



# INSIGHT-Compensation battle rages four years after BP's U.S. oil spill

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By Jemima Kelly

April 18 (Reuters) - Four years after the Deepwater Horizon spill, oil is still washing up on the long sandy beaches of Grand Isle, Louisiana, and some islanders are fed up with hearing from BP that the crisis is over.

Jules Melancon, the last remaining oyster fisherman on an island dotted with colourful houses on stilts, says he has not found a single oyster alive in his leases in the area since the leak and relies on an onshore oyster nursery to make a living.

He and others in the southern U.S. state say compensation has been paid unevenly and lawyers have taken big cuts.

The British oil major has paid out billions of dollars in compensation under a settlement experts say is unprecedented in its breadth.

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spects of the

settlement. Its portrayal of the aftermath of the well blowout and explosion of its drilling rig has also caused anger.

"They got an advert on TV saying they fixed the Gulf but I've never been fixed," said Melancon, who was compensated by BP, but deems the sum inadequate.

The oil company has spent over \$26 billion on cleaning up, fines and compensation for the disaster, which killed 11 people on the rig and spilled millions of barrels of oil into the Gulf of Mexico for 87 days after the blast on April 20, 2010.

That is more than a third of BP's total revenues for 2013, and the company has allowed for the bill to almost double, while fighting to overturn and delay payments of claims it says have no validity, made after it relinquished control over who got paid in a settlement with plaintiff lawyers in March 2012.

The advertisement that most riled Dean Blanchard, who began what later became the biggest shrimp company in the United States in 1982, was the one first aired by BP on

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television in late 2011 that said "all beaches and waters are open".[\(here\)](#)

At that time almost 50 square miles of water in Louisiana were closed to [fishing](#), according to the state's Department of Wildlife and Fisheries. Seven fishing areas are still closed, three where Blanchard says he would usually get his seafood.

Asked about the discrepancy, BP, which made the cleanup advertisements to help the affected states bring visitors back, said there was no scientific basis for the water closures and that all studies had found that seafood was safe to consume.

## PERCEIVED INJUSTICE

Perceived injustice, between those who got payouts and those who did not, has divided the small community on Grand Isle, 50 miles (80 km) south of New Orleans. Within sight of a line of deep sea oil rigs, it was one of the worst-affected areas.

Long streaks of oil marked the sand where a couple of tourists walked barefoot and small tarballs, which environmentalists say contain the most toxic form of oil, had collected on part of the beach when Reuters visited in October to report on the legacy of the spill.

The Gulf Restoration Network, an environmental group which monitors spilt BP oil, says it is still appearing in Grand Isle. The group saw what it called "thousands of tarballs" there on April 9th and collected some of them for testing.

A BP spokesman said only very small quantities of material from the Macondo well were washing up and they did not threaten human health.

Under the settlement, claims for lost income or property damage have been easier for individuals and large businesses than small companies or start-ups without detailed accounts.

"People are really upset here because a lot of people got a lot of money but many people didn't," said waitress Jeanette Smith at Starfish Restaurant, the only eatery in Grand Isle to have managed to stay open seven days a week since the spill.

Melancon said his claim for economic damage was rejected as a lot of transactions were in cash. He was offered more than a million dollars for property damage but says he lost more than six times as much and has so far only received around \$400,000 of the compensation money he was allocated.

Some islanders, however, say compensation has been fair.

Terry Pazane, 48, a shrimper on Grand Isle since he was 15, found out in late January that he will be compensated just over \$300,000. "You got your paperwork together, they got you paid," he said. "If you can't prove nothing, you don't get nothing."

The oil company said it could not comment on individual claimants but that the Fifth Circuit Court of Appeals in New Orleans had found the settlement scheme was "fair, reasonable, and adequate to all".

BP has maintained, both via the media and the courts, that the settlement has been too generous in some cases.

Along with video images of its clean-up, BP regularly runs full-page advertisements in U.S. newspapers highlighting what it says are flaws in the handling of the settlement it had agreed to avoid having to fight costly individual lawsuits.[\(here\)](#)

In one, concerning a claim by a shrimp fisherman, BP said a lawyer within the settlement

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programme, which is responsible for deciding the amount of payouts, took a cut. The office of claims administrator Patrick Juneau declined to comment.

Businesses of all kinds in New Orleans said they suffered from the spill because visitors stayed away due to concerns over the city's signature Gulf seafood, even though the oil that flowed into the ocean near the mouth of the Mississippi did not reach New Orleans itself.

The settlement does not compensate everyone. Just 20 out of over 3,000 claims for failed [business](#) have been paid so far, according to the settlement website.[\(here\)](#)

But BP has argued in the New Orleans court that claims administrator Juneau should prove losses were caused by the spill. The court threw out that argument, but the company has asked for its case to be heard again.

Blaine LeCesne, a professor at Loyola University College of Law in New Orleans, said BP's actions were understandable but possibly counter-productive.

The settlement it had agreed to was "more than fair ... virtually assuring that every individual or [business](#) affected by the spill may be compensated for their actual losses and beyond", LeCesne said. But he said BP was losing goodwill by retroactively challenging the settlement's validity because of its unanticipated cost.

BP said its "efforts to assure the integrity of the claims process" had been misrepresented and that it continued to be committed to the Gulf while defending its interests "in the face of absurd awards made to claimants whose alleged losses have no apparent connection to the spill".

BP has argued that it is not the claimants but rather the lawyers, who can charge big fees for negotiating claims, who are the biggest winners from the spill.

#### OYSTER, SHRIMP SHORTAGE

In the aftermath of the spill, oysters have been among the biggest losers. They have fared worse than any other seafood, partly because their immobility made them unable to swim away from the oil and partly because they could not survive the fresh water diversions opened along the Mississippi to protect Louisiana's precious wetlands from oil seeping in.

Owners of oyster leases can claim \$2,000 per acre for property damage in the most affected areas, whether or not they have been using the leases.

Al Sunseri, who, with his brother Sal, runs the oldest oyster company in the United States - P&J Oysters, in New Orleans's French Quarter - said processors like them had been dealt a bad hand in comparison with the oyster farmers.

The Sunseris reckon they are handling just 55-60 percent of the oysters they used to. Before the spill they employed 11 oyster shuckers to take off the shells, now they have just one, working part time.

"BP ruined our business," said Al. "All the money they've spent on this [marketing](#) thing, and it's like, we don't even have anything to market."

Blanchard says he is handling 15 percent of the local shrimp that he did before the spill. The shrimps, he says, either swam away from the oil or were killed or mutated by the spill and its aftermath. He is suing BP for \$111 million.

BP said all tests had shown that Gulf seafood was safe to consume and there had been no published studies demonstrating seafood abnormalities due to the Deepwater Horizon accident.

But a study published on March 24, led by the U.S. government's National Oceanic and Atmospheric administration, found the spilt BP oil caused "serious defects" in the embryos of several species of fish, including tuna and amberjack.([here](#))

In response, BP said the concentration of oil used in the experiments for the study was "rarely seen in the Gulf during or after the Deepwater Horizon accident" and that the paper provided no evidence for a "population-level impact" on fish.

In one of its latest advertisements, the oil major said the outcome of what it said was its fight to return the settlement to its intended purpose would affect future decisions by other companies in similar positions.

"Will they accept responsibility and do the right thing? Or will the lesson be that it's better to deny, delay, and litigate - with victims potentially waiting decades for compensation?"  
(Editing by [Philippa Fletcher](#))

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