

BP to Pay \$525 Million Penalty to Settle SEC Charges of Securities Fraud During Deepwater Horizon Oil Spill

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Washington, D.C., Nov. 15, 2012 —

The Securities and Exchange Commission today charged BP p.l.c. with misleading investors while its Deepwater Horizon oil rig was gushing into the Gulf of Mexico by significantly understating the flow rate in multiple reports filed with the SEC.

The SEC alleges that the global oil and gas company headquartered in London made fraudulent public statements indicating a flow rate estimate of 5,000 barrels of oil per day. BP reported this figure despite its own internal data indicating that potential flow rates could be as high as 146,000 barrels of oil per day. BP executives also made numerous public statements after the filings were made in which they stood behind the flow rate estimate of 5,000 barrels of oil per day even though they had internal data indicating otherwise. In fact, they criticized other much higher estimates by third parties as scaremongering. Months later, a government task force determined the flow rate estimate was actually more than 10 times higher at 52,700 to 62,200 barrels of oil per day, yet BP never corrected or updated the misrepresentations and omissions it made in SEC filings for investors.

BP agreed to settle the SEC's charges by paying the third-largest penalty in agency history at \$525 million. The SEC plans to establish a Fair Fund with the BP penalty to provide harmed investors with compensation for losses they sustained in the fraud. The SEC announced the case today along with the Attorney General and other senior officials at the Justice Department, which brought a criminal action against BP.

"The oil spill was catastrophic for the environment, but by hiding its severity BP also harmed another constituency – its own shareholders and the investing public who are entitled to transparency, accuracy, and completeness of company information, particularly in times of crisis," said Robert Khuzami, Director of the SEC's Division of Enforcement. "Good corporate citizenship and responsible crisis management means that a company can't hide critical information simply because it fears the backlash."

Daniel M. Hawke, Director of the SEC's Philadelphia Regional Office and Chief of the Enforcement Division's Market Abuse Unit, said, "Without accurate critical flow rate data known only to BP, the company denied its shareholders and investors the opportunity to fairly assess BP's potential liabilities and true financial condition."

According to the SEC's complaint filed in the U.S. District Court for the Eastern District of Louisiana, BP stated that the flow rate was estimated to be 5,000 barrels of oil per day (bopd) in three separate Forms 6-K filed with the SEC following the Deepwater Horizon oil rig explosion on April 20, 2010. In a 6-K filed on April 29, BP stated in part, "[e]fforts continue to stem the flow of oil from the well, currently estimated at up to 5,000 bopd[.]" BP filed another report the next day similarly referencing "[e]fforts to stem the flow from the well, currently estimated at up to 5,000 barrels a day are continuing[.]"

The SEC alleges that when the company made those statements, BP possessed at least five different flow rate calculations, estimates, or data indicating a much higher flow rate. BP did not possess or generate any piece of data suggesting that 5,000 bopd represented a ceiling for the rate of oil flowing into the Gulf of Mexico or was the best estimate. The failure to disclose the existence of these higher estimates rendered BP's statements in its Reports on Form 6-K materially false and misleading.

According to the SEC's complaint, BP issued another 6-K on May 4 that stated, "Accurate estimation of the rate of flow is difficult, but current estimates by the U.S. National Oceanic and Atmospheric Administration (NOAA) suggest that some 5,000 barrels (210,000 US gallons) of oil per day are escaping from the well."

The SEC alleges that BP omitted from its disclosure the material fact that, by this date, it possessed at least six estimates, calculations and data indicating that the oil flow rate far exceeded 5,000 bopd. Therefore, it was no longer accurate to suggest that 5,000 bopd was the best estimate or that the NOAA estimate was the current estimate.

The SEC's complaint further alleges that BP executives made numerous public statements in May 2010 supporting the 5,000 bopd flow rate estimate and criticizing other estimates despite internal evidence showing that flow rates were likely well in excess of 5,000 bopd. Eventually on August 2, the Flow Rate Technical Group consisting of government and academic experts tasked with reaching a final official flow rate estimate announced that the flow rate estimate was 52,700 to 62,200 bopd. BP never corrected or updated its material misrepresentations and omissions about the flow rate.

BP has consented to the entry of a final judgment ordering it to pay the \$525 million penalty and permanently restraining and enjoining the company from violating Sections 10(b) and 13(a) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20 and 13a-16. The proposed final judgment is subject to court approval.

The SEC's investigation, which is continuing, has been conducted by Brian P. Thomas, Matthew S. Raalf, Kelly L. Gibson, Michael F. McGraw, John S. Rymas, Colleen K. Lynch, Jeffrey Boujoukos, Michael J. Rinaldi, and Elaine C. Greenberg in the Philadelphia Regional Office. The SEC appreciates the assistance of the Department of Justice's Deepwater Horizon Task Force and the United Kingdom Financial Services Authority.

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