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Timothy P. Carney: Republicans should end the Big Oil bailout

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May 21, 2010

Republicans need to remember that they're supposed to be pro-market, not pro-oil. Pro-market politicians would go along with Democrats in abolishing the current \$75 million cap on economic damages for oil companies and go even further: Abolish the communal "oil spill fund" and leave oil companies liable for the entire cost of their spills.

Current federal law limits the liability of companies responsible for an oil spill. The guilty party has to cover the cleanup, but as far compensating those harmed by the spill -- such as fishermen and property owners -- the companies are on the hook only for the first \$75 million.

The rest of the compensation comes from a special federal account, funded by an 8-cent tax on every barrel of oil produced in the United States or imported here. That fund currently has about \$1 billion to cover the BP oil spill in the Gulf.

Democrats have proposed a measure to lift the cap on oil company liability to \$10 billion, but Sens. Lisa Murkowski, R-Alaska, and James Inhofe, R-Okla., have objected to motions to change the cap without debate. On cue, Democrats have attacked these senators as shills for Big Oil, echoing the party's standard disingenuous line of attack under President Obama.

Democratic slurs shouldn't be necessary to spur Republicans into agreement -- a belief in the free market ought to suffice.

The federal government has no business protecting BP from paying for the harm it has done to shrimp fisherman. The liability cap and the spill fund are subsidies for oil drilling. In a free market, oil companies would have to buy more insurance to cover the cost of a potential spill. In other words, a free market in oil drilling would mean no liability cap, no 8-cents-a-barrel tax, and no special fund whereby careful drillers pay for sloppy spillers.

Of course, the cost of extracting oil from the Gulf would go up if companies had to insure against potential damages. Some Republicans worry that this would make offshore drilling uneconomical, thus decreasing our oil supply at a time when our thirst for black gold is growing.

But anyone who makes this argument doesn't really believe in the free market -- or believes in the free

market only to the degree it yields results he likes.

Even without positing bad motives or obeisance to donors, you can see why some Republicans would be pro-oil: Oil's fuel efficiency makes our society much wealthier and more productive; also, oil is under constant assault by the other side -- big government liberals and environmentalists.

But Republicans aren't supposed to be in the business of helping any industries. "If you believe in the market," energy expert Jerry Taylor of the Cato Institute says, "you believe the government ought to be neutral. But I don't think that Republicans believe in the market."

Taylor's right. Republicans tend to look at the market, see what works -- oil, homeownership, stock ownership, small business -- and then intervene in the market so that we get more of only the good thing. Of course, Democrats don't believe in the market either, but at least they admit it.

Torts and lawsuits may not seem like elements of the free market, but they are -- the only two alternatives to torts are more regulations on the one hand, or, on the other hand, anarchy in which one company can ruin another without consequence. Some sort of tort reform in this country is undoubtedly needed, but a cap on economic damages is absurd.

Cato's Taylor, however, thinks the \$75 million liability cap for oil spills doesn't distort the market too much, because oil executives understand that -- for political reasons -- they'll be strung up if they're responsible for a spill anyway. In other words, this subsidy is kind of a joke.

Inhofe and Murkowski are on fine ground asking for debate on this proposal. But in that debate, let's hope they take the side of markets, and not just oil.

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