



**Louisiana Sea Grant Legal Program**  
**Louisiana Coastal Law Email Update Service**  
**Issue #30, September 2010**  
**By Annabelle Pardi**

## **Cases**

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### **Gulf Coast residents file first personal injury class action involving oil spill**

Two Alabama women filed what is believed to be the first personal injury class action involving the chemical dispersant Corexit 9500 in the U.S. District Court for the Southern District of Alabama. They name BP PLC, BP Products of North America Inc., BP America Inc., BP Exploration & Production Inc., and Nalco Co. as defendants. The defendants are accused of being negligent and reckless in their decision to dump millions of gallons of chemicals adjacent to highly populated geographical areas. The plaintiffs maintain that since the defendants began spraying the dispersant, more than 100 people have received emergency room treatment for symptoms of nausea, dizziness, shortness of breath, severe headaches, and gastrointestinal problems.

Source: Glynis H. Wright, et al. v. BP PLC, et al., No. 10-cv-0397, S.D. Ala (July 26, 2010).

### **Securities fraud class action against BP**

The Oklahoma Police Pension & Retirement System filed a class action complaint in the U.S. District Court for the Eastern District of Louisiana. The complaint was filed on behalf of all investors who purchased American depositary shares of BP between June 30, 2005, and June 1, 2010, and all U.S. investors who purchased ordinary shares of BP. Plaintiffs allege that BP PLC committed securities fraud by making false public statements about the safety of its oil drilling operations before the Deepwater Horizon explosion and ensuing oil spill.

Source: The Oklahoma Police Pension & Retirement System, et al. v. BP, PLC, et al., No. 2:10-cv-02013-KDE-KWR, E.D. La. (July 19, 2010).

### **Investors file worldwide securities class action against BP PLC**

Two investors of BP PLC filed a securities fraud class action against the company in a Louisiana federal court, seeking to represent all BP shareholders worldwide and alleging that BP misrepresented the safety of its Gulf of Mexico oil-drilling operations. Lore Greenfield and Alan R. Higgs filed their complaint against BP in the U.S. District Court for the Eastern District of Louisiana, alleging that BP and its officers and directors violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Securities and Exchange Commission Rule 10b-5. They are seeking to represent investors who purchased BP shares on the London Stock Exchange and BP American Depositary Receipts (which consist of six BP shares each) on the New York Stock Exchange between Feb. 27, 2008, and May 12, 2010.

Source: Lore Greenfield, et al. v. BP p.l.c., et al., No. 10-1683, E.D. La. (June 8, 2010).

### **Fifth Circuit refuses to stay ruling on drilling moratorium**

The Fifth Circuit U.S. Court of Appeals denied a motion to stay pending appeal of a Louisiana federal judge's June 22 ruling enjoining the federal government's six-month moratorium on offshore drilling operations of deep-water oil wells in the Gulf of Mexico. The moratorium was in reaction to the Deepwater Horizon drilling platform explosion on April 20.

Source: Hornbeck Offshore Services LLC, et al. v. Kenneth Lee Salazar, et al., No. 10-30585, 5th Cir. (July 8, 2010).

### **Department of Interior sued for oil, gas lease records**

Center for Biological Diversity filed suit to force the federal government to turn over correspondence concerning the approvals of offshore oil and gas leasing and records from related meetings prior to the BP PLC Gulf of Mexico oil spill. The center says it submitted a Freedom of Information Act (FOIA) request on May 18 for all correspondence, e-mails, text messages, phone logs, faxes and other mobile messaging sent to and from Salazar related to the approval of any offshore oil and/or gas leasing and notes of meetings attended by Salazar regarding offshore oil and/or gas leasing.

Source: Center for Biological Diversity v. Ken Salazar, United States Secretary of the Interior, et al., No. 10-01164, D. D.C. (July 12, 2010).

### **Groups sue EPA for disclosure of dispersant data**

Two environmental groups sued the U.S. Environmental Protection Agency on July 14 for the disclosure of information about dispersants used after the Deepwater Horizon explosion. According to the Deepwater Horizon Unified Command, as of July 11, BP had used more than 1.07 million gallons of surface dispersant and more than 721,000 gallons of subsea dispersant. Florida Wildlife Restoration Inc. and Gulf Restoration Network say they want to ensure that cleanup workers, citizens and officials have information on the ingredients of, as well as the human health and environmental impacts of, oil dispersants being used in the Gulf of Mexico.

Source: Florida Wildlife Restoration Inc., et al., v. U.S. Environmental Protection Agency, No. 10-293, N.D. Fla. (July 14, 2010).

### **Suit seeks oil discharge amounts and pollutant identification from BP**

The Center for Biological Diversity filed suit on June 18, seeking a full accounting from BP PLC and others of the type and amount of toxins and oil discharged into the Gulf of Mexico each day. They are also asking for civil penalties that could top \$19 billion. Since the accident, more than 100 million gallons of oil have leaked into the Gulf, and BP has applied more than 882,000 gallons of chemical dispersants to the water surface and pumped 402,000 gallons of chemical dispersants into the water column to dilute the oil, the Center says.

Source: Center for Biological Diversity v. BP America Inc., et al., No. 10-01768, E.D. La. (June 16, 2010).

### **Louisiana fishermen sue, seek health monitoring for oil spill cleanup volunteers**

Two Louisiana fishermen filed a class action lawsuit in Louisiana state court, seeking health monitoring for volunteers and workers whom they claim are working in hazardous conditions while cleaning up the Gulf of Mexico oil spill. The plaintiffs claim that volunteers and workers have been exposed to oil, fumes

and other chemicals during the cleanup efforts. The suit is believed to be the first of its kind to seek medical monitoring for cleanup workers since the April 20 fire and explosion aboard the Deepwater Horizon drilling rig.

Source: John Wunstell Jr., et al., v. BP PLC, et al., No. 2010-7437, La. Dist., New Orleans Parish (July 20, 2010).

### **Owner of beachfront rental property seeks damages from oil spill**

A Louisiana man filed a class action lawsuit seeking damages as a result of the fire and explosion aboard the Deepwater Horizon drilling rig. Joshua Danzig named BP PLC, BP America Inc., BP Corporation North America Inc., BP Company North America Inc., BP Products North America Inc., Transocean Ltd., Transocean Deepwater Inc., Transocean Offshore Deepwater Drilling Inc., Halliburton Energy Services Inc., Cameron International Corp., M-I LLC, Anadarko Petroleum Corp. and Moex Offshore 2007 LLC as defendants. The plaintiff claims that as a result of the oil spill, he has suffered and will continue to suffer damages from lost rental income, as well as a devaluation of his property.

Source: Joshua Danzig v. BP PLC, et al., No. 10-01726, E.D. La. (June 11, 2010).

### **Additional defendants face claims for injuries suffered due to missing oil rig worker**

Shane Roshto and his wife, Natalie Roshto, sued Transocean Ltd. and BP PLC on April 21 in the U.S. District Court for the Eastern District of Louisiana. Shane Roshto was working as a roustabout on the Deepwater Horizon on April 20, when he was thrown overboard by the force of the explosion. He has not been found. In the complaint, the plaintiffs contend that Shane Roshto suffered severe and painful personal injuries and is feared dead. Natalie Roshto alleges that she is distraught because she does not know if her husband is alive and that she is suffering from post-traumatic stress disorder, depression, anxiety and other injuries. They amended their complaint on May 7 to include additional defendants.

Source: Shane Roshto, et al. v. Transocean Ltd., et al., No. 2:10-cv-1156, E.D. La. (May 7, 2010).

### **Interior Department latest target in Gulf oil spill disaster litigation**

The Gulf Restoration Network Inc. and the Sierra Club Inc. filed suit naming Interior Secretary Ken Salazar and other government agencies and officials as defendants. The plaintiffs claim that the Department of Interior's Minerals Management Service (MMS) violated federal law by exempting oil companies that drill in the Gulf from disclosing worst-case spill scenarios and plans for handling those scenarios prior to approving the companies' off-shore drilling plans. The plaintiffs allege that for the BP Deepwater Horizon project, MMS issued notices stating that the oil companies did not have to comply with blowout and worst-case oil spill rules. The plaintiffs maintain that the exemption contributed to the Deepwater Horizon disaster. The plaintiffs further allege that MMS failed to analyze the potential environmental impact of an accident resulting in an oil spill as required by the National Environmental Policy Act.

Source: Gulf Restoration Network Inc., et al. v. Ken Salazar, et al., No. 2:10-cv-01497, E.D. La. (May 18, 2010).

### **Louisiana sport fisherman files class action seeking damages from oil spill**

A Mandeville, Louisiana, sport fisherman filed a class action lawsuit seeking damages resulting from the April 20 Gulf of Mexico oil spill. The class action appears to be the first suit to include a claim seeking to compel provisions of the Outer Continental Shelf Lands Act (OCSLA). Garner seeks to represent a class

of all Louisiana residents who live or work in or derive income from the Louisiana coastal zone and who have sustained any legally cognizable loss and/or damages as a result of the Deepwater Horizon disaster. The plaintiff seeks compensatory and punitive damages for violations of the provisions of the OCSLA and makes claims of negligence, nuisance, strict liability and trespass.

Source: Tom Garner v. BP PLC, et al., No. 10-cv-01482, E.D. La. (May 14, 2010).

### **Gulf coast seafood industry sues BP**

A putative class of fishermen sued BP in Louisiana federal court, alleging that the oil spill is endangering their livelihood. The plaintiffs claim that the defendants knew of the dangers associated with deep water drilling and failed to take appropriate measures to prevent damage. The plaintiffs claim that the fire and explosion are the result of the defendants' negligence and seek certification of a class of all Louisiana residents who live or work in, or derive income from, the Louisiana coastal zone and who have sustained any legally cognizable loss and/or damages. The plaintiffs seek economic, compensatory and punitive damages for negligence and violations of the Oil Pollution Act.

Source: Acy J. Cooper Jr., et al. v. BP PLC, et al., No. 10-cv-1229, E.D. La. (April 28, 2010).

### **House passes bill allowing oil spill victims to recover noneconomic damages**

In a move that would allow families of workers killed in the Deepwater Horizon oil rig explosion to sue for noneconomic damages, the U.S. House of Representatives passed H.R. 5503, the SPILL Act (Securing Protections for the Injured from Limitations on Liability Act), a bill aimed at providing better compensation for maritime disaster victims. The SPILL Act amends the Death on the High Seas Act and the Jones Act and repeals the Limitations of Liability Act. It focuses on reforming maritime laws to hold corporations accountable for negligently causing disasters such as the BP oil spill.

Source: HR5503 on Westlaw: 77-100712-009L (July 1, 2010).

## **News**

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### **MR-GO ecosystem restoration delayed by financing dispute**

A disagreement between Louisiana coastal officials and the Army Corps of Engineers over whether the state should pay a share of the cost threatens to delay efforts to restore wetlands and cypress forests in eastern New Orleans and St. Bernard Parish that were destroyed by the construction and operation of the now-closed Mississippi River-Gulf Outlet (MR-GO). The goal of the MR-GO ecosystem restoration project is to rebuild wetlands and woodlands that improve wildlife and fisheries habitats and help dampen hurricane-driven surges from Lake Borgne and the Gulf of Mexico. The financing stalemate has put on hold an environmental report that must be completed before the restoration plan can be submitted to Congress for funding.

Source: The Times-Picayune, *MR-GO ecosystem restoration delayed by financing dispute* (September 23, 2010).

### **LSU Stephenson Disaster Management Institute continues its work**

Five years after Hurricane Katrina came ashore, one of LSU's major institutes born out of its wake continues its aim to save the lives of humans and animals before, during and after disasters occur by continuously improving disaster response management through research and education. This mission

closes the gap between practitioners and academic researchers by emphasizing collaboration between these critical players.

Source: LSU News, *Katrina's Five-Year Anniversary a Reminder Why LSU Stephenson Disaster Management Institute Was Created* (August 30, 2010).

### **FDA reviews proposal for sale of genetically altered salmon**

Genetically engineered salmon that grow twice as fast as the conventional fish appear to be safe, an advisory committee told the Food and Drug Administration. If the FDA approves the sale of the salmon, it will be the first time the government allows modified animals to be marketed for human consumption. However, they have not yet decided whether to approve the request, saying there is no timeline for a decision, and more testing is needed. If approved, the fish could be in grocery stores in two years, the company estimates. This could open the door for a variety of other genetically engineered animals, including a pig that is being developed in Canada and cattle that are resistant to mad cow disease.

Source: Nola.com, *FDA reviews proposal for sale of genetically altered salmon* (September 21, 2010).

### **Environmental group raising questions about Chalmette refinery discharge**

Questions have been raised about additional chemicals released into the air after several units at a St. Bernard Parish refinery lost power last week, spewing a white powder that landed on houses and cars across parts of Chalmette. In addition to the spent catalyst that was released, the refinery also released sulfur dioxide, nitrogen oxide and hydrogen sulfide into the air, the state Department of Environmental Quality confirmed. A DEQ spokesman said that while air quality monitoring at the time of the release detected an increase in those compounds, the levels were far below air quality levels of concern specified by the Environmental Protection Agency.

Source: Chris Kirkham, Nola.com, *Environmental group raising questions about Chalmette refinery discharge* (September 14, 2010).

### **Research hopes to improve oyster re-introduction projects**

Oyster reefs are on the decline, with over-harvesting and pollution reducing some stocks as much as 98 percent over the last two centuries. With a growing awareness of oysters' critical role in filtering water, preventing erosion, guarding coasts from storm damage, and providing habitat for other organisms, researchers have been investigating how oyster reefs form in order to better understand the organisms and offer potential guidance to oyster re-introduction projects. Researchers from Purdue University and the University of South Carolina have shown that oysters produce a unique adhesive material for affixing themselves to each other, a cement that differs from the glues used by other marine organisms.

Source: Science News, *Cement, the Glue That Holds Oyster Families Together*, (August 26, 2010).

### **Many oil spill claims lack documentation**

The administrator of the new claims process for victims of the Gulf oil spill, Ken Feinberg, has said that most of the individual claims reviewed in the first week lacked the minimal documentation to be paid. Feinberg took over the claims process from BP on August 23. He said 18,900 individual claims were submitted in the first week and all were reviewed, resulting in payments to 1,200 individuals totaling about \$6 million in emergency compensation.

Source: The Associated Press, NOLA.com, *Feinberg says most spill claims lack documentation* (August 30, 2010).

### **BP probe blames its workers for gulf blowout, report says**

BP has said that it will not comment on a report that the company's own investigation has faulted employees for failing to spot danger signs before the disastrous blowout of a well in the Gulf of Mexico. Bloomberg News, citing an unidentified source, reported that BP's investigation determined that some of its employees misread pressure data from the Macondo well hours before it blew out on April 20. "We have not seen it ourselves," BP spokesman Mark Salt said of the internal report. "I am not going to comment on speculation."

Source: USA Today, *BP probe blames its workers for Gulf blowout, report says* (August 30, 2010).

### **Fall shrimp season opens to few shrimpers**

The August 16<sup>th</sup> opening of the inshore shrimp season east and west of the Mississippi River, except for some portions of Barataria Bay and Chandeleur Sound, came after weeks of testing by the Food and Drug Administration and the National Oceanic and Atmospheric Administration. The agencies performed chemical and smell tests from dozens of samples that showed finfish and shrimp from state waters did not pose a human health risk. However, only a fraction of the shrimp docks were open for business after months of oil spill-related fishing closures. Many shrimpers are choosing to stick with more reliable shifts working cleanup for BP, as demand for Louisiana and Gulf seafood remains a huge uncertainty in the coming months.

Source: Chris Kirkham, The Times-Picayune, *Fall shrimp season opens Monday to few shrimpers, lots of worry* (August 16, 2010).

See also: John DeSantis, Houma Today, *Shrimp season begins quietly on local bayous* (August 17, 2010).

### **Economic impact on global drilling less than feared**

The economic impact of the moratorium on new deepwater drilling since the BP accident has been far less than many people predicted. A negative impact has been even harder to find in other countries despite the fact that companies around the world use much of the same equipment under similar industry protocols. The limited reaction so far can be explained by the growing importance of deepwater drilling to world oil supplies, especially in countries like Norway whose production is in decline. Since 2006, nearly half the total oil and gas reserves added worldwide have been in deepwater areas. Six million barrels of oil a day, or 7 percent of total global production, is currently produced in such areas, and total deepwater world oil production is expected to double by 2030.

Source: Clifford Krauss, NY Times, *BP Oil Spill Has Little Impact on Global Drilling* (August 25, 2010).

### **Large fish kill at mouth of Mississippi River Gulf Outlet**

Thousands of dead fish (estimated 5,000 to 15,000) and other marine life have been found at the mouth of the Mississippi River Gulf Outlet, according to the president of St. Bernard Parish in Louisiana. Dead species included crabs, stingrays and a variety of fish. There is some recoverable oil in the area but there also have been oxygen issues, so officials do not know yet if the fish kill is related to the BP oil spill. Officials from the Louisiana Wildlife and Fisheries Department are investigating.

Source: CNN Wire Staff, *Large fish kill found at mouth of Mississippi River Gulf outlet* (August 23, 2010).

### **Massive fish kill reported in Louisiana**

A second mishmash of species of dead sea life - fish, crabs, stingray and eel- covered in Bayou Chaland in Plaquemines Parish. New Orleans CBS affiliate WWL-TV reported that even a whale was found dead in the area, a stretch of coastal Louisiana hit hard this summer by oil from BP's busted Gulf well. Areas near the mouth of the Mississippi are rife with dead zones -- stretches where sudden oxygen depletion can cause widespread death. It was determined that low tide and high temperatures caused low oxygen levels that suffocated huge numbers of aquatic life, a spokeswoman for the Louisiana Department of Wildlife and Fisheries stated. Department biologists found that this fish kill had nothing to do with the Gulf of Mexico oil spill.

Source: Brett Michael Dykes, Yahoo News, *Massive fish kill reported in Louisiana* (September 14, 2010). See also: Nola.com, *Plaquemines fish kill is unrelated to BP oil spill, state says* (September 15, 2010).

### **BP officials agree to meeting on aid for seafood and tourism industries**

Lt. Gov. Scott Angelle will meet with three BP "senior-level" officials on September 23 to press the state's demands for \$75 million from the oil giant to help market Louisiana's seafood and tourism industries, hit hard by the Deepwater Horizon-BP oil spill in the Gulf of Mexico. BP has given Louisiana \$15 million to help it with its tourism marketing and promotion during the summer months, but Angelle said 97 percent of that has been spent or committed. He said a recent national survey of more than 1,000 tourists indicated that of those who had planned a trip to the state, 29 percent canceled or postponed their visits specifically because of the spill.

Source: Ed Anderson, The Times-Picayune, *BP officials agree to meeting on aid for seafood and tourism industries* (September 23, 2010).

### **BP engineer pleads the fifth to avoid testifying**

A key witness in the federal investigation of the Deepwater Horizon disaster has pled the fifth to avoid testifying. Brian Morel, a BP engineer who was part of the team that designed the Macondo well, is the second witness to invoke his constitutional right to not answer questions from a joint Coast Guard and Bureau of Ocean Energy Management panel. Morel's testimony would have been significant because of e-mail messages he sent and received in the days leading up to the disaster. Those messages were released by a congressional committee.

Source: David Hammer, The Times-Picayune, *BP engineer who wrote telling e-mails pleads the Fifth to avoid testifying at oil spill hearings* (August 24, 2010).

### **New oil-eating microbe discovered**

A newly discovered type of oil-eating microbe is flourishing in the Gulf of Mexico. Scientists discovered the microbe while studying the underwater dispersion of millions of gallons of oil spilled into the Gulf following the explosion of the Deepwater Horizon. Scientists had been concerned that oil-eating activity by microbes would consume large amounts of oxygen in the water, creating a dead zone dangerous to other life. However, the new study found that oxygen saturation outside the oil plume was 67-percent while within the plume it was 59-percent.

Source: Randolph E. Schmid, Yahoo News, *New microbe discovered eating oil spill in Gulf* (August 24, 2010).

### **Marsh recovery after the oil spill**

With the capping of the Deepwater Horizon, observers are reporting plants sprouting in areas that had been denuded by the oil spill. When oil contacts the above-ground portions of marsh plants, it generally kills the plants within a few days, but the affected area often recovers in one to two months. The dense root systems and rhizomes of many marsh plants will send up new shoots that form healthy plants. Scientists explain that it is similar to burning a field or meadow.

Source: Rick Bogren, LSU Ag Center, *Marshes could recover from oil contamination* (August 17, 2010).

### **Oil spill could work in favor of coastal restoration**

A coalition of national environmental groups say that three months of continuous newscasts have dramatically increased national awareness of the state's real coastal disaster: Louisiana's crumbling coast. They hope the billions in fines owed by BP will bankroll critical projects that Congress has previously refused to fund. More toxic than chemical dispersants, the environmentalists say, is the political atmosphere in Washington, but with the latest attention there has been a real increase in awareness of the urgency of the problem. If the problem is left unaddressed, most of southeastern Louisiana outside of hurricane protection levees will be underwater by 2050. This would virtually erase productive fisheries in the Gulf states and place more than 100 billion in infrastructure at risk.

Source: Bob Marshall, The Times-Picayune, *BP oil spill disaster could end up working in favor of coastal restoration* (August 22, 2010).

### **Marketing campaign in the works to promote local seafood**

The Louisiana Seafood and Promotion Board is in the midst of organizing a massive campaign to help restore faith in the Louisiana brand. The cost for the multi-year plan will fall between 50 to 100 million dollars. So far BP has turned over \$2 million to help with the project. Pearce says one other potential funding source will be money from the billions BP is expected to pay in fines for the spill.

Source: Liz Reyes, Fox-8, *Marketing campaign in the works to promote local seafood* (August 19, 2010).

### **Hearings examine the cause of the oil spill**

An investigative panel is looking into the cause of the Deepwater Horizon explosion and spill. Transocean's rig manager, Neil Cramond, testified that the captains of rigs are ultimately responsible for crew safety and environmental matters, but that they are not always involved in decisions about how to deal with drilling operations and potential risks. Members of the joint U.S. Coast Guard-Bureau of Energy Management, Regulation and Enforcement investigative panel pressed hard on communication between BP officials onshore and the people operating its rigs offshore. They also questioned communication between BP, Transocean and other entities involved in operating the rig and overseeing maintenance.

Source: The Associated Press, NOLA.com, *Hearings into cause of oil spill resume in Houston* (August 23, 2010).

### **Rescued turtles returned to Gulf**

The first rescued Kemp's ridley sea turtles were released back into the Gulf of Mexico by federal scientists. The twenty-three turtles had been oiled by the BP spill and were cleaned and rehabilitated by federal and state workers.

Source: The New York Times, *Rescued turtles go free in Gulf* (August 18, 2010).

### **Scientists map origin of large, underwater hydrocarbon plume in Gulf**

Scientists funded by the National Science Foundation (NSF) and affiliated with the Woods Hole Oceanographic Institution have detected a plume of hydrocarbons at least 22 miles long and more than 3,000 feet below the surface of the Gulf of Mexico, a residue of the Deepwater Horizon oil spill. The study--which was enabled by three rapid response grants from NSF's chemical oceanography program, with additional funding from the U.S. Coast Guard and NOAA through the Natural Resource Damage Assessment Program--confirms once again that a continuous plume was found at petroleum hydrocarbon levels that are noteworthy and detectable. Whether the plume's existence poses a significant threat to the Gulf is not yet clear.

Source: NOAA News, *Scientists map origin of large, underwater hydrocarbon plume in gulf* (August 19, 2010).

### **Scientists question intergovernmental report on remaining oil quantities**

Some scientists are voicing doubts about the accuracy of an intergovernmental agency report released August 4 asserting that just 26 percent of the estimated 4.9 million barrels of oil released from BP's ruptured wellhead remains to be dealt with onshore and at sea. Written by the National Oceanic and Atmospheric Administration in conjunction with the U.S. Geological Survey, the five-page report includes a pie chart that describes the fate of the oil, broken into seven categories. According to the chart, roughly one-third of the oil that gushed from the wellhead is definitely gone: recovered directly or eliminated by burning, skimming, or chemical dispersion operations. While that represents roughly 19 percent of the oil removed from the water by response teams, the report reads as if natural processes have eliminated more than twice that amount through evaporation, dissolution or natural dispersion. Some scientists suspect the figure for oil remaining in the water is much higher than the report's estimates and complain that federal officials have refused to reveal the algorithms used to derive the calculations that relied on measurements and estimates provided by Gulf response teams in daily operational reports.

Source: The Times-Picayune, *Scientists wary of U.S. report that says only 26 percent of spilled Gulf oil left* (August 17, 2010).

### **Waste from BP oil spill cleanup has gulf residents near landfills concerned**

As beach cleanup is scaled down, the fate of all the oily trash created and collected along the Gulf Coast is causing a raging debate that BP and federal officials are trying hard to curb. The oil from BP's rig explosion in April has already created more than 45,000 tons of garbage -- the solid oil and all the materials used to gather it -- and much more oily liquid waste. The trash is being shipped to nine landfills that store household garbage and non-hazardous industrial waste in communities across Louisiana, Alabama, Mississippi and Florida. People want to know what is in those trash bags, where they will end up and if the workers handling the oily trash are safe.

Source: Krissah Thompson, Washington Post, *Waste from BP oil spill cleanup has gulf residents near landfills concerned* (August 16, 2010).

### **Louisiana's dead zone doubles in size**

The annual summertime dead zone caused by low oxygen levels in water along the Gulf of Mexico shoreline this year is twice as big as last year's, stretching 7,722 square miles across Louisiana's coast, well into Texan waters. Last year, the area affected by low oxygen was limited by lower springtime water levels in the Mississippi River, which meant fewer nutrients reached coastal waters. Also, persistent winds from the west and southwest last year may have driven low-oxygen water out of the easternmost Louisiana waters where last year's mapping was done. The low-oxygen area is linked to high levels of nitrogen and phosphorus, the main ingredients of agricultural fertilizers, and other nutrients carried by the Mississippi River from the Midwest into the Gulf. There, they feed springtime and summertime blooms of algae at the surface, which sink to the bottom and decompose when they die, using up oxygen in the water.

Source: Mark Schleifstein, The Times-Picayune, *Dead zone as big as Massachusetts along coast of Louisiana and Texas, scientists say* (August 3, 2010).

### **Louisiana Sea Grant oyster specialist creates hardy breed**

Most oystermen agree that few oysters will be harvested from the Gulf Coast in the next year or two, signaling a potential calamity for shucking houses, oyster farmers and people who love a half dozen oysters on the half shell. As much as 65 percent of the nation's oysters come from the Gulf. Oysters are particularly susceptible to pollution, taking longer than fish or shrimp to clear oil contamination from their bodies. Biologist John Supan thinks he has developed what may be the Holy Grail for oyster lovers: a hardy breed of the delectable shellfish that stays fat enough for consumers to eat throughout the year. Supan's oysters are bred for performance, making them more fit to deal with viruses and other contaminants. Being sterile, they do not go through the stress of reproduction, so they stay fat and juicy all year round.

Source: Cain Burdeau, Yahoo News, *La. Scientist's oysters safe from oil, but pricey* (August 20, 2010).

### **Questions raised over oyster safety**

Sampling by environmental groups has found oysters contaminated with oil along the Louisiana coast, a finding that casts doubt on statements by state and federal officials that all seafood tested here is safe to eat. Batches of oysters were sampled on August 2 and 3 near the mouths of the Atchafalaya and Mississippi rivers and laboratory tests revealed the animals were tainted by oil. Louisiana has opened some waters to oyster harvesting, but much of the state's coast remains closed to oystermen because of concerns over oil.

Source: Cain Burdeau, Business Week, *Enviro groups question oyster safety off Louisiana* (September 2, 2010).

### **Louisiana judge will preside over oil spill lawsuits**

The U.S. Judicial Panel on Multidistrict Litigation has selected U.S. District Judge Carl Barbier to hear more than 300 lawsuits filed against BP in connection with the Deepwater Horizon oil spill in the Gulf of Mexico. The panel ordered more than 77 actions and 200 additional potentially related actions to be transferred to the U.S. District Court for the Eastern District of Louisiana. The lawsuits were filed in varying locations, including Alabama, Florida, Mississippi, Texas and Louisiana. Counsel for BP previously moved for centralization in the U.S. District Court for the Southern District of Texas, but the panel cited Louisiana as the "most appropriate district" for the litigation due to the close proximity of the oil spill's effects.

Source: Legalbrief Today, *Louisiana judge will preside over oil spill lawsuits* (August 13, 2010).

### **More environmental review planned for oil exploration and drilling**

In the aftermath of the blowout of BP's Deepwater Horizon oil rig in the Gulf of Mexico, the federal Minerals Management Service was widely criticized for issuing BP "categorical exclusions" for exploration and drilling that permitted the operation to proceed without a more painstaking environmental review required by the National Environmental Policy Act. The Interior Department announced that it will restrict the use of those exclusions to only those situations posing "limited environmental risk."

Source: Jonathan Tilove, Nola.com, *More environmental review planned for oil exploration and drilling* (August 16, 2010).

### **Risk-taking rises as oil rigs in Gulf drill deeper**

Engineering innovations during the 1990s, like better seismic imaging technology, greatly pushed the boundaries of deepwater production — traditionally defined as deeper than 1,000 feet of water. More than 20 percent of all bids in the Gulf last year were for leases in water deeper than 6,500 feet. The deepest well in production in the Gulf — Perdido's Tobago well — lies in 9,600 feet of water. Meanwhile, new ships that can drill in 12,000 feet of water have recently arrived in the Gulf. Oil companies insist that offshore drilling is often safer than land-based drilling because the investments involved are far larger and the safety procedures far more rigorous. They say that they have drilled more than 4,000 wells in the Gulf's deep waters, including 700 in waters deeper than 5,000 feet. Before the BP accident, just 1,800 barrels of oil were spilled in blowouts from 1979 to 2009, according to the Interior Department.

Source: Meier, Barry and Mouawad Jad, NY Times, *Risk-taking rises as oil rigs in Gulf drill deeper* (August 29, 2010).

### **BP won't subtract cleanup pay**

Kenneth Feinberg, in charge of administering BP's \$20 billion liability fund, announced that out-of-work fishermen and others who worked on the offshore oil clean-up this summer will not have their pay for those efforts subtracted from eligible emergency funding. Feinberg explained in an interview last week that all emergency funding will be deducted from a worker's or business' final settlement with BP or court judgment against BP. To obtain a final settlement from the \$20 billion fund a person with a valid claim will have to waive the right to sue BP.

Source: Bill Lodge, Nola, *BP won't subtract cleanup pay* (September 21, 2010).

### **Louisianans affected by gulf oil spill seek lessons in Alaska**

Dozens of Louisianans traveled more than 4,400 miles in August to talk to Alaskans affected by the Exxon Valdez spill. The group from Louisiana - professors, politicians and community leaders - spent a week in Alaska, looking to learn from those who have been where they are headed, those whose lives were linked to the nation's largest oil spill before the Gulf of Mexico incident took that distinction this year. They discovered that spills have a way of lingering long after the water is declared open and the beaches are deemed safe. Twenty-one years have passed since the Exxon Valdez oil tanker released an estimated 11 million gallons of oil into Prince William Sound. Recently, a drawn-out class-action suit launched against the company by 32,000 fishermen, Alaska Natives and landowners ended with the

company ordered to pay nearly \$1 billion in punitive damages and interest, much less than the \$5 billion initially awarded.

Source: Theresa Vargas, Washington Post, *Louisianans affected by gulf oil spill seek lessons in Alaska from Exxon Valdez* (September 5, 2010).

### **More seafood testing needed**

In reopening about 5,130 square miles of Gulf waters to shrimping and fishing, the National Oceanic and Atmospheric Administration proclaimed the shrimp and seafood safe. But Gina Solomon, senior scientist at the Natural Resources Defense Council, said NOAA only used data from 12 samples of shrimp, consisting of 73 individual shrimp, for its evaluation. That's just too small, she believes, for an area that is roughly the size of the state of Connecticut. But Jane Lubchenco, NOAA's administrator, said the monitoring of shrimp is ongoing, assuring that shrimp from the Gulf is safe in the wake of the Gulf of Mexico oil spill. "The Gulf seafood taken from these waters is safe to eat, and today's reopening announcement is another signal to tourists the northern Gulf is open for business."

Source: Times-Picayune, *More seafood testing needed, scientist says* (September 6, 2010).

### **Oil platform explodes in the Gulf of Mexico off the Louisiana coast**

An oil platform exploded and burned off the Louisiana coast, the second such disaster in the Gulf of Mexico in less than five months. This time, the Coast Guard said there was no leak, and no one was killed. The Coast Guard initially reported that an oil sheen a mile long and 100 feet wide had begun to spread from the site of the blast, about 200 miles west of the source of BP's massive spill. But hours later, crews were unable to find any spill.

Source: Alan Sayre, Huffington Post, *Oil Platform Explodes In The Gulf of Mexico Off the Louisiana Coast* (September 2, 2010).

### **Obama administration orders oil industry to plug abandoned Gulf wells**

The Obama administration said today it will require oil and gas companies operating in the Gulf of Mexico to plug nearly 3,500 nonproducing wells and dismantle about 650 production platforms that are no longer used. More than 27,000 abandoned oil and gas wells lie beneath the Gulf of Mexico, and more than 1,200 oil rigs and platforms sit idle. About 50,000 wells have been drilled in the Gulf over the past six decades, with about 23,500 permanently abandoned. Another 3,500 are classified by federal regulators as "temporarily abandoned," with sealing procedures that are not as stringent as those for permanent closures. Some of the "temporarily abandoned" wells have been left that way since the 1950s, without the full safeguards of permanent abandonment. Petroleum engineers say that even in properly sealed wells, the cement plugs can fail over time and the metal casing that lines the wells can rust. Even depleted production wells can repressurize over time and spill oil if their sealings fail.

Source: Associated Press, Nola.com, *Obama administration orders industry to plug abandoned Gulf wells* (September 15, 2010).

### **Seafood prices worry fishermen**

Though some federal waters in the Gulf remain closed, more and more are reopening. Shrimpers returned to Louisiana waters on Monday, August 16th, for the first time since the BP oil spill disaster with

an uncertain consumer market. It is unknown as of yet just how much the oil will affect Louisiana's \$318-million/year business, first in the nation in blue crab, shrimp, crawfish, and oysters. A price spike occurred after the April 20<sup>th</sup> spill, fed by fear that the shrimp would soon be unavailable. Demand dropped and prices crashed a month ago despite federal and state assurances of the safety of the seafood. Fishermen know that it is in their best interest to turn in safe seafood and are very concerned on how much they'll be able to make on the product.

Source: Cain Burdeau and Kevin McGill, *The Advocate*, *Oil, prices worry La. Shrimpers* (August 16, 2010).

### **Gulf oyster beds could start rebounding in fall**

In May, Governor Bobby Jindal ordered the full opening of freshwater diversions from the Mississippi River to push any oil out to sea and keep it from fouling critical marshes. Those diversions are in the process of reducing their flow, and oyster biologists are hopeful that this fall's spawning season will be fruitful. But because too much fresh water can kill off oyster beds, it will still take about two years for the oyster beds to return to full production. The tactic worked in that most oyster beds were not oiled, but it resulted in thousands of acres of prime oyster beds in Louisiana's southeast being covered with fresh water for weeks. Fresh water inhibits spawning, so as the waters over the beds once again turn brackish, the oysters should start reproducing. About two weeks later, the free-swimming larvae should turn into spats -- baby-fingernail-size oysters -- which attach to a hard surface. Two years later, they'll be ready for harvest.

Source: Elizabeth Weise, *USA Today*, *Gulf oyster beds could start rebounding in fall* (August 17, 2010).

### **BP assures governors it will restore the Gulf**

The Gulf coast has been dealt a heavy blow this summer by BP's gusher in the Gulf of Mexico. The oil has stopped flowing, but Gulf states are still dealing with the ongoing economic and environmental damage. State leaders want to be sure BP cleans up the mess and gets the region back on its feet. This was one of the main topics being discussed at the Southern Governors' Association annual meeting in Birmingham, Alabama. BP's Robert Dudley, retired Coast Guard Adm. Thad Allen and claims czar Kenneth Feinberg came to reassure the governors that they are on the job.

Source: Debbie Elliot, *NPR*, *BP assures governors it will restore the Gulf* (August 30, 2010).

### **Louisiana drafting ground-water agenda**

The Louisiana Ground Water Management Commission voted in 2009 to pursue funding to develop a plan. This spring the commission hired Ecology and Environment Inc. to develop that plan, said Gary Snellgrove, director of the environmental division in the Office of Conservation. With new demands on water use, planning for ground water management became more important. A state official says that by next spring the state should have a list of recommendations and plans on how water should be managed and conserved.

Source: Amy Wold, *The Advocate*, *La. drafting ground-water agenda* (August 17, 2010).

### **Construction of sand berms continues on Louisiana coast**

A plugged leak on the ocean floor and new estimates showing reduced oil sheen on the surface of the Gulf of Mexico have not diminished Gov. Bobby Jindal's enthusiasm for the massive \$360 million sand

berm barrier project he has championed over the objections of some coastal scientists. With BP money, the state's dredging contractors in June and July completed a portion of the project by moving about 5 million cubic yards of sediment to create narrow artificial islands to block oil moving east and west of the mouth of the Mississippi River.

Source: Robert Travis Scott, The Times-Picayune, *Construction of sand berms continues on Louisiana coast* (August 5, 2010).

### **The future of the sand berms**

The Environmental Protection Agency urged the Army Corps of Engineers to turn down the state's recent request to build 101 miles of sand berms to stop oil from contaminating shores and marshlands. On May 27, the Corps allowed the state to build 40 miles of berm, but only four miles have been constructed so far. The state needs permission from the Corps to complete the project. Federal environmental regulators say barriers built so far are ineffective and threaten wildlife.

Source: Cain Burdeau, Business Week, *EPA: Louisiana's sand berms not stopping much oil* (September 10, 2010).

### **Barrier berm advocates not deterred by environmental regulators' misgivings**

Despite serious questions raised by federal regulators about the project's environmental impacts, Louisiana coastal officials will continue to build six barrier berms to capture oil from the Deepwater Horizon spill, a building effort that will result in about 25 miles of 6-foot-high sand and sediment hills. The purpose of the berms "was/is to stop oil, from the Deepwater Horizon spill, before reaching the barrier islands and landward tidal wetlands." The Environmental Protection Agency "is concerned about the project's impacts on sediment transport, water quality, seagrass beds, navigation, availability of sediments suitable for future barrier islands restoration projects, and the effects on the human environment." EPA recommended that the state be required to submit a comprehensive environmental impact statement before being granted a permanent permit. The Fish and Wildlife Service also focused on the potential harm from using material to build the berms that should be reserved for future restoration projects.

Source: Mark Schleifstein, The Times-Picayune *Barrier berm advocates not deterred by environmental regulators' misgivings* (September 20, 2010).

### **Turtle egg moves due to oil spill halted**

Federal and state fish and wildlife agencies have stopped moving turtle eggs from beaches in the eastern Florida Panhandle to the Atlantic Coast. Officials announced late Monday that transfers from Gulf and Franklin counties no longer are necessary because the risk of eggs being damaged by the Gulf of Mexico oil spill has diminished significantly since BP capped the leaking well.

Source: The Associated Press, *Fla. turtle egg moves due to oil spill halted* (August 17, 2010).