



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

In re: Oil Spill by the Oil Rig
"Deepwater Horizon" in the Gulf of
Mexico, on April 20, 2010

Applies to: *U.S. v. BP Exploration & Prod. Co.*,
No. 2:10-cv-04536.

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* MDL No. 2179
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* SECTION: J
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* JUDGE BARBIER
* MAGISTRATE JUDGE SHUSHAN

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**DEFENDANT ANADARKO PETROLEUM CORPORATION'S
OBJECTIONS AND RESPONSES TO THE UNITED STATES'
MAY 14, 2014 30(b)(6) DEPOSITION NOTICE**

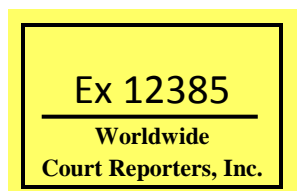
Anadarko Petroleum Corporation ("APC"), through undersigned counsel, hereby objects to the United States' Deposition Notice to APC ("Notice") and corresponding Areas of Inquiry served on APC on May 14, 2014. Notwithstanding these objections, unless otherwise stated, Responding Party will produce one or more witnesses to testify as to the following Areas of Inquiry pursuant to Federal Rule of Civil Procedure 30(b)(6) with the limitations stated in this response, if any.

GENERAL OBJECTIONS AND RESERVATION OF RIGHTS

1. Pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, APC objects to the Notice and Areas of Inquiry, insofar as they conflict with, or purport to impose obligations beyond those of the Federal Rules of Civil Procedure or the Rules and Orders of this Court.

2. APC objects to the Notice and Areas of Inquiry to the extent they seek information denied by or outside the scope of Judge Barbier's March 21, 2014 ruling, and Magistrate Judge Shushan's March 31, 2014 ruling, or exceed the discovery limits set forth in Magistrate Judge Shushan's April 21, 2014 order (Rec. Doc. 12592, 12611, and 12688).

3. APC objects to the Notice and Areas of Inquiry to the extent they seek information protected by the attorney-client privilege, the work product doctrine, the common



interest principle, or any other privilege or protection. The inadvertent disclosure of any privileged or otherwise protected information shall not be deemed or construed to constitute a waiver of the right to assert any applicable privilege or protection with respect to any such information or any other information or matter and shall not preclude or waive APC's right to retract such disclosure.

4. APC objects to the Notice and Areas of Inquiry to the extent they seek the disclosure of information or testimony that contains or constitutes trade secrets, proprietary information, or other confidential business information without appropriate restrictions on disclosure and dissemination as may be embodied in a protective order entered by the Court.

5. APC objects to the Notice and Areas of Inquiry to the extent they seek disclosure of information or testimony that would violate the rights of privacy of third parties, or any similar judicially recognized protection or privilege, or that would result in disclosure of any third parties' confidential information or conduct without appropriate restrictions on disclosure and dissemination that are embodied in a protective order entered by the Court.

6. APC objects to the definitions of "Anadarko," "Anadarko Petroleum Corporation," and "APC" as overly broad and improperly seeking discovery regarding APC subsidiaries and affiliates in violation of Judge Barbier's March 21, 2014 Order (Rec. Doc. 12592). APC will provide testimony only on behalf of APC and will not provide testimony regarding details of subsidiary or affiliate financial information except to the extent that there is an order requiring it to do so. There is only one such order and that is Magistrate Judge Shushan's March 31, 2014 Order (Rec. Doc. 12611) and that requires production only of the quarterly consolidating financials described in Ky Kirby's letter of March 28, 2014 for the period from 2010 to present.

7. APC expressly reserves the right to modify, amend, or supplement the objections and responses contained herein for any reason, including, but not limited to, disputes as to the scope of the topics, unanticipated questions of the designees, or a designee's potential inability to provide accurate information as to any aspect of the relevant corporate entity's knowledge of the topic.

8. Nothing contained in these objections constitutes or shall be construed as an admission or acknowledgement that the Areas of Inquiry or any testimony elicited thereunder are relevant, material, or admissible at trial.

9. APC objects to any questions posited to the witnesses that are outside the scope of the 30(b)(6) notice. APC incorporates by reference all relevant objections made in APC's Responses to the United States' First Set of Discovery Requests to Defendants BP Exploration & Production, Inc. and Anadarko Petroleum Corporation for the Penalty Phase, served on April 28, 2014.

10. APC objects to the Notice and Areas of Inquiry to the extent they call for legal conclusions or premature expert testimony.

11. APC objects to the Notice and Areas of Inquiry to the extent they seek to impose upon APC an obligation to investigate or discover information that is as easily or more easily accessible to the United States or that is outside the possession, custody, or control of APC.

12. These General Objections are incorporated by reference into each of the following responses, and any objection or response by APC to any Area of Inquiry is made without waiver of, and subject to, these General Objections.

SPECIFIC OBJECTIONS AND RESPONSES

Area of Inquiry No. 1

Anadarko's ("APC") Gulf of Mexico offshore operations' role in and impact on the economy of the local community, Gulf of Mexico region, and the United States, including harm to the economy from the Deepwater Horizon oil spill.

Response to Area of Inquiry No. 1

APC incorporates its General Objections. APC further objects to this Area of Inquiry to the extent it requests information that is already in the possession, custody, or control of the United States. APC also objects on the grounds that this Area of Inquiry is premature in part because the general topic (not APC's specific information) is a matter being considered by an expert retained by APC who may or may not submit an expert report that deems the general topic to be relevant to the penalty factors and provides an analysis of (i) the benefits of offshore oil development locally and nationally and (ii) APC's contributions to the local economy and community affected by the Incident. APC further objects to this Area of Inquiry as overly broad and unduly burdensome to the extent that it seeks all information regarding any way that APC's Gulf of Mexico offshore operations affect the local, regional, or national economy. In addition, APC objects to this Area of Inquiry to the extent it seeks information duplicative of prior phases of this case and not relevant to the Clean Water Act penalty factors. APC also objects to this Area of Inquiry to the extent it impermissibly seeks discovery about APC as evidence of purported culpability, which has been precluded by Judge Barbier's March 21, 2014 order (Rec. Doc. 12592).

Subject to and without waiving these objections, APC will produce Darrell Hollek to testify as to non-privileged responsive general factual information, if any, regarding APC's

impact in the Gulf of Mexico and surrounding area as a result of: (1) its employment of personnel and hiring of contractors; (2) its contribution to indirect jobs and investments; (3) its payments for lease sales, rental payments, and royalties to the United States; (4) its contribution to the Fund for Gulf Coast Communities; (5) its contributions to a better understanding of deepwater drilling through participation in the Marine Well Containment Company, Clean Gulf Associates, and Marine Spill Response Corporation; (6) its funding of research and studies related to offshore drilling; and (7) its contribution to the Deepwater Horizon Memorial Fund. APC does not have factual or hearsay information regarding harm to the economy from the spill aside, perhaps, from the thousands of complaints and claims submitted in connection with the MDL 2179 and Limitation of Liability proceedings; moreover, APC has no independent information about the merits of those complaints and claims, and it is unclear what economy, if any, those complaints and claims allege any harm to.

Area of Inquiry No. 2

The financial performance, historical trends and future projections for Anadarko, including without limitation facts, analyses, policies and practices regarding the following:

- a. The data, metrics and other information bearing on the financial performance and status of APC as publicly reported in its Annual Form 10-K and Quarterly Form 10-Q filings with the United States SEC.
- b. Any of APC's contingent liabilities that, alone or combined, could have a significant impact on APC's financial performance or status; and for each such liability, the nature of the liability, the probability of its occurrence and the potential magnitude and timing of its financial impact.

- c. Any unused or available credit lines or debt capacity available to APC, including likely terms.
- d. The basis for APC's forward-looking projections for 2014 and into the future.
- e. The contribution of exploration, production and related operations both as a global segment and in the Gulf of Mexico to APC's profitability.
- f. Plans, proposals, or suggestions under development or consideration by Anadarko, whether preliminary or otherwise, to sell further assets.

Response to Area of Inquiry No. 2

APC incorporates its General Objections. APC further objects to this Area of Inquiry because it is not time limited and not limited in scope by dollar value, type of liability, or otherwise. APC also objects to this Area of Inquiry because the terms "data," "metrics," "financial performance," "plans," "proposals," and "suggestions" are undefined, overly broad, vague, and ambiguous. APC objects to this Area of Inquiry to the extent it seeks information that is not relevant to the Clean Water Act Penalty factors. APC further objects to this Area of Inquiry on the grounds that it is overbroad to the extent that it seeks all possible information regarding APC's financial performance, historical trends, and future projections without regard to whether that information is the subject of document requests or production, as it is not possible for any person or group of persons to know that information or to learn and commit that information to memory. APC also objects on the grounds that the burden and expense of attempting to prepare one or more witnesses to provide testimony regarding all such information outweighs any likely benefit. APC further objects to the extent that this Area of Inquiry seeks testimony that would require APC to disclose privileged information regarding, or to speculate about, the probability of a liability's occurrence and the potential magnitude and timing of the

financial impact of any such liability. APC further objects to the extent that this Area of Inquiry seeks disclosure of irrelevant and unnecessary confidential business information or proprietary material. APC also objects on the grounds that this Area of Inquiry is compound and therefore these discovery requests exceed the number of topics permitted by the Court.

Subject to and without waiving these objections, APC will produce Cathy Douglas as its designated witness to testify regarding: (1) the 10-Ks and 10-Qs for the period from 2010 to present that APC produces (Area of Inquiry 2(a)); (2) the charts of contingent liabilities that counsel for the United States and APC have agreed will be produced by APC as a compromise to the United States' Request for Production No. 7 to APC (Area of Inquiry 2(b)); and (3) general information regarding the contribution of APC's global and Gulf of Mexico operations to APC's profitability (Area of Inquiry 2(e)).

Subject to and without waiving these objections, APC also will produce Robert Gwin as its designated witness to provide general information regarding: (1) APC's unused or presently available cash, new or existing credit facilities or loan arrangements, equity or debt offerings, including general information regarding their terms (Area of Inquiry 2(c)); (2) the projections in the documents that APC will produce to the United States in response to the United States' Request for Production No. 2 and No. 5, including the highly sensitive Ratings Agency Presentations for the years 2009-2014 (Area 2(d)); and (3) plans, if any, by APC to sell assets to third parties in the future that are in excess of \$100 million (Area 2(f)).

Area of Inquiry No. 3

Facts and information regarding any sale or transfer of assets to third parties (i.e., non APC companies or affiliates) from 2008 to 2014, including the amount, date, and the APC company or affiliate and third party involved in the transfer.

Response to Area of Inquiry No. 3

APC incorporates its General Objections. APC further objects to this Area of Inquiry as irrelevant to the Clean Water Act penalty factors. APC also objects on the grounds that it is overly broad in scope and in the time period covered, contains no dollar limits, and is unduly burdensome. APC also objects to this Area of Inquiry because the undefined term “assets” is overly broad, vague, and ambiguous.

Subject to and without waiving these objections, APC will produce Robert Gwin as its designated witness to testify as to non-privileged general responsive information, if any, regarding APC’s transfers of assets to third parties since April 20, 2010 that are in excess of \$100 million, as reflected in the transfer documents that APC has agreed to produce, and the United States has agreed to accept as a compromise response, to the United States’ Request for Production No. 8.

Area of Inquiry No. 4

Any expenditure(s) made by any APC entity since 2010 in connection with the Incident, Response or any other mitigation activities that APC contends should diminish its obligation to pay a civil penalty; and the facts concerning each expenditure, including without limitation for each:

- a. Identification and description of the expenditure, including the purpose and scope, and which APC entity or entities were involved at any stage.
- b. Whether and to what extent the expenditure was expensed or capitalized and, for the latter, the useful life or lives assumed for tax-related purposes.
- c. Any other tax credits or incentives (e.g., local, State or Federal) APC gained for the expenditure.

d. The impact of the expenditure on Anadarko's financial condition and operational capability at the time and into the future.

Response to Area of Inquiry No. 4

APC incorporates its general objections. APC further objects to the phrase "APC contends should diminish its obligation to pay a civil penalty." In assessing an appropriate penalty, if any, the Clean Water Act requires the court to consider various factors, including mitigation. It is improper and misleading to characterize APC as contending that its mitigation activities "diminish its obligation" to pay a penalty under the Clean Water Act. APC contends that the information regarding APC's mitigation activities should be considered by the Court in assessing an appropriate penalty, if any. APC also objects to this Area of Inquiry to the extent it asks for information that is irrelevant to Clean Water Act penalty factors. APC further objects to this Area of Inquiry as overly broad and unduly burdensome to the extent that it seeks information regarding any impact of expenditures both in the past and into the future. APC also objects to this Area of Inquiry to the extent it asks for speculation or for information that is not reasonably ascertainable at this time or that calls for expert opinion. In addition, APC objects on the grounds that this Area of Inquiry is compound and therefore these discovery requests exceed the number of topics permitted by the Court.

Subject to and without waiving these objections, APC will produce designated witnesses to testify regarding information that APC contends should be considered by the Court in assessing an appropriate penalty, if any. Specifically, APC will produce Darrell Hollek as its designated representative to testify regarding non-privileged responsive information, if any, pertaining to Area of Inquiry 4(a), Cathy Douglas as its designated representative to testify regarding non-privileged information, if any, pertaining to Areas of Inquiry 4(b) and 4(c), and

Robert Gwin as its designated representative to testify regarding non-privileged responsive information, if any, pertaining to Area of Inquiry 4(d).

Area of Inquiry No. 5

The economic impact, if any, of the recent settlement filed on April 3, 2014 (Dkt. No. 635) in *In re: Tronox*, Adv. Proc. No. 09-01198-alg (Bankr. S.D.N.Y.) on APC's on-going business operations and its position regarding whether that settlement in any way impacts APC's ability to finance a civil penalty in this litigation.

Response to Area of Inquiry No. 5

APC incorporates its General Objections. APC further objects to this Area of Inquiry as overly broad and unduly burdensome to the extent it seeks information about every specific impact that the settlement could have on APC's business operations. APC also objects to this Area of Inquiry to the extent it asks for speculation or for information that is not reasonably ascertainable at this time or that calls for expert opinion.

Subject to and without waiving these objections, APC will produce Cathy Douglas to testify as its designated representative with respect to information regarding the Tronox settlement in its 10-Q, and will also produce Robert Gwin as its designated representative to testify as to other non-privileged information responsive to this Area of Inquiry, if any.

Area of Inquiry No. 6

All facts, analyses, and any other information that supports or may contradict Anadarko's contentions regarding its efforts to minimize or mitigate the effects of the Incident and Response including facts, analyses, and any other information related to the following topics that Anadarko contends are relevant and are cited in its First Amended Initial Disclosures served on April 4, 2014: Anadarko's offers of assistance after the Incident and its role in responding to the Incident;

Anadarko's \$4 billion settlement with BP in relation to the Incident; and Anadarko's contribution to the Rockefeller Philanthropy Advisor's Fund for Gulf Communities.

Response to Area of Inquiry No. 6

APC incorporates its General Objections. APC further objects to this Area of Inquiry to the extent it seeks discovery that is duplicative of discovery from APC taken in prior phases of the MDL Litigation. APC also objects to this Area of Inquiry to the extent it requests information already in the possession, custody, or control of the United States. APC also objects to this Area of Inquiry to the extent it purports to require APC to evaluate and categorize information as supporting or contradicting APC's contentions regarding its efforts to minimize or mitigate the effects of the Incident and Response. APC will not categorize information as supporting or contradicting its contentions regarding mitigation efforts, as that would require disclosures of attorney work product and privileged information.

Subject to and without waiving these objections, APC will produce Darrell Hollek as its designated representative to testify as to non-privileged responsive information regarding APC's efforts to minimize or mitigate the effects of the Incident and its participation in the Response, to the extent such information was not previously the topic of discovery in prior phases of the MDL Litigation, including APC's offers of assistance and APC's contribution to the Rockefeller Philanthropy Advisor's Fund for Gulf Communities. APC will also produce Robert Gwin to testify as its designated representative regarding non-privileged responsive information regarding APC's \$4 billion settlement with BP with regard to the Incident.

Area of Inquiry No. 7

All facts, analyses, and any other information that supports or may contradict Anadarko's contentions regarding the benefit to the United States of offshore drilling development,

including, but not limited to: Anadarko's payments or non-payments of royalties to the United States, or any disputes regarding royalties to the United States, including with respect to oil collected from the Macondo Incident.

Response to Area of Inquiry No. 7

APC incorporates its General Objections. APC further objects to this Area of Inquiry to the extent it requests information that is already in the possession, custody, or control of the United States. APC also objects to this Area of Inquiry to the extent it requests information on "non-payments of royalties" as speculative, likely to involve legal conclusions, abstract, vague and ambiguous, and not relevant to the Clean Water Act penalty factors. APC further objects to this Area of Inquiry on the grounds that it is overly broad and not limited in time or scope. APC also objects to the phrase "any disputes regarding royalties" as not relevant to the Clean Water Act penalty factors and likely to involve legal conclusions. APC also objects to this Area of Inquiry to the extent it purports to require APC to evaluate and categorize information as supporting or contradicting APC's contentions regarding the benefit to the United States of offshore drilling development. APC will not categorize information as supporting or contradicting its contentions regarding the benefits of offshore drilling, as that would require disclosures of attorney work product and privileged information. In addition, APC objects in part on the grounds that this Area of Inquiry is premature in part because the general topic is a matter being considered by an expert retained by APC who may or may not submit an expert report that deems and analyzes as pertinent to the penalty factors (i) the benefits of offshore oil development locally and nationally and (ii) APC's contributions to the local and national economy.

Subject to and without waiving these objections, APC will produce Darrell Hollek to testify as its designated representative as to non-privileged responsive information, if any, regarding: (1) APC's payments for lease sales, rental payments, and payment of royalties to the United States; and (2) any disputes regarding royalties from oil collected from the *Deepwater Horizon* Incident.

Area of Inquiry No. 8

All facts, analysis, and any other information that supports or may contradict Anadarko's contentions regarding the "other matters as justice may require" penalty factor, including, if Anadarko contends such topics are relevant, its contentions related to (1) government oversight, approvals, and compliance requirements for deepwater drilling generally and for the Macondo well specifically; (2) pre- and post-Incident regulatory guidance, recommendations and practice regarding deepwater drilling and enforcement history as it relates to operators; (3) industry custom and practice (including contractual relationships) between designated operators and non-operators; (4) potential and actual impacts on (i) non-operators; (ii) investment in offshore oil development, (iii) offshore drilling operations, and (iv) industry custom and practice (including contractual relationships) if penalties (or threat of penalties) are imposed on non-operators; and (5) efficacy of penalties against non-operators, contractors, and non-operating parties.

Response to Area of Inquiry No. 8

APC incorporates its General Objections. APC further objects to this Area of Inquiry to the extent it seeks discovery that is duplicative of prior phases of this case. APC further objects to this Area of Inquiry to the extent it requests information that is already in the possession, custody, or control of the United States. APC also objects in part on the grounds that this Area of Inquiry is premature because these potential contentions are being considered by an expert

retained by APC who may or may not submit an expert report that deems these matters pertinent to the civil penalty factor of “any other matters that justice may require.” APC also objects on the grounds that this Area of Inquiry is compound and therefore these discovery requests exceed the number of topics permitted by the Court.

Subject to and without waiving the foregoing objections, APC will produce Robert Gwin as its designated representative to testify regarding the potential impact of a penalty award on APC’s future decisions regarding investment as a non-operating party.

Dated: May 21, 2014

Respectfully submitted,

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**ATTORNEYS FOR ANADARKO
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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Defendant Anadarko Petroleum Corporation's Objections and Responses to the United States' May 14, 2014 30(b)(6) Deposition Notice have been served on all counsel via Lexis Nexis File & Serve in accordance with Pretrial Order No. 12 on this 21st day of May, 2014.

/s/ Ky E. Kirby