

Four years ago, the BP Deepwater Horizon was still gushing oil. The well was finally capped in mid- July. There's been a lot of legal action since then, but it's hard to keep track of all the piecemeal developments. Here's quick rundown.

The Presidential Commission investigating the spill identified the "root causes" as management failures by industry and a dysfunctional regulatory system. Other investigators have agreed. After the spill, the Obama Administration imposed a moratorium on drilling the Gulf. The regulator that used to oversee offshore drilling has been reorganized. The new regulator is attempting to implement the Safety Case approach that has been used, apparently successfully, by Norway and the U.K.

Industry has set up a joint safety organization. Such voluntary efforts are only as successful as the strength of industry's motivation. But the threat of another drilling moratorium and the prospect of multi-billion dollar liability may have gotten industry's attention.

The spill has already cost BP billions of dollars and promises to cost it billions more. Let's begin with liability to the government. BP paid \$4 billion to settle the criminal charges against it. The government is also seeking civil penalties. The cap is \$1000/barrel, which goes up to \$4000 if the spill was due to gross negligence. The government's estimate of the spill is around 5 million barrels, which would give a cap of \$5 billion (ballooning up to \$20 billion if BP's conduct meets the fault standards.) Congress passed a law dedicating the bulk of the penalty recovery to restoration efforts by the states. Governments are gearing up to do a damage assessment for natural resources. These ecosystem damages could cost the company billions more.

Then there are the payouts to private parties. Under pressure from the President, BP set up a \$20 billion claim resolution procedure administered by Ken Feinberg (of 9/11 Fund fame). The fund paid almost a quarter of a million claims. BP entered into class action settlements, under which it has already paid out over \$3 billion. BP is now challenging portions of the settlement. Not surprisingly, its effort to redo the agreement did not meet success in the lower courts. But it is now seeking Supreme Court review on the theory that it was unconstitutional for the trial court to approve the settlements even with BP consent.

So far, the the company has paid out \$27 billion. That's a significant amount of money even these days. And ecosystem damages, civil penalties, and private liability could up the ante considerably. Hopefully it, and other members of the industry, have learned that cutting corners on safety doesn't really pay.