



# Department of Justice

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## **BRITISH PETROLEUM TO PAY MORE THAN \$370 MILLION IN ENVIRONMENTAL CRIMES, FRAUD CASES**

### ***Charges Result from 2005 Texas Refinery Explosion, Alaska Pipeline Leaks and Attempt to Manipulate Markets***

WASHINGTON – British Petroleum and several of its subsidiaries have agreed to pay approximately \$373 million in fines and restitution for environmental violations stemming from a fatal explosion at a Texas refinery in March 2005, leaks of crude oil from pipelines in Alaska, and fraud for conspiring to corner the market and manipulate the price of propane carried through Texas pipelines, the Department of Justice announced today.

The total payments agreed to by BP include:

- \$50 million in criminal fines to be paid as part of an agreement to plead guilty in the Southern District of Texas to a one-count felony violation of the Clean Air Act. The agreement resulted from the prosecution of BP by the Department of Justice for a catastrophic explosion that occurred at the BP Texas City refinery on March 23, 2005, that killed 15 contract employees and injured more than 170 others;
- \$12 million in criminal fines, \$4 million in payments to the National Fish and Wildlife Foundation, and \$4 million in criminal restitution to the state of Alaska, as part of an agreement to plead guilty by British Petroleum Exploration (Alaska), Inc. (BPXA) to a violation of the Clean Water Act to resolve criminal liability relating to pipeline leaks of crude oil onto the tundra as well as a frozen lake in Alaska;
- A criminal penalty of \$100 million, a payment of \$25 million to the U.S. Postal Inspection Service Consumer Fraud Fund, and restitution of approximately \$53 million, plus a civil penalty of \$125 million to the Commodity Futures Trading Commission, as part of an agreement to defer the prosecution of a one-count criminal information filed in the Northern District of Illinois charging BP America Inc. with conspiring to violate the Commodity Exchange Act and to commit mail fraud and wire fraud.

In addition, a 20-count indictment returned by a federal grand jury in Chicago today charges four former employees of a subsidiary of BP America, Inc. with conspiring to manipulate and corner the TET propane market in February 2004, and to sell TET propane at an artificially inflated index price in violation of federal mail and wire fraud statutes, along with substantive violations of the Commodity Exchange Act and wire fraud.

“The BP cases demonstrate our commitment to enforcing the laws that protect our environment, the safety of Americans, and the integrity of the marketplace,” said Acting

Attorney General Peter D. Keisler. “Businesses that ignore those laws and endanger their workers and communities or corrupt our markets must be held accountable. Our pursuit of these cases should serve as a reminder that they will be.”

“The actions against BP, along with the criminal charges against the four former BP traders, reflect our continued efforts to ensure that companies and individuals that do not follow the law will face consequences for their actions,” said Assistant Attorney General Alice S. Fisher of the Criminal Division. “I thank the prosecutors from the Fraud Section and our partners at the CFTC, the FBI and the U.S. Postal Inspection Service for the fine work they put into the criminal cases being announced today.”

“The Texas and Alaska cases illustrate the twin pillars of environmental enforcement: first, protecting human life and health and, second, protecting our natural resources,” said Acting Assistant Attorney General Ronald J. Tenpas of the Environment and Natural Resources Division. “BP cut corners with disastrous consequences for both and is being held to account.”

“BP committed serious environmental crimes in our two largest states, with terrible consequences for people and the environment” said Granta Nakayama, EPA’s Assistant Administrator for Enforcement and Compliance Assurance. “Today’s agreement sends a message that these types of crimes will be prosecuted.”

“This case demonstrates that the CFTC will aggressively combat manipulation in the nation’s energy markets. Disrupting the energy markets hurts American consumers, and traders who engage in such misconduct face serious consequences. This announcement marks the largest manipulation settlement in CFTC history and requires the return of approximately \$53 million to victims of the company’s misconduct,” said CFTC Acting Chairman Walt Lukken. “BP engaged in a massive manipulation – the magnitude of this settlement reflects that the Commission will not tolerate trading abuses in our open and competitive markets.”

“Today’s settlement is a direct result of the investigative efforts of the Corporate Fraud Task Force. From the FBI Field Offices in Anchorage, to Chicago and Houston, the task force was able to bring together our collective efforts with the CFTC, EPA, and the U.S. Attorney’s Offices to help secure the settlements we are reporting today,” said Assistant Director Kenneth W. Kaiser of the FBI’s Criminal Investigative Division. “The FBI is committed to supporting the highly successful efforts of the task force in combating corporate misconduct in all forms, and in all industries, throughout the United States.”

“This case demonstrates that criminals aren’t just found on unsafe streets ... they could be in corporate board rooms or on trading desks as well,” said Kenneth R. Jones, Deputy Chief Postal Inspector, U.S. Postal Inspection Service. “This prosecution and settlement agreement underscores the Postal Inspection Service’s steadfast commitment to aggressively investigate corporations and their employees who undermine the integrity of American businesses, and ultimately, the American consumer.”

“We are pleased that BP has accepted responsibility for the maintenance and management failures that led to the 2006 spills,” said PHMSA’s Acting Administrator Krista

Edwards. “We will continue aggressive oversight of engineering and management necessary for system safety, reliability, and environmental stewardship.”

### **Texas City Oil Refinery Explosion**

BP Products North America Inc., today agreed to plead guilty to a felony violation of the Clean Air Act for its conduct that resulted in the fatal explosion on March 23, 2005 at their Texas City Refinery. As part of the guilty plea BP has agreed to pay a \$50 million criminal fine, the largest ever assessed under the Clean Air Act, and serve three years of probation.

The catastrophic explosion, which resulted in the death of 15 contract workers and injuries of over 170 others, was the result of hydrocarbon liquid and vapor being released from a “blowdown stack” and igniting during the startup of a unit that is used to increase octane content in unleaded gasoline. The unit had been shut down for nearly a month for maintenance and repairs. BP admitted that from 1999 up until the morning of March 23, 2005, several procedures required by the Clean Air Act for ensuring the mechanical integrity and a safe startup had either not been established or were being ignored.

This is the first prosecution under a section of the Clean Air Act specifically enacted to prevent accidental releases that may result in death or serious injury. The provision was passed by Congress in 1990 in response to an explosion that occurred at the Union Carbide chemical plant in Bhopal, India resulting in thousands of injuries and deaths. It requires facilities such as the BP Texas City Refinery to ensure that “release prevention, detection, and correction requirements” are followed in order to prevent catastrophic explosions.

The case was prosecuted by Trial Attorneys Daniel W. Dooher and David B. Joyce of the Environmental Crimes Section of the Department of Justice and Assistant U.S. Attorney Mark McIntyre, of the U.S. Attorney’s Office for the Southern District of Texas. The case was investigated by the EPA’s Criminal Investigation Division and the FBI in cooperation with the Texas Commission on Environmental Quality.

### **Clean Water Act Violations in Alaska**

British Petroleum Exploration (Alaska ), Inc., (BPXA) today agreed to plead guilty to a violation of the Clean Water Act to resolve its criminal liability relating to pipeline leaks of crude oil onto the tundra as well as a frozen lake in Alaska. As part of the guilty plea BPXA has agreed to pay a \$12 million criminal fine, \$4 million in community service payments to the National Fish and Wildlife Foundation (NFWF) for the purpose of conducting research and activities in support of the arctic environment in the state of Alaska on the North Slope, and \$4 million in criminal restitution to the state of Alaska, and serve a three years of probation.

This investigation involved two different leaks from oil transit lines (OTLs) operated by BPXA. The leaks occurred in March and August of 2006, and were the result of BPXA’s failure to heed many red flags and warning signs of imminent internal corrosion that a reasonable operator should have recognized. The first pipeline leak, discovered by a worker on March 2, 2006, resulted in more than 200,000 gallons of crude oil spreading over the tundra and reaching a

nearby frozen lake, where oil spread out onto the ice along one shore. This spill was the largest spill to ever occur on the North Slope. The second leak occurred in August of 2006, but was quickly discovered and contained after leaking approximately 1,000 gallons of oil. Nevertheless, the second leak led to the shut down of Prudhoe Bay oil production on the eastern side of the field. BPXA shut down production because it could not guarantee the condition of the line and whether it was fit for service.

During the investigation the United States obtained a section of pipe where the March 2006 leak occurred. Approximately six inches of sediment were found on the bottom of the thirty-four-inch-diameter pipe. When sediment builds up in a pipeline it forms an environment in which acid-producing bacteria can thrive undisturbed by the flow of oil and chemicals intended to protect the pipe from corrosion. The acid produced by these bacteria can cause corrosion, which causes pits or, if unchecked, holes in the wall of the pipe.

Knowing this, BPXA should have cleaned the OTLs with a piece of equipment called a maintenance (or cleaning) pig and inspected the pipes for corrosion with a smart pig— an inspection tool able to make a complete evaluation of a pipeline’s integrity. A maintenance pig would have disturbed the bacteria and cleared out the stagnant water and sediment that harbor the acid-producing bacteria. A smart pig would have provided a clear picture of the corrosion activity that was occurring in both areas where leaks eventually occurred.

The case was prosecuted by Trial Attorneys J. Ronald Sutcliffe and Christopher J. Costantini of the Environmental Crimes Section of the Department of Justice and Assistant U.S. Attorney Andrea T. Steward and Special Assistant U.S. Attorney Daniel Cheyette of the U.S. Attorney’s Office for the District of Alaska. The case was investigated by the EPA’s Criminal Investigation Division and the FBI with assistance from and the Department of Transportation’s Office of Inspector General. Technical assistance was provided by the Pipeline and Hazardous Materials Safety Administration and the Alaska Department of Environmental Conservation.

### **Fraud, Market Manipulation Agreement and Charges**

A criminal information was filed in the Northern District of Illinois today charging BP America Inc. with one count of conspiring to violate the Commodity Exchange Act, mail fraud, and wire fraud. Under the terms of a deferred prosecution agreement, the government has agreed not to prosecute BP for a period of three years for conduct charged in the information if the company fully complies with the terms of the agreement. Those terms include a requirement that BP America and named subsidiaries cooperate with an independent monitor who will be appointed for a three-year period, and with Department of Justice investigations into the propane manipulation schemes.

TET propane, or propane transported in the Texas Eastern Products Pipeline Company pipeline system, was the primary means by which propane was delivered from the Gulf Coast to the Northeast and Midwest. According to the criminal information, in February 2004, traders working for a BP America Inc. subsidiary used the financial resources of BP to purchase more than the available supply of TET propane. BP then sold a portion of their supply to other market participants at an artificially inflated price. It is estimated that the loss to other market

participants exceeded \$53 million dollars – the amount that BP has agreed to pay in restitution, along with a criminal penalty of \$100 million, and a \$25 million payment to the U.S. Postal Inspection Service Consumer Fraud Fund, plus a civil penalty in the amount of \$125 million to the Commodity Futures Trading Commission.

An indictment issued by a federal grand jury in the Northern District of Illinois today charges Mark David Radley, James Warren Summers, Cody Dean Claborn, and Carrie Kienenberger, former employees of a subsidiary of BP America Inc. (BP), with conspiring to manipulate and corner the TET propane market in February 2004, in violation of the Commodity Exchange Act, and to sell TET propane at an artificially inflated index price in violation of the federal mail and wire fraud statutes. The indictment further charges the defendants with substantive violations of the Commodity Exchange Act and the wire fraud statute. According to the proposed indictment, from Feb. 5, 2004, through March 15, 2004, the defendants allegedly agreed to manipulate the market for February 2004 TET propane.

As alleged in the indictment, which details much of the same conduct which led to the filing of the deferred prosecution agreement, the conspirators agreed that cornering the market for TET propane would not only permit BP to profit from the manipulation in February 2004, but also, if successful, the conspirators would know that they and BP could “control the market at will” and thereby profit from future market manipulations. The conspirators carried out their strategy by buying large quantities of February 2004 TET propane to become the dominant long-holder of the commodity. By the end of February 2004, they controlled more than the entire inventory of TET propane in the TEPPCO system, allowing BP to dictate prices to others who needed to buy propane at the end of the month.

The indictment further alleges that the defendants manipulated the industry benchmark index price for TET propane by becoming the dominant long-holder, using specific bidding techniques, and purchasing even more propane at the end of the month, all with the purpose of artificially increasing the price of propane and inflating the industry benchmark index price. The indictment alleges the defendants defrauded counterparties who purchased propane from BP at the fraudulently inflated index price. As a result of the defendants’ conduct, the price of TET propane was artificially inflated during the latter part of February and early March 2004, and as a result purchasers of TET propane during this time paid a higher price than would have available but for the defendants’ conduct.

Previously, on June 28, 2006, Dennis N. Abbott, a former trader at BP, pleaded guilty to a one-count information charging him with conspiracy to manipulate and corner the propane market.

The investigation leading to the deferred prosecution agreement and the indictment of the four former BP employees is being prosecuted by the Criminal Division, Fraud Section, Trial Attorneys Jerrob Duffy and Stacey K. Luck, and was investigated by the Federal Bureau of Investigation and the U.S. Postal Inspection Service.

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