

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

In re: Oil Spill by the Oil Rig “Deepwater  
Horizon” in the Gulf of Mexico,  
on April 20, 2010,

This Document Relates To: 10-4536

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\* MDL No. 2179  
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\* Section: J  
\*  
\* Judge Barbier  
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\* Magistrate Judge Shushan  
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STIPULATIONS AND ORDER RELATED TO THE “ANY OTHER PENALTY  
FOR THE SAME INCIDENT” FACTOR CONCERNING  
PRIOR SETTLEMENTS AND CRIMINAL PLEAS IN CONNECTION  
WITH THE PENALTY PHASE OF UNITED STATES V. BPXP, ET AL., 10-4536

The United States, Anadarko Petroleum Corporation (“Anadarko”), and BP Exploration & Production Inc. (“BPXP”)<sup>1</sup> (collectively, “the Parties”) hereby stipulate to the facts set forth herein related to the “any other penalty for the same incident” factor set forth in 33 U.S.C. § 1321(b)(8), concerning prior settlements and criminal pleas related to the *Deepwater Horizon* incident. These stipulations relate to the Penalty Phase of *United States v. BPXP, et al.*, No. 10-4536. The Parties enter into this stipulation to reduce the need for discovery and presentation of evidence.

The settlements summarized below are matters of record. The Parties reserve the right to make arguments or to rely on facts not included in these stipulations based on the judicial record or other relevant sources, and by entering into these stipulations do not concede that other facts pertaining to prior settlements or criminal pleas but not included in these stipulations are relevant.

The Parties do not waive any arguments concerning the relevance of these facts nor does any Party, by entering into these stipulations, concede the relevance of these facts. The Parties may enter into additional stipulations if warranted.

**BPXP Criminal Plea**

1. On or about November 15, 2012, the United States and BPXP entered into a Plea Agreement in the United States’ criminal case filed against BPXP in connection with the *Deepwater Horizon* incident (*United States v. BP Exploration & Production Inc.* (E.D.

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<sup>1</sup> These stipulations are not binding on any other entity including any State. The Parties agree that arguments regarding which corporate entities are relevant are reserved and will be resolved elsewhere.

La. Docket No. 12-cr-292)).<sup>2</sup> Pursuant to that Plea Agreement and the subsequent judgment entered by Judge Vance on January 29, 2013, BPXP will pay a fine of \$1.15 billion as to Count 12 (33 U.S.C. §§ 1319(c)(1)(A) & 1321(b)(3) (Clean Water Act)) of the Bill of Information.<sup>3</sup> BPXP will pay a fine of \$5.5 million as to Counts 1-11 (18 U.S.C. § 1115)(Seaman's Manslaughter).<sup>4</sup> BPXP also will pay a fine of \$100 million as to Count 13 (16 U.S.C. §§ 703 & 707(a) (Migratory Bird Treaty Act)) of the Bill of Information to the North American Wetlands Conservation Fund for the purpose of wetlands restoration and conservation projects, and \$500,000 as to Count Fourteen (Obstruction of Congress).<sup>5</sup> BPXP will pay an additional \$350 million to the National Academy of Sciences for the purposes of oil spill prevention and response in the Gulf of Mexico and \$2.394 billion (\$2,394,000,000.00) to the National Fish and Wildlife Foundation.

2. BP Corporation North America Inc. is the primary guarantor and BP p.l.c. is the secondary guarantor for all payments due under the Plea Agreement from BPXP.<sup>6</sup>
3. The Plea Agreement provides that "payments made pursuant to paragraph 4(c)(viii) [providing for entry of the order that was agreed to in connection with the Plea Agreement<sup>7</sup> and that was subsequently entered on January 29, 2013<sup>8</sup>] above shall have no effect on, and shall not be argued by the defendant, BP plc, or any other BP plc entity, to reduce in any way, any civil claims by any party arising out of the *Deepwater Horizon* blowout, explosion, oil spill and response, including but not limited to natural resource damage claims."<sup>9</sup> The payments made pursuant to paragraph 4(c)(viii) of the Plea Agreement are the above-mentioned \$350 million to the National Academy of Sciences and \$2.394 billion (\$2,394,000,000.00) to the National Fish and Wildlife Foundation. BPXP's payment of criminal fines totaling \$1.256 billion (\$1,256,000,000) under the terms of the Plea Agreement is not a payment made pursuant to paragraph 4(c)(viii) of the Plea Agreement.

#### **BP p.l.c. Consent to Judgment Regarding SEC Claims**

4. On or about November 15, 2012, the Securities and Exchange Commission ("SEC") and BP p.l.c. entered into a civil settlement and consent to final judgment for violations of Sections 10(b) and 13(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b) and 78 m(a),<sup>10</sup> which Judge Barbier entered on December 10, 2012.<sup>11</sup> Pursuant to the Final Judgment, BP p.l.c. will pay a civil penalty of \$525 million to the SEC.<sup>12</sup>

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<sup>2</sup> E.D. La. Docket No. 12-cr-292, Rec. Doc. 2-1.

<sup>3</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, 66.

<sup>4</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, 66.

<sup>5</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, 66.

<sup>6</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, ¶ 6(a).

<sup>7</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, Ex. B.

<sup>8</sup> E.D. La. Docket No. 12-cr-292, Rec. Doc. 66-3.

<sup>9</sup> E.D. La. Docket No. 12-cr-292, Rec. Docs. 2-1, ¶ 4.

<sup>10</sup> E.D. La. Docket No. 2:12-c-02774, Rec. Docs. 1, 2.



### **MOEX Consent Decree**

5. On or around February 17, 2012, the United States reached an agreement with MOEX Offshore 2007 LLC (“MOEX”), subject to court approval, to resolve the United States’ claims against MOEX for civil penalties under the Clean Water Act arising from the *Deepwater Horizon* accident, oil spill, and response.<sup>13</sup> According to the terms of the settlement, MOEX agreed to pay \$45 million in civil penalties to the United States to resolve alleged violations of the Clean Water Act resulting from the spill, as well as \$25 million in civil penalties to the five Gulf States.<sup>14</sup> In addition, MOEX agreed to implement supplemental environmental projects at a cost of at least \$20 million.<sup>15</sup> On June 18, 2012, this Court approved the settlement in a partial consent decree.<sup>16</sup>

### **Transocean Consent Decree**

6. On or around January 3, 2013, the United States reached an agreement with Transocean Deepwater Inc., Transocean Offshore Deepwater Drilling Inc., Transocean Holdings LLC, and Triton Asset Leasing GmbH (collectively, “Transocean”), subject to court approval, to resolve the United States’ claims against Transocean for civil penalties under the Clean Water Act arising from the *Deepwater Horizon* accident, oil spill, and response.<sup>17</sup> According to the terms of the settlement, Transocean agreed to pay \$1 billion in civil penalties to resolve alleged violations of the Clean Water Act resulting from the spill.<sup>18</sup> On February 19, 2013, this Court approved the settlement in a partial consent decree.<sup>19</sup>

### **Transocean Criminal Plea**

7. On or about January 3, 2013, the United States and Transocean Deepwater Inc. entered into a Plea Agreement in the United States’ criminal case filed against Transocean Deepwater, Inc. in connection with the *Deepwater Horizon* incident (*United States v. Transocean Deepwater Inc.* (E.D. La. Docket No. 13-cr-1)).<sup>20</sup> Pursuant to that Plea Agreement and the subsequent judgment entered by Judge Milazzo on February 14, 2013, Transocean will pay a fine of \$100 million as to Count 1 (33 U.S.C. §§ 1319(c)(1)(A) & 1321(b)(3) (Clean Water Act)) of the Bill of Information.<sup>21</sup> Transocean also will pay an additional \$150 million to the National Academy of Sciences for the purpose of oil spill prevention response in the Gulf of Mexico and \$150 million to the National Fish and

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<sup>11</sup> E.D. La. Docket No. 2:12-c-02774, Rec. Doc. 5.

<sup>12</sup> E.D. La. Docket No. 2:12-c-02774, Rec. Doc. 5.

<sup>13</sup> Rec. Docs. 5743 & 5743-1.

<sup>14</sup> Rec. Doc. 5743-1 at 10.

<sup>15</sup> Rec. Doc. 5743-1 at 12.

<sup>16</sup> Rec. Doc. 6698.

<sup>17</sup> Rec. Doc. 8157 & 8157-1.

<sup>18</sup> Rec. Doc. 8157-1 at 9.

<sup>19</sup> Rec. Doc. 8608.

<sup>20</sup> E.D. La. Docket No. 2:13-cr-1, Rec. Doc. 3-1

<sup>21</sup> E.D. La. Docket No. 2:13-cr-1, Rec. Docs. 3, 3-1.

Wildlife Foundation.<sup>22</sup> The settlement includes various court-enforceable strictures regarding Transocean's drilling operations.

**Halliburton Plea Agreement**

8. On July 25, 2013, Halliburton Energy Services Inc. entered into a plea agreement in which it agreed to pay a \$200,000 criminal fine as part of the criminal investigation into matters related to the *Deepwater Horizon* incident (referred to herein as the "Halliburton plea agreement"). The Halliburton plea agreement related to a misdemeanor violation of 18 U.S.C. § 1030(a)(5)(A), arising from the destruction of records created after the explosion on board the *Deepwater Horizon*.<sup>23</sup>

IT IS SO ORDERED.

New Orleans, Louisiana this 26<sup>th</sup> day of November, 2014



Carl J. Barbier, United States District Judge

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<sup>22</sup> E.D. La. Docket No. 2:13-cr-1, Rec. Docs. 3-1, 3-3.

<sup>23</sup> Cooperation Guilty Plea Agreement, *United States v. Halliburton Energy Services, Inc.*, No. 2:13-cr-00165 (E.D. La. July 26, 2013) Rec. Doc. 4.

Date: November 25, 2014

Respectfully submitted,

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