

Offshore Energy Legal Developments in the Past Year



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DEEPWATER HORIZON – Gulf of Mexico



In re DEEPWATER HORIZON

12-30230, 2013 WL 776354 (5th Cir. Mar. 1, 2013)

“If an insurance coverage provision is susceptible to more than one reasonable interpretation, the court must interpret that provision in favor of the insured, so long as that interpretation is reasonable. [Citation omitted]. The court must do so even if the insurer’s interpretation is *more* reasonable than the insured’s—“[i]n particular, exceptions or limitations on liability are strictly construed against the insurer and in favor of the insured,” [Citation omitted]., and ‘[a]n intent to exclude coverage must be expressed in clear and unambiguous language.’ [Citations omitted].”

DEEPWATER HORIZON, 2013 WL 776354 at *3

DEEPWATER HORIZON – Gulf of Mexico



Clean Water Act Civil Penalties

Discharges Generally - 33 U.S.C. § 1321(b)(7)(A)

- Owner, operator, or person in charge of vessel or offshore facility from which oil is discharged subject to civil penalty in amount up to:
 - \$32,500 per day of violation or,
 - \$1,100 per barrel of oil discharged.

Gross Negligence - 33 U.S.C. § 1321(b)(7)(D)

- Shall be subject to civil penalty of:
 - not less than \$130,000, and
 - not more than \$4,300 per barrel of oil discharged.

Estimates of Maximum CWA Penalties

	BP Estimate 3.2 million barrels (max)	US Estimate 4.1 million barrels
Not Grossly Negligent [\$1,100 each]	\$3.5 billion	\$4.5 billion
Grossly Negligent [\$4,300 each]	\$13.7 billion	\$17.6 billion

KULLUK - Alaska



KULLUK - Alaska



Lozman v. City of Riviera Beach, Florida

133 S. Ct. 735 (2013)

“We believe that a reasonable observer, looking to the home’s physical characteristics and activities, would not consider it to be designed to any practical degree for carrying people or things on water. And we consequently conclude that the floating home is not a ‘vessel.’”

Lozman, 133 S. Ct. at 739

Vermilion Block 380 A Platform – Gulf of Mexico



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