

BP Gulf Oil Spill Suit Marks the Beginning of a Very Long Road

Thursday, April 21, 2011

Originally published on GLG Research website on April 21, 2011.

- **Analysis by: Roger Marzulla**
- **Analysis of: "Lawsuits Fly in BP's Gulf Spill Blame Game" | www.reuters.com**
- **Source: www.glggroup.com Summary:**

On the one-year anniversary of the Gulf oil spill that killed 11 workers and produced what has been called the greatest environmental disaster in U.S. history, BP, p.l.c. today filed blockbuster lawsuits in federal district court in New Orleans seeking over \$80 billion in damages against Transocean Ltd., the owner and operator of the doomed Deepwater Horizon rig, Cameron International Corp., the manufacturer of the failed blowout preventer, and Halliburton, responsible for the well's concrete.

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These suits, which allege gross negligence against Transocean and Cameron, and fraud and concealment by Halliburton, make clear that BP has no intention of alone bearing the estimated \$40 billion cost of this incident. The federal government has also sued Transocean, Halliburton and Cameron—along with BP—seeking penalties and damages in the tens of billions, and has also established a criminal task force to investigate possible crimes committed in connection with the Gulf spill.

One key issue in every one of these cases is whether any of these companies was grossly negligent. "Gross negligence or willful misconduct" eliminates the \$75 million cap on Oil Pollution Act liability and increases the Clean Water Act maximum penalties from \$1,100 to \$4,300 per barrel of oil released. It also eliminates most of the indemnification rights in the BP/Transocean contract and the Joint Operating Agreement among BP, Anadarko and Mitsui

Exploration.

Another key issue is: who, in addition to BP, is the “owner or operator of the facility”—which both the Oil Pollution Act and Clean Water Act define as the “responsible party” for damages and penalties—regardless of fault or negligence? None, some, or all of these parties could qualify.

But we may never get the whole story. Most lawsuits like these end up settling, and there are also arbitration clauses in many of the contracts that ensure that these cases will never see the inside of a courtroom. One thing is for sure, however, with all these suits and billions at stake: this litigation will grind on for many years to come.