

Ex-BP Engineer Who Deleted Texts Heads To Trial

Michael Kunzleman, Associated Press

NEW ORLEANS (AP) -- Nearly a year after energy giant BP cut a deal to resolve a criminal investigation of its role in the nation's worst offshore oil spill, a jury is set to hear the Justice Department's case against a former company employee accused of trying to stymie the federal investigation.

Kurt Mix, who was a drilling engineer for BP, possibly faces a prison sentence if convicted of charges he deliberately deleted text messages and voicemails about the company's response to its massive 2010 oil spill in the Gulf of Mexico. Jury selection for his trial on two counts of obstruction of justice is scheduled to begin Monday in New Orleans.

His former employer pleaded guilty in January to manslaughter charges for the deaths of 11 rig workers and to lying to Congress about the size of the spill. The company agreed to pay \$4 billion in penalties, including nearly \$1.3 billion in fines.

Mix, 52, of Katy, Texas, is one of four current or former BP employees charged with crimes related to the deadly disaster or its aftermath. His case is the first to be tried.

Mix worked on a team of experts trying to stop the flow of oil from BP's Macondo well after a blowout triggered an explosion that killed the workers on the Deepwater Horizon rig. Between April 2010 and July 2010, BP sent him 10 separate notices that he was obligated to preserve all records related to the catastrophe, which led to millions of gallons of oil spilling into the Gulf.

The indictment says Mix deleted a string of text messages to and from a supervisor from his iPhone on Oct. 4, 2010, a day before a company vendor tried to collect documents from his laptop.

In June 2011, federal authorities issued a subpoena to BP for copies of messages that Mix sent and received around the time he was working on trying to cap the blown-out well.

On Aug. 20, 2011, Mix is said to have deleted dozens of text messages that he had exchanged with a BP contractor named Wilson Arabie. The indictment says Mix also deleted one voicemail from Arabie, one voicemail from the supervisor and one voicemail from an unidentified caller that went through BP's general switchboard.

Two days later, Mix met with the vendor and turned over his iPhone to be imaged. That same day, he also is said to have told BP attorneys that he had deleted some text messages and voicemails from the phone, including texts related to the Macondo well, according to the indictment.

Ex-BP Engineer Who Deleted Texts Heads To Trial

Published on Industrial Maintenance & Plant Operation (<http://www.impomag.com>)

The supervisor, Jonathan Sprague, and Arabie worked with Mix on spill response efforts, prosecutors noted.

"The timing of these deletions provides compelling evidence of (Mix's) corrupt intent to prevent the discovery of his text messages with the Supervisor and Contractor," they wrote in a court filing.

Mix's attorneys, however, said prosecutors never presented the grand jury with evidence about the content of the deleted texts messages.

"And had the grand jurors been given copies of the deleted text messages, they would have seen that they were not only not incriminatory in any way, but predominantly — and arguably entirely — innocuous and insignificant in substance," they wrote.

The content of Mix's messages with Arabie was "patently innocuous," Mix's lawyers argued.

"The vast majority of the text messages involve the type of mundane exchanges one would expect to find between co-workers (e.g., 'Call you after I eat'; 'have u set the time for meeting tmrw?'; where are u sitting?)," they wrote.

A vendor recovered all but 17 of the text messages between Mix and Sprague, who was BP's drilling engineering manager for the Gulf of Mexico. All 17 unrecovered messages were sent within 10 days of the blowout.

Mix's lawyers asked U.S. District Judge Stanwood Duval Jr. to bar prosecutors from referring to the unrecovered texts during trial. They argued it wasn't plausible that the deleted messages had any bearing on whether BP intentionally underestimated how much oil was flowing from the well.

Duval, however, said the unrecovered texts qualified as "relevant evidence."

"All of the text messages at issue were sent during the time frame when (Mix) was working on flow rate issues," he wrote.

Duval had refused to take the case out of jurors' hands and dismiss the indictment before trial. He said a reasonable jury could conclude that Mix's deletions "had the natural and probable effect of interfering with the due administration of justice."

"Indeed, a jury might find that the deletion of harmless electronic data might have been done to hide the deletion of one extremely incriminating one," Duval wrote. "The inquiry that Mix invites this court to undertake is clearly one that requires an analysis of motive and intent and a review of testimony and exhibits that require it to invade the province of the jury."

Earlier this year, one of Mix's lawyers had urged Duval to sanction prosecutors for allegedly withholding evidence in the case. Prosecutors, meanwhile, said a lawyer for Mix emailed a potential government witness and said he wouldn't be called to

Ex-BP Engineer Who Deleted Texts Heads To Trial

Published on Industrial Maintenance & Plant Operation (<http://www.impomag.com>)

testify if he spoke to defense attorneys.

The attorneys' combative rhetoric earned them a warning from Duval, who said he has "never seen such vituperative and condescending behavior and palpable rancor as displayed by some of the attorneys on each side."

"Such behavior is not availing for their clients and will not be tolerated in the future," he wrote.

Each of the two counts against Mix carries a maximum sentence of 20 years in prison and a \$250,000 fine.

Anthony Badalamenti, a former Halliburton manager who pleaded guilty in October to destroying evidence after the Gulf oil spill, faces a maximum of one year in prison and a \$100,000 fine when sentenced. Halliburton was BP's cement contractor on the Deepwater Horizon. Prosecutors said Badalamenti instructed two Halliburton employees to delete data during a post-spill review of the cement job on BP's blown-out well.

Three other current or former BP employees await trials on spill-related criminal charges.

BP well site leaders Robert Kaluza and Donald Vidrine have pleaded not guilty to manslaughter charges stemming from the rig workers' deaths. Prosecutors say they botched a safety test and disregarded high pressure readings that were signs of trouble before the blowout.

Former BP executive David Rainey is charged with concealing information from Congress about the amount of oil spewing from the well.

Source URL (retrieved on 12/26/2014 - 8:11pm):

<http://www.impomag.com/news/2013/12/ex-bp-engineer-who-deleted-texts-heads-trial>