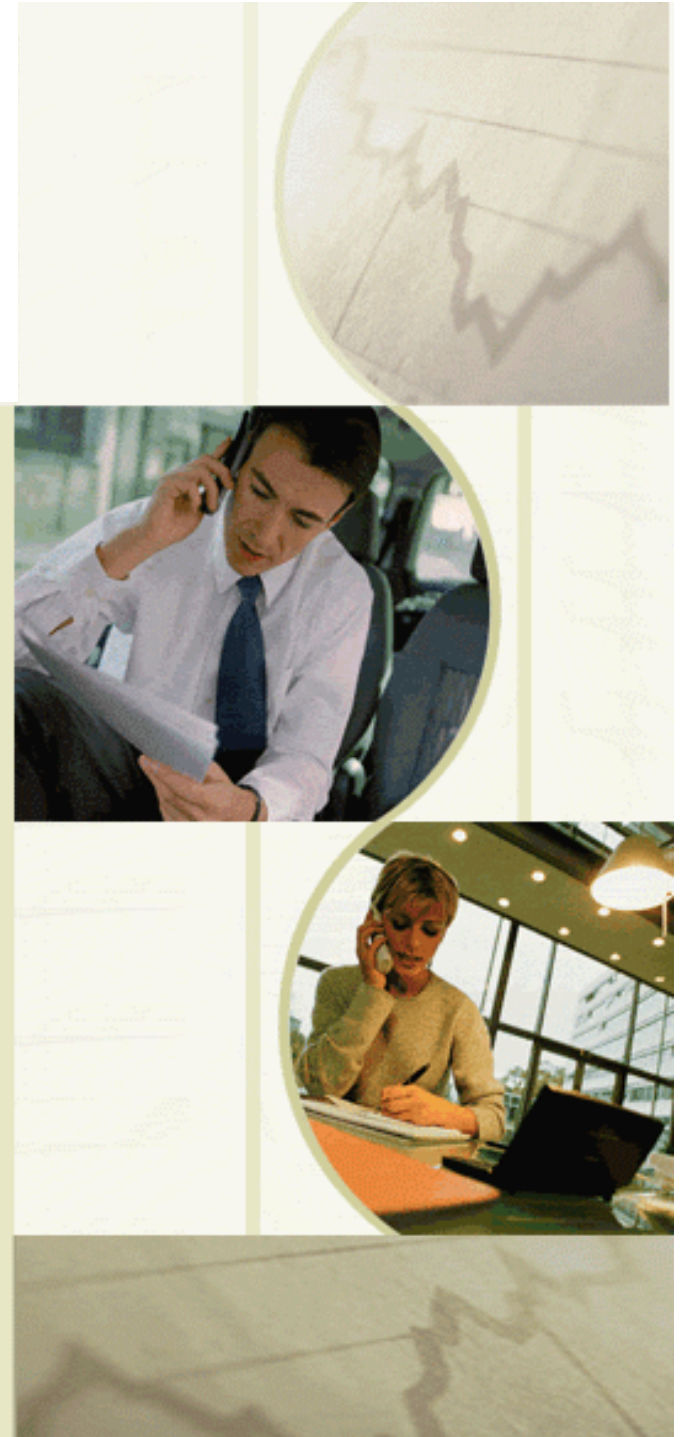


***Deepwater
Horizon:

Insurance
implications of
America's worst oil
spill disaster***

An Advisen Webinar



MSCAd

Advisen's Large Loss Database

Master Significant Cases and Actions Database

- 51,000 cases
- \$3.8 trillion
- 1,200 related (catastrophe/clash) cases
- 158 Deepwater Horizon cases

Deepwater Horizon Insight

<http://corner.advisen.com>

- Copy of these slides
- Recording of today's webinar
- List of filings and case details (fee)

Linked  Environmental Commercial Insurance

<http://www.oilspillaction.com>

Today's Panelists



David Bradford
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President of Advisen
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Curtis Porterfield
Partner of Howrey



Tom Schruben
Independent
Environmental
Consultant



John O'Brien
President of Ironshore
Environmental



Stuart Smith
Louisiana Counsel of
Stag Smith LLC





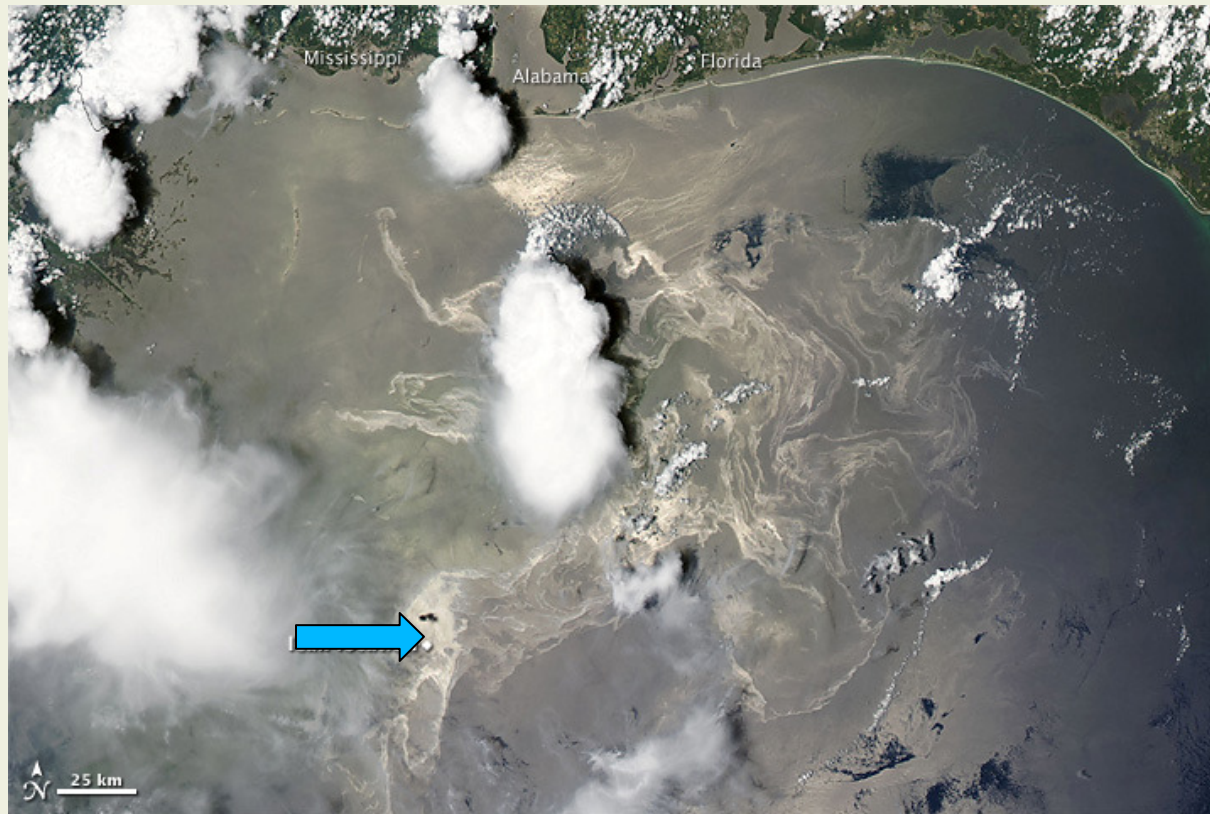
Deepwater Horizon Disaster

- Drilling rig built in 2001
 - Commissioned by Reading & Bates Falcon (now Transocean)
 - Leased to BP plc
 - Held record for deepest oil well
- Drilling in Macondo Prospect
 - 41 miles off SE coast of Louisiana
- April 20: Explosion caused by blowout
 - 11 crewmen killed
 - Rig burned, collapsed and sank

Deepwater Horizon Disaster

- Est. 35,000 – 60,000 barrels per day
 - 1.5M – 2.5M gallons per day
 - Could be as much as 100,000 barrels/day
 - Capped July 15
- Oil slick at least 2,500 sq. miles
- Plume below ocean surface
- Oil has washed ashore in TX, LA, MS, AL, FL

Deepwater Horizon Disaster



NASA satellite image, July 17

Deepwater Horizon Disaster

Oil Impact Assessment Map



The Players

- BP plc
 - Leased Deepwater Horizon
 - 65% interest in Macondo Prospect
- Anadarko Petroleum Corp
 - 25% interest in Macondo Prospect
- MOEX Offshore 2007 (Mitsui)
 - 10% interest in Macondo Prospect
- Transocean Ltd
 - Owns Deepwater Horizon

The Players

- Cameron International
 - Manufacturer of blow-out preventer
- Halliburton Energy Services
 - Cemented well
- Nalco Co.
 - Manufacturer of dispersant
- M-I SWACO
 - Drilling services

Environmental Implications

- Crude Oil
- Dispersants
- Environmental Exposures
- Clean Up Worker Exposures
- Tainted Food
- Disturbance of the Ecosystem
- Stress

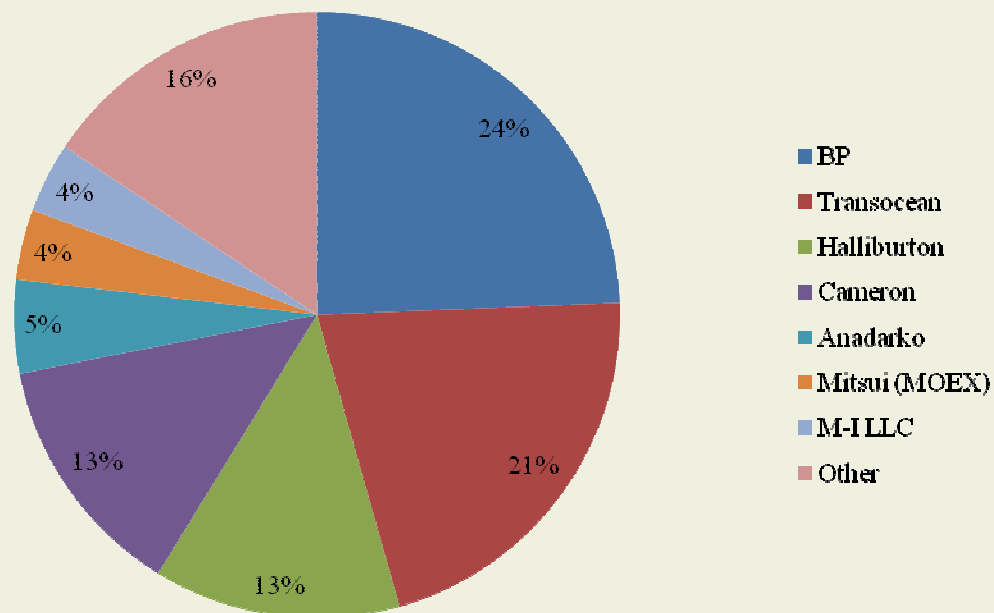
Pending Legislation/Regulation

- H.R. 5626, The Blowout Prevention Act of 2010
- Oil Spill Technology and Research Act
- Blowout Prevention Bill
- The Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act.
- MMS Reform Bill
- Others

Reported Losses

Advisen MSCAd Large Loss Database

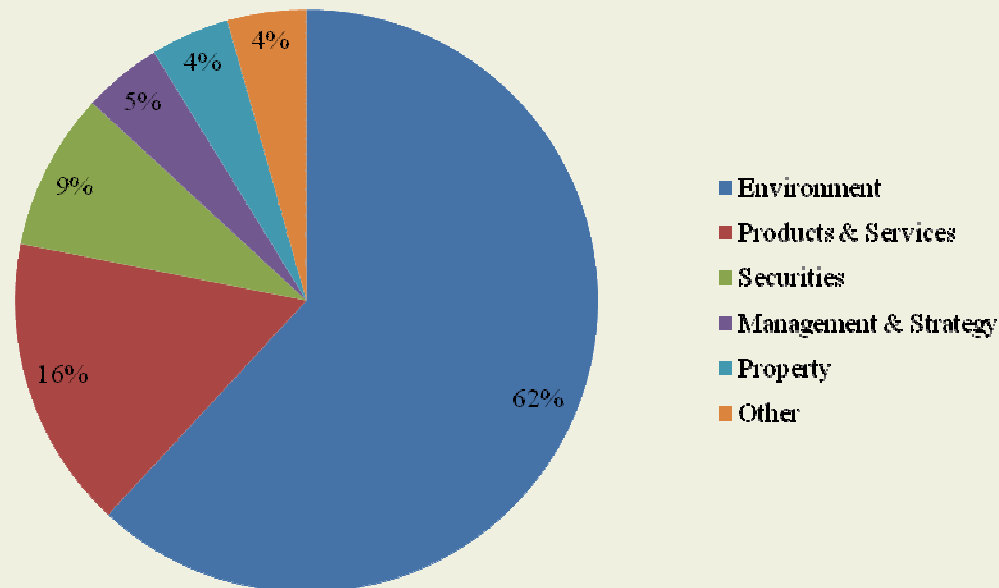
Claims by Company



Reported Losses

Advisen MSCAd Large Loss Database

Claims by Category



Main Environmental Claims

- Oil Pollution Act of 1990 (OPA)
- General Maritime Law
- State Law Claims

OPA Claims

- Damages for Removal Costs
- Damages for Injury to or Economic Losses Resulting from the Destruction of Property
- Damages for Loss of Subsistence Use of Natural Resources
- Economic Damages due to Injury, Destruction or Loss of Property or Natural Resources
 - Lost profits and impairment of earning capacity

General Maritime Claims

- Punitive damages are available under general maritime law.
- Under *Robins Dry Dock*, pure economic losses are not recoverable, so only available to those with property rights
- *Oppen* Exception – 9th Cir. Ruling that exempts commercial fishermen from *Robins Dry Dock* rule due to quasi-property rights.

Types of Clients

- Commercial fishermen, oystermen, shrimpers and charter boat captains.
- The Louisiana Environmental Action Network and other non-profit groups.
- Property and business owners, including hotels, restaurants, dive shops and more.
- Longshoremen and other shipping claims

Damages

- Damages to natural resources including wetlands, beaches, fisheries and wildlife.
- Property damages including impacted land and decreased property values.
- Economic damages including lost income, lost earning capacity, lost wages and more.
- Reputation damages.

Other Potential Environmental Claims

- CERCLA
- Act to Prevent Pollution from Ships (APPS – MARPOL)
- Clean Water Act (CWA) Citizen Suit
- Endangered Species Act (ESA)
- Marine Mammal Protection Act Migratory Bird Treaty Act

Claims Arising from Response Efforts

- Personal injury claims from responders made against BP and its contractors, such as Entrex and the Center for Toxicology and Environmental Health, as well as NALCO and others for unsafe working conditions and toxic exposure.
- Improper disposal of oiled wastes.
- Insufficient removal/remediation of oiled wastes.

Liability Insurance

Company	Insurance
BP	\$700M (Captive)
Transocean	\$950M xs \$50M
Cameron	\$500M
Anadarko	\$177.5M xs \$15M
Mitsui (MOEX)	\$150M
Halliburton	\$600M

Source: Insurance Insider

Insured Losses

(Re)Insurers Reporting More than \$10M Estimated Losses

Amlin
Arch Capital
Aspen
Catlin
Chartis
Chaucer
Everest Re
Flagstone Re
Hanover Re
Hiscox

Lancashire
Lloyd's
Markel
Montpelier Re
Munich Re
Partner Re
Swiss Re
Transatlantic Re
Validus Re
XL Capital

Policies Types That May Be Implicated

- First Party Property (including Business Interruption Coverage)
- Directors & Officers
- Event Cancellation

Policy Type: First Party

- Place of operations and inventory
- Business Interruption
- Contingent Business Interruption
- Civil Authority Coverage
- Ingress/Egress
- Extra Expense

Policy Type: Directors & Officers Liability

- Action or Inaction to prepare for, or respond to, the Oil Spill
- Impacted: Oil companies, contractors and subcontractors for rig and rig operations

Policy Type: Event Cancellation

- Provide coverage for losses arising out of the cancellation, interruption, or postponement of specified events
- Impacted Businesses: Concert Promoters, Venue Owners, Convention Organizers

Pollution Exclusion

- Marine Policies typically do not contain
 - May be broker liability
 - If there is exclusion, will apply under state law
- Application of Jones Act and Maritime law will not preclude potential application of pollution exclusion

Pollution Exclusion (Cont.)

- Absolute pollution exclusion does not bar all claims arising from oil spill
 - See, *Doerr v. Mobil Oil Corporation*
La. Supreme Court case – 774 So. 2d 119, 2000-0947 (La. 12/19/00)
 - Governed by state law so choice of law may be important
 - May be an exception to exclusion for loss or damage caused by explosion or a hostile fire
 - May also be sublimits that apply to losses caused by pollution, rather than exclusion

Take Aways

- Don't Assume:
 - Must have damage to policyholder's property to make a claim. May not be necessary for some policies; for some claims
 - That because the claim was caused by an oil spill it must be barred by pollution exclusion
 - Important to:
 - Put carriers on notice of any loss suffered directly or indirectly
 - Start documenting everything
 - Claim form checklist for BI losses
-

Take Aways (Cont.)

- Other Advice
 - Publicity and attention may be your friend
 - Earthquake losses
 - Riot losses
 - Will get better service and response under scrutiny of press and national attention
- Impact on Insurance Industry
 - Not of concern to policyholder or counsel
 - Will not test, let alone burden the global market
 - Policy limits and reinsurance apply

Today's Panelists



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