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Prosecutors seek to revoke BP's Alaska probation

By DAN JOLING

Federal prosecutors are asking a judge to revoke BP's probation from a 2007 conviction for negligent discharge of oil, saying the company is a recidivist offender of environmental laws on Alaska's North Slope.

BP Exploration (Alaska) Inc. failed to heed a court's admonishment to "give high priority to maintenance and maybe a little less priority on profits," prosecutors said in a legal brief. They will make their case at hearing set to begin Nov. 29 in Anchorage.

The company followed a 200,000-gallon North Slope oil spill in 2006 - the largest ever in Alaska's oil patch - with a 13,500-gallon spill three years later.

"The cause of the 2009 oil spill was completely predictable and absolutely preventable," prosecutors said in the court filing. "BP simply failed to take adequate precautions and implement proper safeguards."

BP attorneys strongly contest the government's version of events. They will instead seek to have the company's probation ended.

BP Exploration devoted extensive resources to improving its oil line system after 2006, the company said in its brief for the hearing. The company was not negligent and no oil from the 2009 spill reached "United States waters," a standard for a violation of the Clean Water Act, the company said.

The hearing was first reported by the Anchorage Daily News. It will last at least four days.

Assistant U.S. Attorney Aunnie Steward said Wednesday that revocation of BP's probation could mean a lengthier probation or additional penalties for the company.

"The court can reopen sentencing on the original conviction," she said.

Prosecutors said in their brief that BP's history of environmental crimes in Alaska began in February 2001 when it pleaded guilty to releasing hazardous materials at its Endicott facility on the North Slope. The company was fined \$500,000, placed on probation for five years and ordered to create a nationwide environmental management program, prosecutors said.

The March 2006 spill of 200,000 gallons of crude was caused by corrosion, and BP's leak detection system failed to notice it, prosecutors said.

The company's guilty plea to a misdemeanor violation of the Clean Water Act in 2007 resulted in three years of probation, a \$12 million fine, and restitution and community service payments totaling \$8 million to the state of Alaska and the National Fish and Wildlife Foundation, BP attorneys said. Prosecutors contend BP violated the conditions of its probation by allowing the 2009 spill from an 18-inch pipe moving oil, water and gas from drill pads to BP's Lisburne Processing Center. That spill, prosecutors said, leaked 13,500 gallons of oil onto tundra and wetlands.

"This rupture was the result of a predictable and preventable freezing of produced water within the pipeline that caused the pipe to over-pressurize and burst," prosecutors said.

It was eerily similar to the 2006 spill, prosecutors alleged, because BP ignored alarms that warned of the pipe's eventual rupture and leak. The 2009 spill also followed a similar pipe freezing and rupture in 2001, they said, and BP failed to put in place preventative measures that their own experts recommended.

Prosecutors said the spill site directly abuts Prudhoe Bay and the damaged wetlands are covered by the Clean Water Act. They also contend the spill criminally violated state pollution laws because of BP negligence.

Attorneys for BP said the company devoted extensive resources to improving its oil line system after 2006.

"This included enhancements to BPXA's pipeline integrity management systems and over half a billion dollars of investments upgrading and

replacing pipelines and the installation of a new leak detection system," BP attorneys said.

The company and did not ignore alarms, attorneys said, but instead faced an unprecedented event.

The rupture occurred in a line that was looped with another, larger line.

Flow had ceased in the smaller line and the stoppage was not quickly detected because all production from each drill pad was reaching the processing center through the other line, BP attorneys said.

As winter set in and water and oil in the line expanded, gas trapped in the line was put under increased pressure. One acceptable response, attorneys said, was to simply let a frozen line thaw when winter ended.

Operators were assessing what to do when the line ruptured.

"Contrary to the government's claims, the conditions that led to this spill had never previously been encountered on the North Slope," BP attorneys said.

The company was not negligent in operating and maintaining lines and certainly not criminally negligent, attorneys said.

BP attorneys also dispute that oil spilled into "U.S. waters" despite the wetlands' half-mile proximity to the bay of the Beaufort Sea. An elevated gravel road acted as a dike to spilled oil, they said. The discharge in cold temperatures was in the form of slushy oil and the semi-solids were deposited into a static dome under the pipe that was cleaned up, they said.

The spills in Alaska were dwarfed by the spill of more than 200 million gallons that followed the April 2010 explosion of the Deepwater Horizon drilling rig over a BP PLC well in the Gulf of Mexico, killing 11 rig workers. BP PLC has already spent or committed tens of billions of dollars to clean up the oil and compensate victims and faces hundreds of civil lawsuits. Government fines and penalties also could add liability.

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