



Courthouse News Service



Wednesday, November 09, 2011 Last Update: 10:03 AM PT

500 More Fishermen Say BP Owes Them for a 'Campaign of Deceit'

By SABRINA CANFIELD

Like 27

[Tweet](#)

[ShareThis](#)

NEW ORLEANS (CN) - Five hundred more fishermen say BP owes them money for chartering their boats for its Vessels of Opportunity oil-spill cleanup, and say BP responded to their requests for payment "with a campaign of deceit designed to manipulate the fishermen and deprive them of their rights." The complaint comes the week after 71 fishermen in Mobile [claimed](#) BP used the program as a public relations gimmick and "intended to underpay VoO participants."



In the new federal complaint, 500 fishermen say, "in many instances, defendants have made it impractical for the fishermen to use their boats for any purpose other than the VoO program by failing to decontaminate the boats. As a result, defendants have forced fishermen to keep their boats idle at the docks and available for BP's use at any time. Yet defendants refuse to pay for this exercise of control over the fishermen's boats.

"BP has responded to the fishermen's claims for compensation with a campaign of deceit designed to manipulate the fishermen and deprive them of their rights. Among other things, BP has attempted to induce the fishermen to substitute contracts long after the fact that change the fishermen's rights under the original contract. BP has also misled Vietnamese-speaking fishermen while failing to provide key legal documents in Vietnamese, including the contract itself."

The plaintiffs are all commercial fishermen whose boats are used for shrimping, crabbing, and harvesting oysters. Many are Vietnamese immigrants with limited English who cannot read legal documents in English.

"In a purported attempt to combat the effects of the spill, BP enlisted local fishing vessels in the VoO program to identify locations of oil slicks, skim oil from the Gulf, tend and maintain boom, collect sheen and light oil in shallow waters, find and remove tar balls from the water, and transport supplies, personnel and wildlife.

"BP began executing written contracts with fishermen just days after the Deepwater Horizon explosion. The contracts were drafted by BP, and the terms were nonnegotiable for any vessel owner seeking to participate in the VoO program. As a result, every fisherman who participated in the VoO program in 2010 was subject to the same contract and contractual language," the fishermen say.

"According to the unequivocal terms of the MVCA [Master Vessel Charter Agreement], the charter term does not terminate until two events have occurred: 1) BP has issued an 'off-hire dispatch notification' to the vessel owner; and 2) the vessel has received 'final decontamination.' ...

"This contractual term recognizes the reality that a vessel cannot practicably be used for any other purpose until decontamination, and, in so defining the charter term, BP provided a contractual assurance to the fishermen that BP would compensate vessel owners until decontamination is final.

"Additionally, BP routinely and systematically informed fishermen who signed the MVCA that their boats must remain at the docks and ready for activation or a return to active participation. BP instructed fishermen that, as a condition for participation in the program, they should not use their boats for fishing and should be available for immediate activation. Relying on this instruction, many fishermen refrained from using their boats for any other economically useful purpose."

The fishermen add: "Decontamination is a critical component of the VoO program. Boats that have participated in an oil spill response would bear substantial risks of severe regulatory and marketplace consequences by fishing without having been decontaminated. Indeed, boats caught fishing without having been decontaminated may be subject to fines, forfeitures, and penalties that can be devastating to fishermen's livelihoods. Oil contamination may also result in processors refusing to purchase shrimp that a fisherman has invested significant time and money to catch. ...

"Unfortunately, BP's decontamination program was a fiasco. BP did not commission nearly enough resources to ensure that boats could be decontaminated in a timely manner. BP's failure to decontaminate boats resulted in an enormous backlog of contaminated boats, leaving hundreds of vessels moored in a contaminated condition at the docks after returning from active participation in VoO.

"Many vessel owners spent weeks and months attempting to have BP decontaminate their boats. BP has failed to decontaminate some vessels to this day. In the meantime, BP enjoys an exclusive and absolute lease to these vessels, and the vessel owners cannot use the boats for any other purpose."

Not only that, the fishermen say, but BP put tracking devices on the contaminated boats to track their whereabouts.

"Plaintiff Justin Lassabe has two vessels that have never been decontaminated. While BP has never decontaminated his vessels, it did place a device on both of his boats that record each time they leave the dock. Mr. Lassabe has tried repeatedly to contact BP to arrange for decontamination, but BP will not return his calls. The devices remain on Mr. Lassabe's boats, and he continues to be unable to use them to earn a living by fishing. BP has placed similar devices on other VoO boats," the complaint states.

"Under the MVCA, defendants must pay the fishermen the daily rate specified in the MVCA until the boats have received the Notice of Non-renewal and have been subject to final decontamination. In every case, defendants have breached the MVCA by failing to do so. ...

"Rather than pay the promised amounts, BP has hatched various schemes to manipulate the fishermen. For example, by early this year, BP had significantly reduced the vessels actively in the VoO program. At the same time, BP was in the process of denying claims for payment of the daily rate through the end of the charter term.

"In an attempt to evade the MVCA and its obligation, BP sent "Transitional Master Vessel Charter Agreement" to VoO participants in April and May 2011. ...

"By its terms, the Transitional MVCA 'supersede[s] all other Master Vessel Charter Agreements.' The Transitional MVCA eliminated reference to decontamination in the definition of charter term and disavowed payment for so-called 'stand-by days.' On information and belief, the Transitional MVCA was sent to hundreds of vessel owners possessing claims under the original MVCA, despite the fact that BP had no intention of ever activating these vessels.


"BP has not provided the original MVCA or Transitional MVCA to Vietnamese VoO participants in any language other than English. BP notes in the Transitional MVCA that vessel owners should 'read the terms carefully,' while knowing that a significant percentage of VoO participants have no ability to do so.

"The Transitional MVCA was a ruse designed to allow BP to avoid the contractual obligations set forth in the original MVCA. BP drafted and delivered the Transitional MVCA because it knows that the original MVCA unambiguously obligates BP to pay contracted daily rates through date of decontamination and receipt of the notice of non-renewal. BP expected that many vessel owners would sign the Transitional MVCA hoping to continue work in the VoO program, the only material source of income for many fishermen since the Deepwater Horizon spill.

"BP has acted in bad faith. Knowing that it has assumed control over the fishermen's vessels and that it owes the fishermen money, BP has stalled, made false promises, and resorted to deception to avoid paying the fishermen what it owes them."

The fishermen seek money owed and punitive damages for breach of contract, unjust enrichment, conversion and property damage.

Their lead counsel is Stephen Kreller of New Orleans.

In addition to BP, defendants include United States Maritime Services, United State Environmental Services, and DRC Emergency Services. 

[Home](#) [Back to Top](#)

[Courthouse News Service](#)

[Privacy Policy](#)

[Search](#)

[RSS](#)

[About Us](#)