater Horizon, rapid rubber-stamping permit approvals.

Although once again I think Judge Feldman is playing a bit fast and loose with the standards for an injunction, I have to agree with him on the merits that it's unlikely that Congress intended to give Interior license to sit on applications for drilling permits as long as they liked. The explicitly short timeline for review of exploration plans would be pretty pointless if the next stage could drag on forever. So Congress is partly to blame for the predicament in which Interior now finds itself.

But Interior itself is mostly responsible. It's been trying to have it both ways, imposing a moratorium for as short a time as possible, and refusing to admit that it still doesn't know how to deal safely with deepwater drilling. The moratorium was a well-reasoned response to the flaws in the system revealed by the Deepwater Horizon disaster. Secretary Salazar (and his boss the president) should have had the political courage to stand by that action for as long as it took to get its regulatory house in order. Sure, Judge Feldman and the Fifth Circuit weren't showing Interior any love. But that doesn't make it either right or politically wise to have ditched the moratorium. Now, having told the nation as well as the oil industry that it was ready to deal with those permits, Interior is not in a very good position to argue that actually it isn't.