



## **Washington Post Cites Vellrath Expert Report on BP's Deepwater Horizon Oil Spill Settlement**

June 13, 2013

Most expert reports get filed away, with their opinions and conclusions untested by later developments. The attached article from the *Washington Post* (and Bloomberg) describes a rare exception. Last year, FSG and its Chairman and CEO, Marc Vellrath, were retained by Halliburton to review the proposed \$7.8 billion settlement between BP and the Deepwater Horizon Oil Spill Plaintiffs' Steering Committee. In his report, Vellrath concluded, among other things, that "the payment formulas set forth in the Economic Damages Settlement Agreement provide compensation for, and count as damages, individual and business losses that would not be so classified under reasonable and customary requirements for establishing causation."

### **BP now claims it is paying for "fictitious" losses, as FSG predicted it would...**

Implementation of the settlement is well underway and provides a test of the opinions Vellrath expressed in his report. BP, formerly a strong proponent of the settlement, now claims that it is paying millions of dollars for "fictitious" losses because of serious flaws in the settlement agreement, just as Vellrath predicted it would. BP's claims validate FSG's earlier analysis and critique of the settlement and confirm the seriousness of the flaws identified in Vellrath's report.

Working with professional staff at FSG, Vellrath prepared his 241-page report (excluding appendices) over the course of three months. The report covered a wide range of topics, including standards for class certification, causation issues, and methods of calculating damages for a wide range of individuals and businesses.

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If you need an expert to help you with challenging issues in any of FSG's six areas of expertise—accounting, economics, finance, intellectual property, marketing, and valuation—please contact Marc Vellrath at (925) 258-9600 x14 or at [mvellrath@FSGexperts.com](mailto:mvellrath@FSGexperts.com).



# The Washington Post

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## BP's Oil Spill Deal Sours as Claims Add Billions to Cost

Margaret Cronin Fisk, Brian Swint, Laurel Brubaker Calkins

June 5 (Bloomberg) -- BP Plc's \$8 billion settlement with victims of the 2010 Gulf of Mexico spill may have hurt Europe's second-largest oil company more than it helped.

The company is relying on a U.S. appeals court to rein in awards by the settlement's claims administrator for what it considers to be unreasonable demands, such as a \$21 million payout to a rice mill 40 miles from the coast whose revenue rose the year of the spill.

BP has protested in court filings that administrator Patrick Juneau's interpretation of last year's settlement may add billions to the \$42 billion bill for the worst offshore oil spill in U.S. history. BP has appealed U.S. District Judge Carl Barbier's order agreeing with Juneau's interpretation of the settlement. . . .



### 'Buyer's Remorse'

Halliburton had warned before the settlement was approved that some claimants with no losses might be paid under the terms of the agreement.

Halliburton said the settlement was flawed and filed an objection that included the opinion of **Marc Vellrath**, a financial economist from Orinda, California.

"The economic damages settlement agreement does not require rigorous demonstration of injury or examination of causation for members of the proposed class," Vellrath said in the Aug. 31 filing.

Economic losses that could have been attributed to the general financial condition of the Gulf region or lingering effects of Hurricane Katrina wouldn't be taken into consideration in determining or off-setting payments, he said.

### 'Mechanical Formulas'

The agreement "reduces the calculation of payment amounts to mechanical formulas based on patterns that may or may not correspond to actual damages," Vellrath said. Barbier didn't consider Halliburton's objection when approving the settlement in December because the cementing contractor wasn't a party to the agreement between BP and victims' lawyers.

The case is *In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico on April 20, 2010*, 10-md-02179, U.S. District Court, Eastern District of Louisiana (New Orleans).