
HOUSTON

Houston, Harris County and Metro net \$23 million in BP settlement

Money meant to make up for lost sales tax revenue

By **Gabrielle Banks and Dug Begley** | July 23, 2015 | Updated: July 23, 2015 10:13pm

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The city of Houston, Harris County and Metro netted \$23 million in compensation from BP for revenue they could not collect in the wake of the company's 2010 Gulf oil spill, officials announced Thursday.

Houston will pocket about \$12.2 million from the costliest environmental lawsuit in U.S. history to cover hotel and sales tax shortfalls. The Metropolitan Transit Authority will receive more than \$9.2 million for lost sales tax revenue, and Harris County will get \$2.1 million for lost hotel occupancy tax revenues, officials announced in a joint statement.

However, expenses for the case and fees for two outside lawyers who represented the city, county and Metro will carve off nearly 40 percent of those totals.

Nearby communities and government entities, including the city of Galveston, Jefferson County, the city of Beaumont, and Orange Port Authority also are among the 511 entities that said the spill caused an economic shortfall.

The payouts are part of the \$18.7 billion that BP agreed to pay earlier this month for damages and penalties resulting from the Deepwater Horizon spill - the worst environmental disaster in U.S. history.

The state of Texas will get \$750 million for conservation and restoration, which is substantially less than Louisiana, Florida, Mississippi and Alabama, the states that suffered the brunt of the damage.

The lawsuit hinged on a federal law that has rarely been litigated and that emerged after the 1989 Exxon Valdez spill off the coast of Alaska, said Houston attorney Jan Woodward Fox. She spent about three years on the case along with attorney Dennis C. Reich representing the city, county and Metro.

'A good day for taxpayers'

In 1990, Congress passed the Oil Pollution Act which stated that "you don't have to have oil on your beach for the law to recognize that you've been hurt," Fox explained. She and fellow lawyers for the plaintiffs became avid students of this law.

Governments had to prove that the cordoning off of the Gulf and a ban on drilling and exploration that lasted for months had an economic impact on revenue. They had to show that the economic hit was caused by the oil spill.

But that turned out to be less daunting than lawyers initially thought.

In the private settlements with BP, which are ongoing, U.S. District Court Judge Carl J. Barbier for the Eastern District of Louisiana ruled that a plaintiff had to show that revenue

dipped down like the letter "V", slanting downward from 2009 to 2010 and upward in 2011. That dip, he said, proved automatic causation under the law.

The governments' suit never got to that point because they settled, Fox said. Houston, Harris County and Metro sued BP for about \$23 million each, she said.

"They were simply trying to recoup money they would have received if not for the spill," said Robert Soard, first assistant Harris County attorney.

Fox was pleased with the outcome. "I think it's a good day for the taxpayers," Fox said. "It was wise of BP under the circumstances to settle."

on Mayor Annise Parker and Harris County Commissioner E Radack and Jack
and they were satisfied with the settlement. Commissioner Court has not yet
determined how the county will be getting the money.

Some critical of lawsuit

"Frankly, I wish we would have gotten more, but certainly it was a worthwhile lawsuit," Radack said.

Several commissioners received a total of 1,700 identical emails from BP employees, via a server in United Arab Emirates, urging them not to pursue legal action against the company, according to Soard at the County Attorney's office.

County Judge Ed Emmett, who voted in Commissioners Court against seeking damages, said, "I thought it was a stretch to say that we lost so much revenue because people didn't rent hotel rooms here because of the BP spill."

"Am I glad the county won? Sure. Would we have been part of the lawsuit if it had been just up to me? Probably not."

He said he was disappointed the county would only realize \$1.3 million after the lawyers took their cut. Commissioner R. Jack Cagle had also voted against entering the lawsuit, in his case because he thought the county attorney could handle the case.

As to whether it was appropriate to seek damages, Janice Evans, spokeswoman for the mayor, said, "We raised the same exact issues as more than 500 other governmental entities and all parties have agreed to this, as has the court, so we would not characterize it as opportunist."

The 87-day oil spill began when a deep-water well in the Gulf suffered a blowout, causing an explosion that killed 11 workers.

'A one-time birthday gift'

Cities, counties, ports and other government bodies throughout the Gulf coast have been meeting since early July to approve the proposed settlement, which is still subject to the final approval of Judge Barbier. That approval is expected to come in the next few days.

In the case of Metro, it plans to use some or all of the \$6 million it will receive to guarantee employee pensions, pending board approval, chairman Gilbert Garcia said. Though a small amount compared to the \$475 million in unfunded contributions to two different pension plans, Garcia said the money will grow over time and keep future Metro officials from having to pay more to keep pension contributions level with payout demands.

"This is essentially unbudgeted funds, found money," Garcia said. "The pension funds are going to require more money over time and what we spend now is going to help us in the future."

Transit officials joined the lawsuit to recoup lost sales tax revenues only after Harris County and Houston jumped in. Until the settlement was reached, Garcia said Metro never assumed it would get a dime. That allowed officials to treat it as windfall, and not jump into a particular project.

"This is like a one-time birthday gift," Garcia said.

Staff writer Mike Morris contributed to this report.



Dug Begley

Transportation Writer,
Houston Chronicle

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