BP settles for $7.8 billion in Gulf blowout

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Oil giant BP will pay only $7.8 billion to settle with victims of the 2010 Gulf oil blowout, the result of a deal between the oil firm and plaintiffs' attorneys worked out Friday in advance of a Federal District Court case in Louisiana. Eleven workers were killed and hundreds of millions of gallons of oil were released into the Gulf of Mexico as result of the April 20, 2010 blowout, which was caused by BP recklessly accelerating the deep-sea exploratory oil rig into production.

The plaintiffs, who were under pressure to settle or else risk years of litigation, are individuals and businesses hurt economically or physically by the blowout. Their attorneys are calling the settlement an improvement over Feinberg's Gulf Coast Claims Facility (GCCF). Medical damages related to the spill, for instance, would reportedly be covered for a period lasting 21 years if the condition is validated by a court-approved medical expert.

The $7.8 billion award, which is not an admission of liability by BP, is roughly half of the $14 billion agreement that analysts had anticipated. It will be drawn, moreover, from an already existing $20 billion fund overseen by "claims czar" Kenneth Feinberg, the Washington DC attorney selected by the Obama administration to run the GCCF. Feinberg will step down from his post this week.

Feinberg has paid out only $6 billion of the $20 billion from the fund to about 200,000 claimants, around a third of all those who applied. Any money left over after this and the $7.8 billion in settlements will simply be pocketed by the London-based firm.

Those set to be paid by Feinberg but who had not yet received their money will now be forced to wait for the court-supervised arbitration process to receive their full money. Others who had signed "final waivers" through Feinberg releasing BP from all future liability, but who had not received award statements, may see nothing. Those who had received full awards from the GCCF will not receive any money from the new settlement but will nonetheless be barred from future litigation against BP.

"A lot of this litigation has just delayed what we were trying to do with Feinberg. This trial had nothing to do with people who were trying to get paid," said Houston attorney Tony Buzbee, who is representing a number of plaintiffs. "I don't see how this has advanced the ball. I'm concerned that it's going to be more money out of my clients' pockets, and more delay. They're going to have to do a really good job of selling it. They could be facing a full-scale revolt."

Federal District Court Judge Carl J. Barbier of New Orleans ordered the indefinite suspension of the lawsuit Friday in the wake of the deal. Feinberg will step down from his role next week and will be replaced by an associate. Within eight weeks, the claims process will be turned over again, this time to Patrick Juneau, described as a "special master" who has worked in similar capacities for other class actions lawsuits, including on settlements against oil major Conoco Phillips.

Markets celebrated the news. Over the weekend, a survey of financial analysts reported by *BusinessWeek* anticipated a 5 percent increase in BP share values.

Fadel Gheit, an analyst at Oppenheimer & Co. in New York, called the agreement "very positive," adding that it "could speed up a government settlement and remove this dark cloud that has been hanging over BP for two years."

BP Chief Financial Officer Brian Gilvary indicated that the company is also prepared to reach a final settlement with the Obama administration over fines related to the Clean Water Act. BP could face $17.6 billion in fines if it is determined that the disaster was caused by gross negligence.

There is ample evidence to prove just this, including the testimony of surviving workers, regulatory filings, and expert testimony. Indeed, the plaintiffs' case had assembled thousands upon thousands of depositions seeking to establish that BP disregarded elementary safety procedures in the lead-up to the disaster in order to hurry the rig along toward production and profits.

Rig owner Transocean and cement contractor Halliburton are also implicated and are not covered by the settlement.

The evidence notwithstanding, market analysts believe the Obama administration will not pursue the gross negligence charge, meaning that BP could settle with the federal government for as little as $3.5 billion.

"It's by no means over, but by settling with the largest group, BP is in a stronger position to negotiate with the government," said Stuart Joyner of Investec Securities Ltd. "BP can say they've made it right. The government is after an element of punishment, but if they get too tough it will look like they're really going after the company, which they said they wouldn't do."

From the beginning the Obama administration's overriding concern has been to defend BP and the oil industry as a whole. The most critical role in this process was played by Feinberg, who has a long track record in protecting industry and the government from class action lawsuits, stretching from his protection of chemical firms in the Agent Orange lawsuits of US veterans.

In a statement to the media commenting on Friday's ruling, BP CEO Robert Dudley took care to thank Feinberg. "Ken Feinberg has overseen the GCCF since it began operating in August 2010, and we thank him and his team for their dedication and professionalism," Dudley said.

Not a single executive has been punished for the worst environmental catastrophe in US history. While the people and the environment of the Gulf of Mexico continue to suffer the consequences, BP, one of the largest corporations in the world, is on its way to a full financial recovery. Rating agency Fitch reports that BP could sustain up to $40 billion in penalties without compromising its current credit rating. BP lost about a quarter of its market value in the wake of the disaster, but is now on its way toward a full recovery.