High-Stakes Trial Begins for Gulf Oil Spill

MICHAEL KUNZELMAN,Associated Press

NEW ORLEANS (AP) — A high-stakes trial started Monday to assign blame and help figure out exactly how much more BP and other companies should pay for the nation's worst offshore oil spill.

Attorney Jim Roy, who represents individuals and businesses hurt by the spill, said BP executives applied "huge financial pressure" on its drilling managers to "cut costs and rush the job" before the blowout of its Macondo well triggered an explosion that killed 11 workers and spawned the massive spill. The project was more than $50 million over budget and behind schedule at the time of the blowout, Roy said.

"BP repeatedly chose speed over safety," Roy said, quoting from a report by an expert who may testify later.

U.S. District Judge Carl Barbier said he would hear several hours of opening statements Monday and the first witness would take the stand Tuesday. Unless a settlement is reached, the judge, not a jury, ultimately will decide months from now how much more money BP PLC and its partners on the ill-fated drilling project owe for their roles in the 2010 environmental catastrophe in the Gulf of Mexico.

Roy said the spill also resulted from rig owner Transocean Ltd.'s "woeful" safety culture. He said the owner of the Deepwater Horizon rig failed to properly train its crew, calling it a "chronic problem allowed by Transocean management to go uncorrected."

"The workforce was not always aware of the hazards they were exposed to," Roy said. "They don't know what they don't know."

Transocean and BP will make its case later Monday.

BP has said it already has racked up more than $24 billion in spill-related expenses and has estimated it will pay a total of $42 billion to fully resolve its liability for the disaster that killed 11 workers and spewed millions of gallons of oil.

But the trial attorneys for the federal government, Gulf states and private plaintiffs hope to convince the judge that the company is liable for much more.

With billions of dollars on the line, the companies and their courtroom adversaries have spared no expense in preparing for a trial that could last several months. Hundreds of attorneys have worked on the case, generating roughly 90 million pages of documents, logging nearly 9,000 docket entries and taking more than 300 depositions of witnesses who could testify at trial.

"In terms of sheer dollar amounts and public attention, this is one of the most complex and massive disputes ever faced by the courts," said Fordham University law professor Howard Erichson, an expert in complex litigation.

Barbier has promised he won't let the case drag on for years as has the litigation over the 1989 Exxon Valdez spill, which still hasn't been completely resolved. He encouraged settlement talks that already have resolved billions of dollars in spill-related claims.

"Judge Barbier has managed the case actively and moved it along toward trial pretty quickly," Erichson said.

In December, Barbier gave final approval to a settlement between BP and Plaintiffs' Steering Committee lawyers representing Gulf Coast businesses and residents who claim the spill cost them money. BP estimates it will pay roughly $8.5 billion to resolve tens of thousands of these claims, but the deal doesn't have a cap.

BP resolved a Justice Department criminal probe by agreeing to plead guilty to manslaughter and other charges and pay $4 billion in criminal penalties. Transocean reached a separate settlement with the federal government, pleading guilty to a misdemeanor charge and agreeing to pay $1.4 billion in criminal and civil penalties.

But there's plenty left for the lawyers to argue about at trial, given that the federal government and Gulf states haven't resolved civil claims against the company that could be worth more than $20 billion.

One of the biggest questions facing Barbier will be to determine if BP was guilty of gross negligence. The Justice Department and private plaintiffs' attorneys have said they would prove BP did.

Under the Clean Water Act, which is designed to punish companies and prevent future spills, a polluter pays a minimum of $1,100 per barrel of spilled oil; the fines nearly quadruple for companies found guilty of grossly negligent behavior.

BP, meanwhile, argues the federal government's estimate of how much oil spewed from the well — more than 200 million gallons — is inflated by at least 20 percent. Clean Water Act penalties are based on how many barrels of oil spilled.

Barbier plans to hold the trial in at least two phases and may issue partial rulings at the end of each. The first phase, which could last three months, is designed to determine what caused the blowout and assign percentages of blame to the companies involved. The second phase will address efforts to stop the flow of oil from the well and aims to determine how much crude spilled into the Gulf.

The trial originally was scheduled to start a year ago, but Barbier postponed it to allow BP to wrap up its settlement with the Plaintiffs' Steering Committee.

The Deepwater Horizon rig blew up 50 miles off Louisiana on April 20, 2010, in an

explosion that investigators blamed on time-saving, cost-cutting decisions by BP and its drilling partners in cementing the well shaft.

Following several failed attempts that introduced the American public to such industry terms as "top kill" and "junk shot," BP finally capped the well on the sea floor after more than 85 days.

By then, the well had spewed an estimated 172 million gallons of crude into the Gulf, fouling marshes and beaches, killing wildlife and closing vast areas to fishing.

Scientists warn that the spill's full effect on the Gulf food chain may not be known for years. But they have reported oil-coated coral reefs that were dying, and fish have been showing up in nets with lesions and illnesses that biologists fear could be oil-related. Oil churned up by storms could be washing up for years.

A series of government investigations has exhaustively documented the mistakes that led to the blowout, spreading the blame among the companies.

Alabama Attorney General Luther Strange said witnesses scheduled to testify at trial will reveal new information about the cause of the disaster.

"I think you're going to learn a lot, particularly about the culture that existed at BP and their priorities," Strange said.

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