

"A major part" of the climate change bill sponsored by Sens. John Kerry and Joe Lieberman "was essentially written by BP."

— *Mitch McConnell* on Wednesday, June 9th, 2010 in a Senate floor speech

McConnell says that Kerry-Lieberman climate bill 'essentially written by BP'

By *Louis Jacobson* on Monday, June 14th, 2010 at 9:26 a.m.

The ongoing oil spill caused by a damaged BP well in the Gulf of Mexico is bringing attention to the relationship between the oil conglomerate and politicians. On June 9, 2010, Senate Minority Leader Mitch McConnell, R-Ky., used a floor speech to link BP and a climate-change bill sponsored by Sens. John Kerry, D-Mass., and Joe Lieberman, I-Conn.

"The problem for Democrats is that debating the Democrat cap-and-trade bill might not fit neatly into the White House messaging plan, since it's been widely reported that a major part of the Kerry-Lieberman bill was essentially written by BP. This is clearly an inconvenient fact: an administration that seems to spend most of its time coming up with new ways to show how angry it is with BP is pushing a proposal that BP helped write."

McConnell touched on a lot of points in this excerpt, but the one that most interested us was whether "a major part of the Kerry-Lieberman bill was essentially written by BP."

When we asked McConnell's office for evidence to support this charge, a spokesman provided us with links to several news reports. These stories -- published over the past few months in the *Washington Post*, in the Capitol Hill newspaper *The Hill*, and in the energy-and-environment trade publication *Greenwire* -- offer ample evidence that BP

was involved in the long-running negotiations over the bill, and that the company spoke favorably about the measure as it was being drafted.

The articles indicated that BP, along with Shell, ConocoPhillips and the Edison Electric Institute, would ultimately endorse the measure. In fact, one article specifically noted that BP CEO Tony Hayward -- not yet the internationally known face of the disaster -- gave a speech at the Peterson Institute for International Economics in March in which he "indicated he was encouraged" by the Kerry-Lieberman effort.

Aides to Kerry and Lieberman do not dispute that BP was involved in the negotiations, along with many other parties.

"The senators met with more than 60 of their colleagues and all involved stakeholders, including environmentalists, religious leaders and the business community," said Whitney Smith, a spokeswoman for Kerry.

"The senators worked with a diverse set of colleagues and stakeholders to develop their discussion draft," added Lieberman spokesman Marshall Wittmann. "They met with the CEOs of Shell, BP and Conoco because their industry will be regulated under the bill and it was important to ensure that the bill's approach to transportation emissions would reduce oil dependence. They also met with members of the business and environmental community in an effort to ensure that the bill met all of their goals: to grow the economy, create jobs and clean our air."

But it's one thing for a company's representatives to meet with Congressional aides, make the company's case and suggest that they may endorse a bill. It's another to actually write legislation. On this point, Kerry and Lieberman's offices are clear:

"Senators, not any industry, wrote this proposal, and any suggestion to the contrary is false and politically motivated," said Smith, the spokeswoman for Kerry.

Let's delve into the evidence.

On March 24, *Houston Chronicle* energy blogger Tom Fowler reprinted a "discussion

draft" by BP that advocated several policy positions related to hydraulic fracking. That's a technique that allows energy companies to unlock natural gas by injecting chemicals into underground reservoirs. Critics have suggested that the procedure risks tainting adjoining water supplies, and they have urged lawmakers to establish tight controls on the process.

As reprinted in Fowler's blog, the "discussion draft" argued that "governments and industry have critical roles toward continuing to assure the public that hydraulic fracturing operations are effectively managed and regulated and that human health and the environment are protected." Among other things, the draft sought to maintain "the confidentiality of trade secret information."

However, this language was not included in the draft bill that Kerry and Lieberman released a month later. Quite the opposite: The bill draft said that "a hydraulic fracturing service company shall disclose all chemical constituents used in a hydraulic fracturing operation to the public on the Internet in order to provide adequate information for the public and state and local authorities" -- a much more stringent standard than that sought by BP.

It's also worth noting that the BP "discussion draft" was not even intended to be actual language in the bill. Rather, it was intended as language for a "Sense of the Senate" resolution, which, unlike the law itself, is not binding.

BP also sought a federal pre-emption for automobile tailpipe emissions, said Jeremy Symons, senior vice president at the National Wildlife Federation. That means that BP wanted the federal government to set a universal standard for emissions, rather than having states set their own levels, which could allow some states -- especially California -- to set stricter limits. Such a policy has been a longstanding item on the industry's agenda for climate change regulation.

In this case, too, the Kerry-Lieberman draft bill specifically maintained the right of states to set emissions limits, leaving BP's idea on the cutting-room floor.

And BP and other players in the industry proposed increasing gasoline taxes at the pump rather than curbing vehicular emissions through a direct cap, said John Coqueyt, a legislative specialist with the Sierra Club, an environmental group. After making progress initially, this idea was abandoned in the Kerry-Lieberman draft, Coqueyt said.

"On the one hand, BP did have substantial input into the Kerry bill," said Dan Becker, director of the Safe Climate Campaign at the Center for Auto Safety. BP, other oil companies, the Edison Electric Institute and other industry groups "submitted much language and many ideas. Some are probably recognizable in the current bill. ... But I don't think it is accurate to say that BP essentially wrote a major part of the bill."

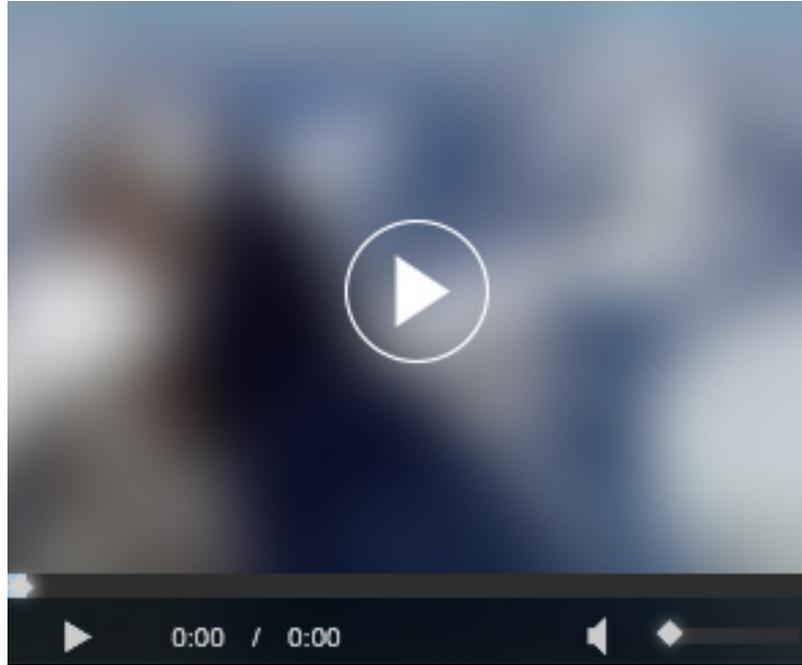
We agree. There's no question that BP, by taking a cooperative stance with Kerry and Lieberman rather than an adversarial one, had the opportunity to float its ideas during the legislative drafting process. And by dangling the possibility that the company might back the bill -- which would provide the senators with politically valuable support on a complicated and contentious bill -- BP and other energy companies wielded some leverage in the drafting process. In fact, many on the left -- not just conservatives like McConnell-- are disappointed that Kerry and other Democratic supporters of climate change legislation worked with oil companies, including BP, while crafting the bill. But saying that the senators listened to BP's case is not the same as saying that "a major part" of the bill "was essentially written by BP."

In fact, looking at three BP-pushed initiatives that have come to light shows that none were included in the current draft of the bill, which suggests that the senators and their aides were hardly captive to BP. It may be revealing that one day after the statement we're checking, McConnell had toned down his description of BP's role. In a floor speech on June 10, 2010, McConnell said, "Some favor the Kerry-Lieberman cap-and-trade bill, a significant portion of which, by the way, has been pushed by the oil company BP."

If he'd simply said "pushed" the day before, he would have been pretty close to being accurate. But McConnell went much further when he said that BP had "essentially written" a "major part" of the bill. We rule that claim by McConnell False.



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About this statement:

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Sources:

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E-mail interview with Whitney Smith, spokeswoman for Sen. John Kerry, June 11, 2010

E-mail interview with Marshall Wittmann, spokesman for Sen. Joe Lieberman, June 11, 2010

E-mail interview with Jeremy Symons, senior vice president at the National Wildlife Federation, June 11, 2010

E-mail interview with John Coqueyt, a legislative specialist with the Sierra Club, June 11, 2010

E-mail interview with Dan Becker, director of the Safe Climate Campaign at the Center for Auto Safety, June 11, 2010

E-mail interview with Amy Mall, senior policy analyst with the Natural Resources Defense Council, June 11, 2010

E-mail interview with Josh Israel, project coordinator with the Center for Public Integrity, June 11, 2010

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