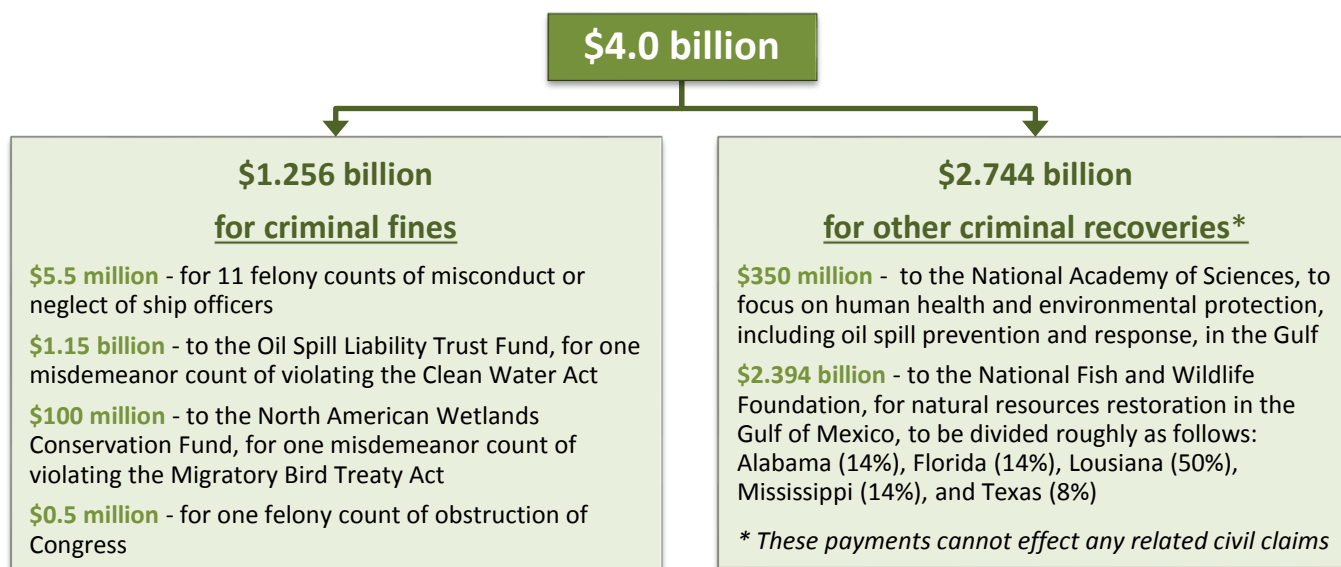


On November 15, 2012, the U.S. Department of Justice (DOJ) announced an agreement with BP to resolve criminal charges against the company related to the *Deepwater Horizon* disaster.¹ This fact sheet sets out the main terms of the agreement. Keep in mind that:

- **This agreement only addresses criminal charges.** Civil claims against BP are still pending.
- **This agreement only relates to BP.** It does not address any other corporations or individuals. For example, there are still pending charges against BP employees.
- **The agreement was accepted by the court on January 29, 2013.** BP now cannot face any other criminal charges for conduct related to or arising out of *Deepwater Horizon*.

Overview of the Agreement

BP agreed to plead guilty to 14 counts of criminal action. In total, BP agreed to pay \$4.0 billion to resolve the criminal charges.² This amount includes:



In addition, BP will be on probation for five years. To meet the terms of its probation, BP must retain process safety and ethics monitors. BP must also develop an implementation plan to:

- Conduct and require BP contractors to conduct Safety and Environmental Management Systems (SEMS) audits;
- Comply with operational oversight provisions (e.g., for cement design);
- Adopt specific oil spill response training and drill measures and programs;
- Revise its Oil Spill Response Plan and develop new safety technologies;
- Create a public website with compliance information;
- Equip rigs with two blind shear rams³ in case of a blowout;
- Establish a safety organization with the authority to intervene/stop operations; and
- Hire a third-party auditor to oversee compliance with these conditions.

Where Will the Money Go?

The plea agreement specifies that the monies will go to four different entities:

Oil Spill Liability Trust Fund

The **Oil Spill Liability Trust Fund** (OSLTF) is an account created by Congress to hold, among other things, certain payments, taxes, and penalties paid by oil and gas companies. Funds are used to cover the costs of future oil spills. The OSLTF consists of: the Emergency Fund, which pays for things like oil spill removal activities, and the Principal Fund, which pays for things like uncompensated oil spill damages (where parties responsible for the spill are unknown or cannot pay) and the administration of the Oil Pollution Act.

North American Wetlands Conservation Fund

The **North American Wetlands Conservation Fund** provides funding for wetlands conservation projects. Funding comes from four different sources, including fines, penalties, and forfeitures collected for violations of the Migratory Bird Treaty Act. Funded projects must demonstrate a 1:1 match of non-federal funds. A nine-member council – the North American Wetlands Conservation Council – composed of the FWS Director, the Secretary of the Board of NFWF, and representatives from state fish and wildlife agencies and non-profit wetlands conservation organizations, submits projects to the Migratory Bird Conservation Commission (MBCC) for approval. The MBCC includes members of Congress, the Secretaries of Interior and Agriculture, and the EPA Administrator.

National Academy of Sciences

The **National Academy of Sciences** (NAS) is a private, non-profit institution created by Congress in 1863 “to provide independent advice to the government on matters related to science and technology.” NAS includes the National Research Council (NRC), the National Academy of Engineering, and the Institute of Medicine. NRC carries out most of the science policy and technical work of the institution, and relies on volunteer experts from across the country to complete its work.

National Fish and Wildlife Foundation

The **National Fish and Wildlife Foundation** (NFWF) is a non-profit organization created by Congress in 1984 “to protect and restore fish and wildlife and their habitats.” The organization funds a wide variety of conservation projects across the country, leveraging public funds with private investment dollars. NFWF is governed by a Board of Directors, which consists of 30 members who are approved by the Secretary of the Interior. The Board includes the leaders of the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA).

Detailed Summary of BP’s Criminal Fines and Other Criminal Recoveries

Criminal Fines and Recoveries for Environmental Protection, Environmental Restoration, and Oil Spill Response

As part of the conditions of probation, the guilty plea agreement includes \$2.744 billion for environmental protection and restoration:

Agreement Citation	Amount	Use of Funds	Timing of BP Payments
Conditions of Probation, National Academy of Sciences ⁴	\$350 million	<p>To the National Academy of Sciences (NAS) to establish an endowment for a program focused on human health and environmental protection including issues relating to offshore oil drilling in the Gulf. The principal and earnings of the endowment will be expended over 30 years.</p> <p>The program will:</p> <ul style="list-style-type: none"> • “advance scientific and technical understanding with the objective of enhancing the safety of offshore drilling and hydrocarbon production and transportation”; • “include the assessment and evaluation of strategies and technologies with the objective of enhancing the protection of human health and environmental resources”; and • “carry out studies, projects, and other activities in the public interest that would not otherwise be adequately funded or supported by private industry.” <p>There will be three categories of studies, projects, and other activities:</p> <ol style="list-style-type: none"> (a) research and development; (b) education and training (for undergraduate, graduate, and professional-school students, private- and public-sector employees, and Gulf Coast regional communities); and (c) environmental monitoring. 	<ul style="list-style-type: none"> • \$5 million within 90 days of the date the agreement becomes effective • \$15 million within 1 year • \$45 million within 2 years • \$80 million within 3 years • \$90 million within 4 years • \$115 million within 5 years

<p>Conditions of Probation, National Fish and Wildlife Foundation ⁵</p>	<p>\$2.394 billion</p>	<p>To the National Fish and Wildlife Foundation, as follows:</p> <ul style="list-style-type: none"> • 50% for payments to “conduct or fund projects to remedy harm to resources where there has been injury to, or destruction of, loss of, or loss of use of those resources resulting from the Macondo oil spill.” The projects are to be conducted or funded in “approximately” the following proportions: (1) Alabama, 28%, (2) Florida, 28%, (3) Mississippi, 28%, and (4) Texas, 16%. <p>NFWF must consult with “appropriate state resource managers, as well as federal resources managers that have the statutory authority for coordination or cooperation with private entities” to identify projects and maximize environmental benefits.</p> <ul style="list-style-type: none"> • 50% to target Louisiana impacts, by using the funds “to create or restore barrier islands off the coast of Louisiana and/or to implement river diversion projects on the Mississippi and/or Atchafalaya Rivers for the purpose of creating, preserving and restoring coastal habitat” in order to remedy natural resource damages caused by the Macondo oil spill. <p>NFWF must consult with appropriate state managers, as well as federal resources managers that have the statutory authority for coordination or cooperation with private entities regarding management or protection for coastal habitat, “to identify the highest priority projects, and to maximize the environmental benefits of such projects.” In identifying projects, NFWF must consider the Louisiana Coastal Master Plan and the Louisiana Coastal Area Mississippi River Hydrodynamic and Delta Management Study, as appropriate.</p>	<ul style="list-style-type: none"> • \$100 million within 60 days of sentencing • \$300 million within 1 year • \$300 million within 2 years • \$300 million within 3 years • \$500 million within 4 years • Remainder within 5 years
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The guilty plea agreement includes \$1.256 billion for the Clean Water Act and Migratory Bird Treaty Act criminal charges:

Agreement Citation	Amount	Use of Funds	Timing of BP Payments
Count 12 for misdemeanor violation of the Clean Water Act ⁶	\$1.15 billion	To the Oil Spill Liability Trust Fund, for use in future oil spills.	The fine monies for both counts will be paid out jointly according to the following schedule: <ul style="list-style-type: none"> • \$250 million within 60 days of sentencing • Additional \$250 million within 1 year • Additional \$250 million within 2 years • Additional \$150 million within 3 years • Additional \$150 million within 4 years • Remainder within 5 years
Count 13 for misdemeanor violation of the Migratory Bird Treaty Act ⁷	\$100 million	To the North American Wetlands Conservation Fund, for “wetlands restoration and conservation projects located in States bordering the Gulf of Mexico or otherwise designed to benefit migratory bird species and other wildlife and habitat affected by the Macondo oil spill.”	

Criminal Fines for Seaman’s Manslaughter and Obstruction of Congress

The guilty plea agreement includes \$6 million for criminal fines related to the manslaughter and obstruction of Congress criminal charges:

Agreement Citation	Amount	Use of Funds	Timing of BP Payments
Counts 1-11 for felony seaman’s manslaughter ⁸	\$500,000 per count, totaling \$5.5 million	Criminal fines	Within 60 days of sentencing
Count 14 for felony obstruction of Congress ⁹	\$500,000	Criminal fines	Within 60 days of sentencing

Endnotes

¹ The Guilty Plea Agreement and associated exhibits and information are available online at <http://www.justice.gov/opa/pr/2012/November/12-ag-1369.html>. The U.S. Department of Justice simultaneously announced the indictments of three BP employees, including a former BP executive and two supervisors onboard the *Deepwater Horizon* when the explosion occurred on April 20, 2010. The SEC simultaneously announced the settlement of civil securities fraud charges against BP for \$525 million.

² In addition to the criminal fines and recoveries contained in the plea agreement, BP also reaffirmed its existing commitment to fund the Gulf of Mexico Research Initiative in a total amount of \$500 million over 10 years (\$50 million per year, ending in 2020). See Guilty Plea Agreement, Exhibit B Order ¶ 33.

³ A “blind shear ram” is a type of blowout preventer that seals a well by shearing through the drill pipe and sealing off the well.

⁴ Guilty Plea Agreement, Exhibit B Order ¶ 34 & Exhibit B-1.

⁵ Guilty Plea Agreement, Exhibit B Order ¶ 35.

⁶ Guilty Plea Agreement, ¶ 4(b)(i)(B); see also Clean Water Act, 33 U.S.C. §§ 1319(c)(1)(A) (“Criminal Penalties: Negligent Violations”) & 1321b(3) (“Congressional declaration of policy against discharges of oil or hazardous substances...”); 18 U.S.C. § 3571(d) (“Maximum Fines for Organization”); Oil Pollution Act, 26 U.S.C. § 9509(b)(8) (“Transfers to Trust Fund”).

⁷ Guilty Plea Agreement, ¶ 4(b)(i)(C); see also Migratory Bird Treaty Act, 16 U.S.C. §§ 703 (“Taking, killing, or possessing migratory birds unlawful”), 707 (“Violations and Penalties; Forfeitures”) & 4406(b) (“Migratory bird fines, penalties, forfeitures”); 18 U.S.C. § 3571(d) (“Alternative Fine Based on Gain or Loss”).

⁸ Guilty Plea Agreement, ¶ 4(b)(i)(A); see also 18 USC § 1115 (“Misconduct and Neglect of Ship Officers”); 18 U.S.C. § 3571(c) (“Maximum Fines for Organization”).

⁹ Guilty Plea Agreement, ¶ 4(b)(i)(D); see also 18 U.S.C. § 1505 (“Obstruction of Congress”); 18 U.S.C. § 3571(c) (“Maximum Fines for Organization”).

For more information on Gulf restoration and recovery, visit our website at www.eli-ocean.org/gulf