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Legal Tactics Emerging at Oil Hearings

By BEN CASSELMAN And RUSSELL GOLD

HOUSTON—For five days last week, federal investigators grilled witnesses to answer key questions about the disastrous explosion of the Deepwater Horizon drilling rig: Why did it happen? How can we make sure it never happens again?

But in their questions to witnesses, lawyers for the companies under scrutiny—BP Plc, [Transocean Ltd.](#), and [Halliburton Co.](#), focused on testimony that might answer another question: Who will pay?



Bloomberg News

At an oil-spill hearing last Friday, BP drilling engineer Brett Cocalles, front, with his lawyer Philip Hilder.

The April 20 blast, which killed 11 workers and set off the worst offshore oil spill in U.S. history, has prompted hundreds of lawsuits against more than a dozen companies and individuals.

The hearings, which began last spring outside New Orleans and continued last week in a nondescript hotel conference room here, have previewed the years of legal drama to come.

Nominally a fact-finding investigation led by the Coast Guard and Interior Department, the process has allowed lawyers from all parties to dig for evidence, test out theories and read into the record snippets of information carefully chosen for their headline-grabbing potential.

"The facts are out now," said David Pursell, managing director at Tudor Pickering Holt & Co., an energy-focused investment bank in Houston. "People are positioning for the pending deluge of lawsuits."

The investigative board will produce a report—expected next year—and could recommend that charges be filed by the Justice Department. Its hearings are to resume in October.

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The board's earlier hearings were relatively staid and filled with technical discussions. But the hearing last week prompted company lawyers to make speeches (to make a broader point) and to loudly object whenever their opponents did the same. Many witnesses have remained on the stand for hours, and the board recently recruited a retired federal judge to help maintain order.

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That judge, Wayne Andersen, pleaded with lawyers on Friday morning to stay focused on the government board's fact-finding mission following a day of especially sharp exchanges. The hearing, Anderson said, had come to resemble a "trial hearing, as if this were an adversarial proceeding."

BP in particular has seized on the hearings to deflect attention back onto its contractors, especially Transocean, which owned the rig, and Halliburton, which performed cement jobs on the well.

BP lawyers have focused on the rig's blowout preventer, the towering stack of valves on the sea floor designed to shut down a well in an emergency. What caused the failure of the device, which is owned and maintained by Transocean, remains a central mystery in the Gulf disaster.

Transocean witnesses have testified to some problems with the blowout preventer, including hydraulic leaks, though they consistently have said the device had been tested repeatedly and was in good working order.

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Still, BP scored points on Wednesday when it got Transocean officials to say that the blowout preventer had not gone through an extensive certification process as required by federal regulations. BP representatives quickly distributed copies of

those regulations to members of the press covering the hearing. And, under questioning from BP lawyers, Transocean also testified they had the responsibility for keeping the well under control.

Transocean lawyers, for their part, tried to show that BP made most of the decisions on the well, either on the rig or from the company's Houston offices.

In hearings last month, Transocean attorney Miles Clements repeatedly pushed one of BP's mangers on the rig, Ronald Sepulvado, as to who was in charge.

"You were the top, top ranking man on the rig in the hierarchy, were you not, sir?" Mr. Clements asked.

"Well, you know, everybody's on the same level," Mr. Sepulvado replied.

Mr. Clements tried again: "Would you say the buck stopped with you on the rig?"

"Well, sometimes it did and sometimes it didn't," said Mr. Sepulvado, who added that workers talked through any disagreements.

"Sure. And at the end of those discussions, would you be the one to decide what to do?" Mr. Clements finally asked.

"Yes," came the answer.

The battle between BP and Halliburton also been intense. Halliburton designed and pumped a cement seal that experts believe may have failed and allowed explosive natural gas to enter the well, then reach the rig.

On Tuesday, BP cited emails by [Halliburton](#) workers saying that the cement operation had been successful. Jesse Gagliano, a Halliburton engineer, testified that the emails referred to the process of pumping the cement and did not predict whether it would form an effective seal.

By Thursday, the tenor of the hearings deteriorated when Halliburton lawyer Donald Godwin accused BP deepwater water operation manager David Sims of "lying" during questioning. The charge prompted raised voices and arguments among the two-dozen lawyers participating in the hearing.

Anderson later admonished all parties to behave.

"A certain amount of theatrics makes the day more interesting," he said, "but it inhibits the witness and prevents us from getting good information. If we can restrain ourselves from arguing with the witnesses and any theatrical behavior, that would be helpful."

Asked for response to the legal strategy evidenced in the hearings, a BP spokeswoman said the company "will continue to cooperate with this and other government sponsored investigations into this tragedy." A Halliburton spokeswoman said the company is confident it completed its work in accordance with BP's specifications and that Halliburton continues to cooperate with all investigations. Transocean declined comment.

Hinting at Strategy The key firms involved in the Gulf oil spill have dueled at the government's fact-finding hearings:

BP PLC

London

Oil & Gas producer

Market cap: \$113.4 billion

Role in incident: Owner of the well, called Macondo, being drilled by the Deepwater Horizon.

Key testimony: A BP engineer testified that he never opened a report from Halliburton explaining that the cement job could allow gas to enter the well.

Transocean Ltd.

Zug, Switzerland

Oil & gas drilling

Market cap: \$16.6 billion

Role in incident: Owner of the Deepwater Horizon drilling rig, including its equipment such as the blowout preventer; contracted to drill the well for BP Plc

Key testimony: A Transocean manager acknowledged that the company is responsible for "well control."

Halliburton Co.

Houston

Oil & gas equipment and services

Market cap: \$26.6 billion

Role on Deepwater Horizon: Designed and poured the cement seal that was supposed to keep gas out of the well.

Key testimony: Halliburton officials acknowledged emails from their engineers saying that the cement operation had been successful, though evidence increasingly indicates that there was a problem with the cement.

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