Judge Hears Claims BP Lied To U.S. About Oil Spill

Michael Kunzelman, Associated Press

NEW ORLEANS (AP) — A trial over BP's oil spill in the Gulf of Mexico resumed Monday with a judge hearing claims that the company lied to federal officials and withheld information about the amount of crude spewing [1] from its blown-out well.

The focus of this second phase of the trial is on the company's response to the disaster, and billions of dollars are at stake because the two sides disagree over how much oil spewed into the Gulf in 2010.

During opening statements, plaintiffs' attorney Brian Barr said BP failed to prepare for a blowout and compounded the problem by misleading federal officials about how much oil was flowing from the well.

BP had a 600-page oil spill response plan that only included one page on "source control." It simply called for assembling a team of experts to devise a way to stop a blowout, Barr told U.S. District Judge Carl Barbier.

"BP's plan was nothing more than a plan to plan," he said.

BP attorney Mike Brock said second-guessing the company's efforts to cap the well was "Monday morning quarterbacking at its worst." He denied that BP lied to officials or misrepresented the rate that oil was flowing from the well.

"It made reasonable engineering decisions based on what was known along each step of the way," he said. "That's not fraud. That's not gross negligence."

In May 2010, BP tried in vain to use the "top kill" method to stop the flow of oil by pumping mud and other material into the blowout preventer. Plaintiffs' lawyers claim BP knew the strategy was doomed to fail based on higher flow rate estimates that the company didn't share with federal officials at the time.

"Nevertheless, BP pressed ahead and falsely claimed that it was a slam dunk," Transocean attorney Brad Brian said. "It failed, just as its outside consultants had predicted."

The top kill was among several methods that didn't work. Other attempts, such as the Cofferdam and the "top hat," also failed. The terms were obscure industry jargon before the spill but became buzzwords as the company scrambled to find a way to plug the well.

Establishing how much oil leaked into the Gulf during the 86-day struggle to cap the well will help determine the penalties the oil company must pay.

BP insists it was properly prepared to respond to the disaster, but Barr argued the

London-based global oil company could have capped the well much sooner if it hadn't ignored decades of warnings about the risks of a deep-water blowout.

"BP refused to spend any time or money preparing to stop a deep-water blowout at its source," he said.

BP maintains its spill preparations complied with every government requirement and met industry standards. But the April 20, 2010, blowout of its Macondo well a mile beneath the surface of the Gulf of Mexico and 50 miles off the Louisiana coast presented unforeseen challenges, Brock said.

BP used a capping stacking to finally stop the gusher on July 15, 2010. Brock rejected the notion that BP could have stopped the spill much sooner if it had a pre-built capping stack on hand. Nobody in the industry had used such a device before, he added.

"It was a unique situation," he said. "It was a unique blowout."

Under the Clean Water Act, a polluter can be forced to pay a maximum of either $1,100 or $4,300 per barrel of spilled oil. The higher maximum applies if the company is found grossly negligent, as the government argues BP should be. But the penalties can be assessed at amounts lower than those caps. Congress passed a law dictating that 80 percent of the Clean Water Act penalties paid by BP must be divided among the Gulf states.

The Justice Department's experts estimate 4.2 million barrels, or 176 million gallons (666 million liters), spilled into the Gulf. BP has urged Barbier to use an estimate of 2.45 million barrels, or nearly 103 million gallons (390 million liters), in calculating any Clean Water Act fines. Both sides agree that 810,000 barrels, or 34 million gallons (128 million liters), was captured before it could pollute the Gulf.

Using the government's figures, a maximum penalty if the company is found negligent could total $18 billion. Using the company's figures, that maximum penalty would be around $10.5 billion.

Government experts believe the oil was flowing from the well at a higher rate shortly after the blowout than it was when the well was sealed. BP's experts concluded that flow rates increased over time, due in part to the erosion of steel rams on the rig's blowout preventer.

Judge Barbier has outlined a rigid schedule for attorneys to present their arguments and evidence over the next four weeks — and a court reporter will use a chess clock to keep track of time.

The judge set no strict time limits during the trial's first phase, which ended on April 17 after the judge heard about the complex chain of mistakes and failures that caused the blowout.

That phase featured testimony from high-ranking company executives and rig

workers who described their harrowing brush with death after an explosion on the rig Deepwater Horizon killed 11 of their colleagues. The second phase will consist almost entirely of technical testimony by dueling experts in several scientific disciplines.

For the first phase, lawyers for Gulf Coast residents and businesses and for the Gulf states were adversaries with Deepwater Horizon owner Transocean Ltd. and cement contractor Halliburton. But they are aligned against BP and Anadarko Petroleum Corp., a minority owner of the Macondo well, for the second phase.

A penalty phase for the trial has not been scheduled yet.

Transocean and Halliburton argue that their share of responsibility should be reduced as a result of BP's alleged misconduct in planning for and responding to the spill.

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