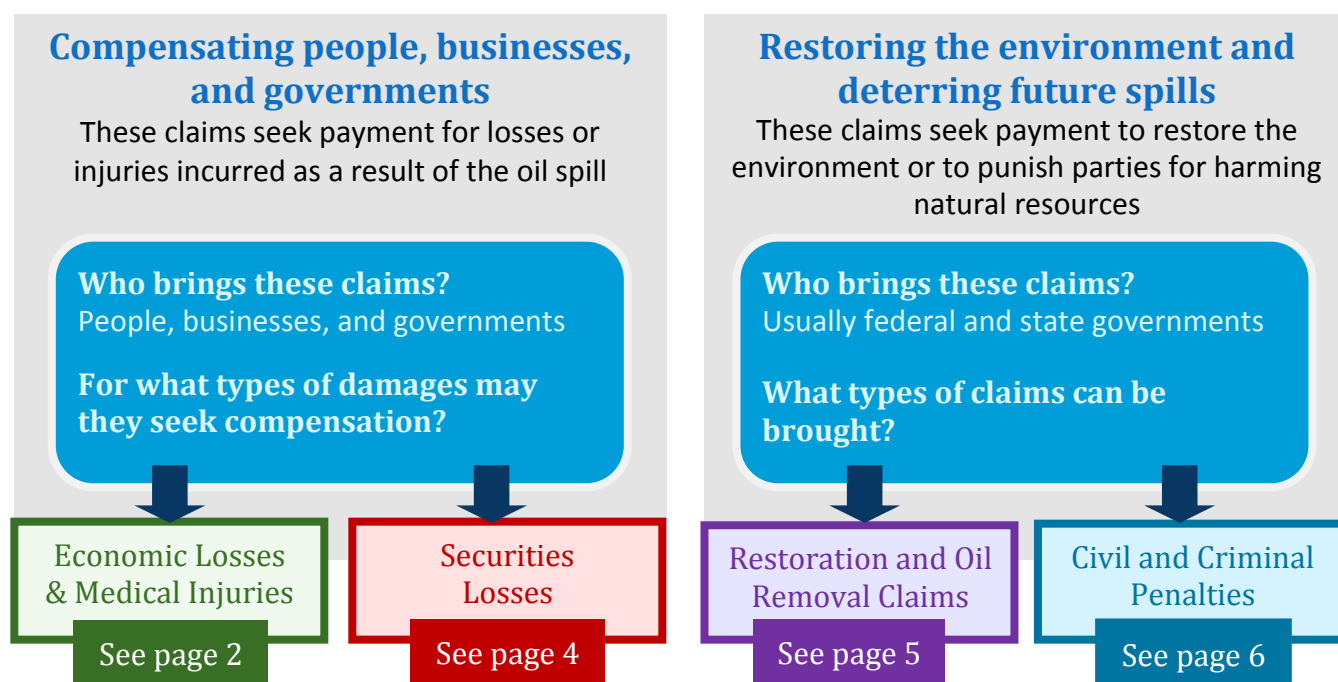


Claims & Litigation Overview

Thousands of lawsuits have been filed as a result of the *Deepwater Horizon* disaster. These lawsuits raise a wide variety of legal claims, from tort law (such as personal injury) to environmental law (such as water pollution). While claims have been filed under federal and state law, this overview focuses only on the various types of claims filed under federal law. It does not explore claims filed under state law, nor those filed by individual Gulf states. It is current as of **September 2014**.

What types of claims have been filed under federal law as a result of the *Deepwater Horizon* disaster?



Who is liable for the disaster?

Several companies were involved in the *Deepwater Horizon* disaster. Which company or companies are liable for a loss depends on the nature of the claim. Companies involved include:

- **BP:** operator and primary leaseholder of the Macondo well; hired Transocean to provide the *Deepwater Horizon* drilling rig and a drilling crew
- **Transocean entities:** owner of the *Deepwater Horizon* drilling rig
- **Anadarko entities:** co-lessee of the Macondo well
- **MOEX:** co-lessee of the Macondo well
- **Halliburton:** performed cementing work on the Macondo well

NOTE: All claims against Cameron (manufactured the blowout preventer), Weatherford (manufactured the float collar), and M-I (provided drilling fluids) have been dismissed.

Compensating people, businesses, and governments

ECONOMIC LOSS & MEDICAL INJURY CLAIMS

What are these claims?

► Economic Loss Claims

Individuals, businesses, and governments may be compensated for economic damages that resulted from the oil spill by bringing a tort action or a claim under the Oil Pollution Act. Some examples of economic damages that may be claimed under the Oil Pollution Act include:

Type of Damage	Who May Claim
Lost profits or earning capacity	Individuals, businesses
Loss of tax or other government revenues	Governments
Property damage	Individuals, businesses, governments

► Medical Injury Claims

Under maritime law, individuals may be compensated for medical injuries caused by the oil spill or removal.

What is the status of these claims?

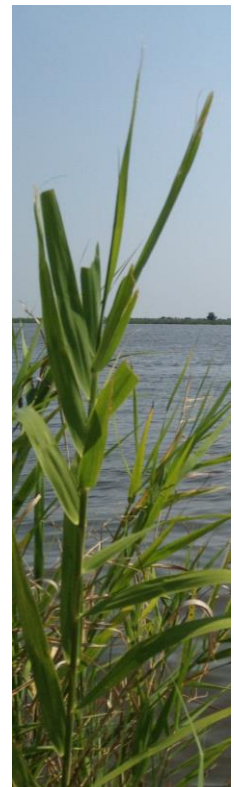
In March 2012, BP and the Plaintiffs' Steering Committee agreed to resolve most economic loss and medical claims in two settlements.

The **Economic and Property Damages Settlement** generally includes (1) people who worked, lived, owned or leased property, or worked on a vessel harbored in certain areas of the Gulf; and (2) entities that were doing business in certain areas of the Gulf. The court granted approval of the settlement in Dec. 2012. Among other things, the settlement:

- Resolved certain economic loss and property damage claims for eligible individuals and businesses,
- Created a seafood compensation fund, and
- Established a fund to promote tourism and the Gulf seafood industry.

The **Medical Benefits Settlement** includes clean-up workers and certain coastal and wetlands residents, who meet the eligibility requirements in the settlement. The court granted final approval of the settlement in Jan. 2013; it was effective on Feb. 12, 2014. Among other things, the settlement:

- Created a compensation program for certain physical conditions,
- Established a 21-year medical consultation program,
- Instituted a process for asserting claims for later-manifesting conditions, and
- Supports a health outreach program to increase access to healthcare and to educate Gulf communities about their health, including the creation of an online library with materials related to health and environmental impacts of the spill.



Compensating people, businesses, and governments

What happens to claims in the economic and property damages settlement?

If a claim is included in the economic and property damages settlement, it is handled through the court-supervised **Deepwater Horizon Claims Center (DHCC)**, which was established in June 2012.*

Note that BP has objected to the way in which the claims administrator has interpreted the settlement, particularly (1) the calculation of certain business economic loss claims; and (2) determinations as to whether claims were caused by the oil spill.

On the first issue, the Fifth Circuit overturned the trial court's decision, which had agreed with the claims administrator, and sent the matter back to the trial court for further consideration; since then, a new protocol for calculating business economic loss claims is being implemented. On the second issue, both the district court and Fifth Circuit agreed with the claims administrator's interpretation. BP is now appealing to the Supreme Court.

What happens to claims in the medical benefits settlement?

If a claim is included in the medical benefits settlement, it is handled by the Deepwater Horizon Medical Benefits Settlement Claims Administrator, **Garretson Resolution Group**.

What happens to lawsuits not included in the settlements?

Individual lawsuits not included in the settlements (either because the claim was not included, or because the claimant chose to opt out) remain in the ongoing **multidistrict litigation** (see page 7).

**NOTE: The DHCC replaced the transitional court-supervised settlement program (in operation Mar.-June 2012), which had replaced the Gulf Coast Claims Facility (in operation Aug. 2010-Mar. 2012).*

Litigation and Settlements between Defendants

BP has reached settlements with **Anadarko, MOEX, Cameron, and Weatherford**, under which BP agreed to, among other things, indemnify* each party for certain compensatory claims (e.g., natural resource damages).

The district court found that, by the terms of its contracts with **Halliburton and Transocean**, BP is required to indemnify them for most compensatory claims.

**An indemnity is an obligation by one party to reimburse another for its liabilities.*

In September 2014, Halliburton announced it reached an agreement with the Plaintiffs' Steering Committee to resolve most of the individual and business claims against it for approximately \$1.1 billion. The agreement has not yet been approved by the court.

This resource is only intended to provide a brief overview of the settlements. More information about the settlements, including eligibility and deadlines for filing claims, can be found at www.deepwaterhorizonsettlements.com.

Compensating people, businesses, and governments

SECURITIES CLAIMS

What are these claims?

Under a variety of laws, a shareholder may file a lawsuit against an individual or corporation. For example, under federal securities law, a shareholder may sue an individual or corporation that misrepresented a “material” fact—one that a reasonable shareholder would think was important to an investment decision. The shareholder must have acted in reliance on the misrepresentation in a foreseeable way (or failed to take an action he or she would otherwise have taken), causing economic loss. In addition, the Securities and Exchange Commission (SEC) may seek civil penalties for, among other things, a misrepresentation of a material fact.

What is the status of these claims?

► Investor Suits against BP

Certain BP shareholders filed lawsuits against BP and key officers. The shareholders allege, among other things, that BP misled investors about the safety of its Gulf operations and its internal risk-management practices, and that these misrepresentations resulted in dramatic investment losses for BP shareholders following the spill. In 2013, the court dismissed certain claims against BP and its officers. Before the statute of limitations expired in mid-2014, several pension funds and international institutions also filed lawsuits. The lawsuits that have not been dismissed have yet to go to trial.

Multi-District Litigation
Shareholder lawsuits were consolidated into a multi-district litigation (MDL) on August 10, 2010 (see page 7 for more details). This MDL is being litigated in the Southern District of Texas in Houston.

► Investor Suits against Anadarko

Anadarko shareholders filed lawsuits against Anadarko and key officers alleging, among other things, that the company and key officers made material misrepresentations regarding safety practices, risk management, insurance coverage, the company’s involvement in the Macondo well, and its potential liability related to the disaster, resulting in harm to shareholders after the spill. In July 2013, the court dismissed all but one of the claims. In May 2014, the parties agreed to settle the remaining claim for \$12.5 million; the settlement was approved in September 2014.

► SEC Settlement with BP

On Nov. 15, 2012, the SEC announced it had filed charges against BP, alleging that BP misled investors in reports filed with the SEC about the rate at which oil flowed from the Macondo well.



The SEC accused BP of indicating a flow rate estimate of up to 5,000 barrels per day, despite internal data indicating the flow rate could be as high as 146,000 barrels per day. At the same time, the SEC announced that BP had agreed to settle the charges by paying a penalty of \$525 million. The SEC stated that it plans to use the money to set up a fund for defrauded investors.

Restoring the environment and deterring future spills

RESTORATION AND OIL REMOVAL

U.S. Civil Lawsuit

On Dec. 15, 2010, the U.S. Department of Justice (DOJ) filed a civil lawsuit seeking a determination of liability under the Oil Pollution Act and civil penalties under the Clean Water Act.

- ❖ **Oil Pollution Act (OPA):** The U.S. asked the court to find BP, Transocean entities, Anadarko entities, and MOEX liable under OPA for oil removal costs, assessment, and restoration.
- ❖ **Clean Water Act (CWA):** The U.S. sought civil penalties from BP, Transocean entities, Anadarko entities, and MOEX for violations of the CWA.

How do natural resource damages and oil removal claims arise?

NRD claims can only be brought by specified trustees.

► Natural Resource Damages (NRD)

Under the OPA, natural resource trustees can recover from parties responsible for the spill the costs of restoring natural resources damaged by the spill, lost use of the natural resources, and costs of assessing the damage.

► Oil Removal

Under the OPA, the parties responsible for the spill must pay for the costs of removing oil. To the extent that they do not remove the oil themselves, they must reimburse those who do. For example, federal and state governments and Indian tribes who assist in oil removal can recover removal costs. Others may also recover removal costs if their actions were consistent with the National Contingency Plan, which the federal government calls its “blueprint” for responding to oil spills.

Who are the responsible parties?

On Dec. 8, 2011, the U.S. filed a motion asking the court to find, among other things, that BP, Anadarko, and Transocean are liable under the OPA. On Feb. 22, 2012, the district court determined that BP and Anadarko are “responsible parties,” and therefore liable for removal costs, assessment, and restoration under the OPA. The court also determined that Transocean was not a responsible party.

What is the status of restoration and oil removal?

► Natural Resource Damage Assessment (NRDA)

Federal and state trustees are in the process of assessing the extent of injuries to natural resources and developing a restoration plan. In the meantime, under a voluntary agreement with the trustees, BP has agreed to fund up to \$1 billion in early restoration, which has allowed certain restoration projects to begin before the assessment is complete.

► Oil Removal

In June 2013, the U.S. Coast Guard announced that it was winding down active oil removal operations in Alabama, Mississippi, and Florida. In April 2014, a similar announcement was made for Louisiana.

Restoring the environment and deterring future spills

CIVIL FINES AND CRIMINAL PENALTIES

What are these claims?

When a party discharges oil in violation of a statute, it may be liable for civil or administrative fines, and/or criminal penalties.

Civil fines and criminal penalties are *punitive*.

They are intended to punish parties and deter future violations.

► Clean Water Act Civil Fines

The Clean Water Act (CWA) prohibits the discharge of oil into navigable waters in amounts that may be harmful to the public or natural resources. The Act allows the U.S. to file suit to recover civil or administrative fines for such violations, and sets a statutory maximum on the amount of those fines. Courts must take into account a number of factors, including the amount of oil spilled, the party's culpability, and certain other factors (e.g. a party's efforts to minimize the effects of the spill), in determining the ultimate amount of the fines.

On Dec. 8, 2011, the U.S. filed a motion asking the court to find, among other things, BP, Anadarko, and Transocean liable for CWA fines. On Feb. 22, 2012, the district court found BP and Anadarko liable for civil fines, but did not make a determination with respect to Transocean. Transocean settled its CWA fines in 2013 (see below). The amounts of BP's and Anadarko's fines are still being litigated in court.

► CWA Criminal Penalties

If parties "negligently" or "knowingly" caused the spill, they may also be liable for **criminal penalties**.

► Other Penalties

In addition to CWA fines and penalties, the government may also file suit to recover penalties under other environmental statutes (e.g., the Migratory Bird Treaty Act), resource statutes (e.g. Outer Continental Shelf Lands Act), and general criminal statutes (e.g., laws against fraud and racketeering).

Settlements for Civil Fines and Criminal Penalties

The DOJ has settled various civil claims and criminal charges without a trial:

▪ February 17, 2012 - CWA civil fines against MOEX

The DOJ, U.S. Coast Guard, and the Environmental Protection Agency entered into a \$90 million **civil settlement** with MOEX. MOEX agreed to pay \$70 million in civil fines and to spend \$20 million on Supplemental Environmental Projects focused on land acquisition and habitat protection. The court approved the settlement on June 18, 2012.

▪ November 15, 2012 - Criminal charges against BP

BP pled guilty to 11 felony counts of misconduct or neglect of ship officers, one misdemeanor count of violating the CWA, one misdemeanor count of violating the Migratory Bird Treaty Act, and one felony count of obstruction of Congress. The court accepted the \$4.0 billion plea on Jan. 29, 2013. Civil claims against BP are still pending.

▪ January 3, 2013 - CWA civil fines and criminal charges against Transocean

The DOJ and Transocean announced an agreement consisting of a **partial consent decree** and a **guilty plea agreement**. The \$1.4 billion settlement includes CWA civil fines and settles all criminal charges against Transocean; other civil claims are still pending. The criminal plea was accepted Feb. 14, 2013 and the partial civil settlement was approved Feb. 19, 2013.

How are all these claims managed?

When multiple legal cases arise out of a single incident, they may share “questions of fact”—that is, issues about the details of the incident itself. To increase efficiency and prevent inconsistent rulings, these cases may be brought together in a multidistrict litigation (MDL) for coordinated pretrial proceedings. So far, **two separate MDLs have been created** for *Deepwater Horizon* claims:

MDL No. 2179

In re: Oil Spill by the Oil Rig “Deepwater Horizon”

Judge Carl J. Barbier of the U.S. District Court for the Eastern District of Louisiana oversees this MDL in New Orleans. MDL 2179 is a consolidation of thousands of lawsuits regarding **impacts of the oil discharge**. These lawsuits involve many of the claims described above, including:

- Economic loss claims of individuals, businesses, and governments;
- Medical injury claims of individuals;
- Clean Water Act (CWA) civil penalty claims.

The court is currently in the middle of a trial that is addressing, among other things, the federal government’s claim for CWA civil penalties. Two phases of that trial have already been completed. In September 2014, the court found that the oil spill was the result of BP’s “gross negligence” and “willful misconduct”; BP will therefore be subject to enhanced civil penalties. The exact amount of those penalties will not be determined until after the third phase of trial, which is expected to begin in January 2015.

MDL No. 2185

In re: BP Shareholder Derivative Litigation

Judge Keith P. Ellison of the U.S. District Court for the Southern District of Texas oversees this MDL in Houston. MDL 2185 is a consolidation of the **securities lawsuits** brought by shareholders against BP. They allege, among other things, that BP misled investors about the safety of its Gulf operations and its internal risk-management practices, resulting in dramatic investment losses for BP shareholders following the spill.



Deepwater Horizon Litigation Summary

Type of claim	Who may bring the claim here?	What is the basis of the claim?	Compensatory or punitive?	Where does the money go?
Economic Losses	Individuals, Businesses, Governments	Examples include property damage, lost subsistence use, lost profits	Compensatory, but punitive damages may be available	Plaintiff
Medical Injuries	Individuals	Injuries from oil spill or removal	Compensatory, but punitive damages may be available	Plaintiff
Securities Losses	Shareholders	Example includes misrepresentation	Compensatory, but punitive damages may be available	Plaintiff
Securities Penalties	Federal government	Example includes misrepresentation	Punitive	Treasury or a fund to help defrauded investors (discretion of SEC)
Oil Removal	Individuals, Businesses, Governments	Oil removal costs	Compensatory	Depends on who brings the claim (e.g. for federal government, goes to Oil Spill Liability Trust Fund)
Natural Resource Damages	Federal and state governments	Cost of restoring damaged natural resources, lost use, and the assessment	Compensatory	Toward assessment and restoration costs
Federal Fines and Penalties	Federal government	Violation of statute	Punitive	Depends on statute

DISCLAIMER: This Overview is prepared for informational purposes only to inform individuals who are not involved in the litigation. It is not prepared for litigation and is not legal advice. Individuals with potential claims should consult with their own attorney.