Oil giant BP reaches sweetheart settlement over 2010 Gulf disaster

By David Brown
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Energy giant BP has agreed to settle outstanding state and federal claims against it relating to the 2010 Gulf of Mexico oil disaster for $18.7 billion. The fines, to be paid over 18 years, are a small fraction of the damages caused by the largest offshore oil spill in US history and minor in relation to the immense profits of the transnational oil company.

In the five years since the oilrig explosion that killed 11 workers and the massive oil spill that followed, the Obama administration has sought above all to maintain BP, in Obama's words, as a "strong and viable company." No fines have been levied that would impinge on BP's profitability, and there were no criminal prosecutions of executives for the gross negligence leading to the disaster. The proposed settlement is a culmination of this policy.

If accepted by a federal judge, the settlement will cover $7.3 billion in natural resource damages, a $5.5 billion penalty under the federal Clean Water Act, $4.9 billion to settle claims from the five US states directly affected, and $1 billion for economic claims from local governments. Spread out over the 18 years, the fines amount to just over $1 billion per year. By comparison, BP made a $2.6 billion profit in the first quarter of 2015.

The settlement was significantly less than what BP was liable for under the law. For the Clean Water Act alone, BP could have been subject to fines of $4,300 for every barrel of oil spilled, which, using government estimates, would have resulted in a $21 billion fine. But that figure was steadily whittled down. First federal prosecutors only asked for $18 billion, then a federal judge ruled in January of this year that they would only face a $13.7 billion fine. However, the settlement cuts the total down to $5.5 billion, a quarter of what it reasonably owed under the law.

There is nothing new in Obama's efforts to shield BP. When BP established a $20 billion escrow fund to pay for damages to local residents, the Obama administration put Kenneth Feinberg in charge as the "claims czar." Under his guidance, BP has only paid out $5 billion out of that fund in the past five years.

US Attorney General Loretta Lynch hailed the agreement, saying "it would help repair the damage done to the Gulf economy, fisheries, wetlands and wildlife; and it would bring lasting benefits to the Gulf region for some time." But the real beneficiaries of the settlement are BP shareholders.

The market reacted exuberantly to the announcement, pushing BP stock prices up 5.14 percent by closing time Thursday. Stephen Simko, the director for energy research at Morningstar, told the *New York Times*, "Every aspect of this deal is better than what both we and the market were expecting."

The deal secures BP's financial ability to pay dividends to investors and opens the door to further drilling in the Gulf of Mexico. Bob Dudley, BP's chief executive, praised the deal, telling the *Times*, "It allows us to have this manageable cash flow, including increasing a commitment to investment in the US, which was increasingly uncertain for us."

BP currently operates eight oilrigs in the Gulf and, after a settlement with the Environmental Protection Agency last year, is able to bid on new exploration leases.

While BP's financial situation looks increasingly secure, the environmental and economic impact on workers along the Gulf Coast remains unresolved. All five Gulf states—Louisiana, Texas, Mississippi, Alabama and Florida—are receiving money as part of the settlement, but the amounts involved will barely scratch the surface of the lingering impact of the spill.

When the Deepwater Horizon rig sank in 2010, setting off an underwater spill that released 4.9 million barrels of oil into the Gulf, it devastated the marine environment as well as the fishing and tourist industries that depended on it. Fishermen have been reporting sharply lower yields, and marine researchers have documented high rates of deformity and disease among marine life.

There has not yet been a full accounting of the regionwide impact, but local studies showed significant damage through 2013. In Louisiana's Lake Ponchartrain Basin, oyster catches fell by 68 percent in average pounds per year compared to before the spill. Similarly, a University of Florida report showed many gulf regions where 20 to 50 percent of fish had lesions or sores.

The use of oil dispersant Corexit contributed to large-scale environmental and health issues. Over 1.8 million gallons of the dispersant were used in the cleanup despite its toxicity. According to its producer NALCO, "Excessive exposure may cause central nervous system effects, nausea, vomiting, anesthetic or narcotic effects."

Indeed, a 2013 study conducted by Columbia University found that more than 40 percent of parents living less than 10 miles from the coast had been directly exposed to the spill, and more than a third reported physical and mental health symptoms among their children. These included unexplained symptoms like bloody ears and noses.

Because the chemical dispersant was used at great depth, much of the spill never rose to the surface, and roughly 2 million barrels remain in a deep-sea plume or as a sludge covering 3,200 square kilometers of sea floor around the disaster site. Each new storm washes more oil and dispersant onto beaches and wetland areas.

Although the federal judge handling the BP case, Carl Barbier, has found that BP was "grossly negligent" in causing the oil spill, no top officials have been prosecuted in the incident that killed 11 workers. The company as a whole pleaded guilty to 11 felony counts of misconduct relating to the workers who died, but prosecution of individuals for the breach-of-safety practices rose no higher than two site supervisors on the rig who are still facing manslaughter charges.

Much like the financiers whose criminal activity precipitated the 2008 crisis, the BP executives who profited from the cost-cutting measures that led to the spill are free to enjoy the spoils flowing from the settlement. With the active complicity of the Obama administration, BP has received slap-on-the-wrist fines, and the company is back in business.