

Alaska's Suit Against BP Alaska Dismissed

A suit brought by the state of Alaska (USA) against BP Exploration Alaska Inc. (BPXA) over “lost” tax revenue has been dismissed. In July 2006, an inspection revealed corrosion-related wall thinning in oil transit pipelines that service the massive Prudhoe Bay field. Follow up inspections revealed a leak and small spill, prompting a shutdown in August 2006 (see *OSIR*, 10 August 2006). Prudhoe Bay produces about 8% of the nation’s oil supply.

Alaska claimed that BPXA owed compensation for tax and royalty revenues that were foregone when BP temporarily shut down half of Prudhoe Bay production. Revenue losses continued for two years and the lawsuit sought about US \$1 billion in civil damages. BPXA argued that the state’s claims were baseless because production was only deferred, and that the oil in the reservoir was not “lost.” In mid-December 2010, State Superior Court Judge Peter Michalski found that lost taxes are not supported or defined in law as recoverable economic damages.

Michalski explained that taxes on oil production can only be collected when oil is being produced: “Taxes become due upon the occurrence of a taxable event. In order to sustain a claim for lost tax damages, it is necessary for the state to allege that a taxable event occurred. Here, there has been no taxable event, and therefore (BP) cannot owe taxes.”

BPXA, understandably, was pleased with the decision. Bill McAllister, a spokesperson for the Alaska Department of Law, said the state was considering its options.

The state’s claims regarding lost royalties, as well as penalties and fines for alleged breaches of safety and spill prevention laws, are still to be resolved. A trial date has been set for 2012.

For more information, see www.reuters.com/article/idUSN1429176920101214.

BP Pleads Not Guilty to Probation Violations

In December 2010, BP Exploration Alaska (BPXA) pled not guilty to probation violations stemming from a plea agreement related to a March 2006 oil spill from a transit line at the Prudhoe Bay oil field in Alaska (USA). A corroded section of the pipeline allowed at least 200,000 gallons (4,800 barrels) of crude oil to spill onto the tundra, the largest spill ever in Alaska’s North Slope region (see *OSIR*, 9 March 2006, 16 March 2006, and 30 March 2006). In August 2006, the discovery of a smaller leak, coupled with the results of corrosion testing, prompted BPXA to temporarily shut down the nation’s largest oil field until the corroded pipes could be replaced (see *OSIR*, 10 August 2006).

BP eventually pled guilty to a violation of the US Clean Water Act to resolve criminal liability relating to the 2006 pipeline leaks. As part of the guilty plea,

BPXA agreed to three years’ probation, which had been set to expire on 28 November 2010. However, federal prosecutors have accused the oil company of violating its probation by spilling some 13,000 gallons (310 barrels) of crude oil at the Lisburne field in 2009 (see *OSIR*, 3 December 2009). Mary Frances Barnes, the company’s probation officer, said that BPXA failed to take action on warning signs that there were problems with the Lisburne line in the months before the December 2009 incident. That would make the company negligent under both state law and the federal Clean Water Act. If found guilty, BPXA could face fines of up to US \$12 million and another five years of probation.

A spokesperson said that the company had met all of the terms of its 2007 plea agreement, and should no longer be on probation. Until the matter is resolved,

BPXA has agreed to abide by the terms of its probation, which include not committing additional crimes and not selling or transferring any of its Alaska assets worth more than \$10 million without the probation officer's approval.

A hearing on the matter is expected to be scheduled for April or May 2011. The US District judge hearing the petition to revoke BPXA's probation will

have a choice of imposing a new sentence that will include a new period of probation and new penalties, extending the existing probation period, or rejecting the petition filed by Barnes and ending BPXA's probation.

For more information, see www.adn.com/2010/12/20/1613530/bp-pleads-not-guilty-to-probation.html.

Repsol Spills Off Spanish Coast

On 22 December 2010, between 30 and 180 tons (10,000 to 60,000 gallons) of crude oil spilled near Repsol's Casablanca Platform off the coast of Tarragona, Spain. According to Repsol, the spill did not occur on the platform, but involved the accidental opening of "valves and pipes to shore."

Although the spill created a 19-square-kilometer (7.3-square-mile) slick, by Saturday, 25 December 2010, Tarragona authorities announced that the oil had dissipated and no longer posed a threat to the coastline or the Ebro Delta. The Ebro Delta provides critical habitat for both flora and fauna, including many migratory birds.

While Tarragona authorities largely credited winds and currents with dispersing the slick and carrying it

away from shore, Coast Guard vessels have also been working to clean up the area. As a precautionary measure, two ships were to continue to patrol, particularly in the waters off the island of Mallorca, which could potentially lie in the path of the slick as it moves away from the mainland shore. The Tarragona Prosecutor's Office has indicated that it may consider opening an investigation into the circumstances surrounding the spill.

For more information, see www.monstersandcritics.com/news/europe/news/article_1607818.php/Oil-spill-dissipates-off-Spain-s-Mediterranean-coast; www.typicallyspanish.com/news/publish/article_28455.shtml; and www.typicallyspanish.com/news/publish/article_28442.shtml.

Deepwater Horizon Investigation Stalled by Disputes

The investigative process for one of the key components involved in the 20 April 2010 blowout at BP Plc's Macondo/MC252 well in the Gulf of Mexico (see *OSIR*, 29 April 2010 and subsequent issues) is now itself in dispute. The forensic analysis of the blowout preventer (BOP), a 300-ton, 50-foot

(15-meter) tall valve assembly that failed as BP's last line of defense in sealing the well, was started in November 2010. However, one month into the inquiry, the US Chemical Safety Board (CSB), an independent federal agency that investigates chemical accidents primarily to better inform safety protocols,

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called for a stop to testing until parties with a potential conflict of interest are removed from the process and testing protocols are enforced.

The Deepwater Horizon Marine Board of Investigation, or Joint Investigation (JI) (see *OSIR*, 7 October 2010) determined the parties that would be allowed access to the BOP test site as part of the Interested Parties Technical Working Group (TWG), and developed, with Det Norske Veritas (DNV), an agreement for TWG participation. Among those selected were representatives from BP; Transocean Ltd., owner of the Deepwater Horizon mobile offshore drilling rig and provider of the BOP; Cameron International Corporation, the manufacturer of the BOP; the US Department of Justice; and the CSB.

In a 13 December 2010 letter to Michael Bromwich, Director of the US Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) of the US Department of the Interior, Rafael Moure-Eraso, Chairperson and Chief Executive Officer of the CSB, noted a number of violations of the TWG Participation Agreement by Transocean, Cameron, and the JI. Moure-Eraso also expressed concerns that the nature of these violations undermined the credibility of the forensic analysis. One primary concern was that DNV, JI's contractor leading the investigation of the BOP, had engaged several employees of both Transocean and Cameron. Among those employees was Transocean's Subsea Supervisor for the Deepwater Horizon rig, Owen McWhorter, who DNV allowed to be "involved in hands-on manipulations of the BOP," allegations that CSB corroborated with photographic evidence. The CSB further alleges that the JI has acted arbitrarily to exclude CSB representatives from observing the BOP testing, while simultaneously permitting more Transocean and Cameron representatives than allowed. In addition, CSB says that the JI has failed to meet its own requirements for transparency under the terms of the TWG agreement.

The CSB's cause was taken up by US Representative Edward Markey (Democrat-Massachusetts), who reiterated the CSB's concerns in a 21 December 2010 letter to the BOEMRE. Markey requested that the BOEMRE both respond to these concerns in writing and remedy the noted problems by 7 January 2011. Although McWhorter has reportedly been excluded from access to the BOP, it is not yet clear how the JI and BOEMRE will address the remaining issues.

Transocean, on the other hand, alleges that the CSB's complaints are moot, as it has no jurisdiction over the investigation of floating rigs. According to attorneys for Transocean, while the CSB may investigate accidents at "permanently moored offshore installations such as oil-production platforms," this authority does not extend to mobile offshore drilling units, such as the Deepwater Horizon. The CSB counters that the source of the spill was the wellhead — a fixed location — and that the Deepwater Horizon was also operating as a fixed facility at the time of the explosion. Because it does not acknowledge CSB's legal authority in this case, Transocean has to date refused to comply with CSB subpoenas for information regarding the BOP. CSB has asked the US Department of Justice to intervene on its behalf. It is unclear whether forensic testing of the BOP will resume on 10 January 2011 after a holiday recess, as scheduled.

For more information, see http://markey.house.gov/docs/moure_bromwich_final_signed_12_13_2010.pdf; <http://markey.house.gov/docs/12-21-10ejmtodoicbs.pdf>; <http://online.wsj.com/article/BT-CO-20101222-713997.html>; www.businessweek.com/ap/financialnews/D9K9VB6G2.htm; www.bloomberg.com/news/2010-12-31/transocean-challenges-chemical-agency-s-authority-to-probe-bp-gulf-blast.html; www.google.com/hostednews/ap/article/ALeqM5j3IOstD2pT040A_qhwo-pukOuChg?docId=00b0cbd314b147ac81d087fba5a7cfec; and www.digitaljournal.com/article/298677.

Illinois Pipeline Companies Ordered to Remediate Spill

Shortly after a 14 December 2010 spill from an underground pipeline in Lockport, Illinois (USA), pipeline owners/operators West Shore Pipe Line Company and Buckeye Pipe Line Company, LP were issued a compliance order by the US Environmental

Protection Agency (EPA) Region 5. The order sets deadlines for completing cleanup and restoration work related to the spill, which leaked an estimated 21,000 gallons (500 barrels) of crude oil before being shut down (see *OSIR*, 16 December 2010).

According to the National Response Center (NRC) Report submitted by the two pipeline companies, the pipe discharge flowed into a wetland area that provides habitat for several state and federally listed endangered species. The wetland is also adjacent to the I&M Ship Canal. The I&M Ship Canal flows into the Des Plaines River, which is a navigable waterway.

The order required remediation of the release of oil by 25 December 2010. By 14 February 2011, the pipeline companies cited must “submit a report to EPA detailing all work completed, including monitoring and analytical data, disposal records, and all documentation related to the response actions.”

World News Briefs

Landowners Reject Spill Cleanup and Details

Landowners near Copan in northeastern Oklahoma (USA) remain dissatisfied with the cleanup of a recent spill. The spill resulted from a leak in a Coffeyville Resources Crude Transportation crude oil pipeline in mid-December 2010. Details regarding the cause of the spill, the timing of the leak and response, the spill volume, and the potential impacts also remain under debate.

Initial reports by Steve Eames, a spokesperson for Coffeyville Resources Crude Transportation in Bartlesville, Oklahoma estimated that less than 200 barrels (8,400 gallons) were released. Eames said a response was launched on 16 December 2010 within one hour of the report of the spill, and impacts were limited to a dry tributary of Cotton Creek and approximately a 1-mile (1.6-kilometer) long stretch of Cotton Creek. Booms were deployed in the creek to contain the oil.

However, John Davis, a landowner who alleges that his property was one of at least two privately owned plots affected by the spill, differs with the details reported by Eames. According to Davis, the spill originated on his neighbor’s property, and zigzagged between the two adjoining plots before “going onto Copan Wildlife Management property again.” Davis also alleges that the spill went on for at least 48 hours before Coffeyville Resources Crude Transportation responded. Davis believes that Eames’ estimate of the spill volume is low,

While OPA 90 designates EPA as the lead agency in responding to inland oil spills, many other agencies are involved with the Lockport spill response. Local and state responders include local fire and police departments, the Illinois Environmental Protection Agency, and the Illinois Department of Natural Resources Conservation Police. The US Fish and Wildlife Service and the US Pipeline and Hazardous Materials Safety Administration are also involved in response and cleanup activities at the site.

For more information, see <http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/c35859d2e7558947852577fc005db262!OpenDocument> and www.epa.gov/region5/sites/lockport/.

and that as much as 200 barrels (8,400 gallons) may have been released onto his property alone.

The Oklahoma Department of Environmental Quality and the Oklahoma Corporation Commission are directing the response and cleanup. To date, no official reports detailing the spill and response have been released. In response to Davis’ charges, Eames told reporters that, despite the “main hazmat response” being complete, there might be residual staining in the spill area.

For more information, see www.examiner-enterprise.com/articles/2010/12/16/news/news926.txt and www.examiner-enterprise.com/articles/2010/12/30/news/news897.txt.

Fine Imposed for Death of Birds

Harvest Operations Corporation of Calgary, Canada, pled guilty in Medicine Hat provincial court to one charge under the Migratory Bird Treaty Act for their role in killing approximately 300 birds when oil spilled in September 2008. A heavy oil and salt water mixture spilled from one of Harvest Operation’s well sites at Canadian Forces Base Suffield in southeastern Alberta when a cement plug failed. Sparrows, waterfowl, and raptors became oiled by the nearly 60 barrels of pooled oil and saltwater. Harvest Operations will pay a fine of approximately US \$124,000 to the federal Environmental Damages Fund.

For more information, see www.winnipegfreepress.com/greenpage/environment/calgary-based-company-fined-125k-for-oil-spill-that-killed-300-birds-109299384.html.