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**Clerk of the Trial Courts**

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

UNITE HERE NATIONAL RETIREMENT  
FUND and JEFFREY PICKETT, Derivatively  
on Behalf of BP P.L.C., BP AMERICA, INC.,  
BP OIL CO. INC. and BP EXPLORATION  
(ALASKA) INC.,

Plaintiffs,

vs.

THE LORD JOHN BROWNE OF  
MADINGLEY, IAN M.G. PROSSER, PETER  
D. SUTHERLAND, BYRON E. GROTE,  
ANTHONY B. HAYWARD, JOHN A.  
MANZONI, DAVID C. ALLEN, IAIN C.  
CONN, JOHN H. BRYAN, ERROLL B.  
DAVIS, JR., WALTER E. MASSEY, H.  
MICHAEL P. MILES, MICHAEL H. WILSON,  
DEANNE S. JULIUS, THOMAS F.W.  
McKILLOP, ANTONY BURGMANS,  
DOUGLAS J. FLINT, WILLIAM M.  
CASTELL, ROBERT A. MALONE, ROSS J.  
PILLARI, STEPHEN MARSHALL, DEBRA A.  
PLUMB, DEBRA A. DOWLING, IAN  
SPRINGETT, DANIEL B. PINKERT, NEIL R.  
McCLEARY, PAULA J. CLAYTON,

) Case No. 3AN-06-\_\_\_\_ Civil  
)  
) **VERIFIED SHAREHOLDER**  
) **DERIVATIVE COMPLAINT FOR**  
) **INTENTIONAL, RECKLESS OR**  
) **NEGLIGENT BREACH OF**  
) **FIDUCIARY DUTY AND**  
) **CORPORATE WASTE**

[Caption continued on following page.]

ALASTAIR M. GRAHAM, CHRIS J. )  
PHILLIPS, STANLEY P. PRESLEY, ROBIN B )  
NICHOLSON, CHARLES F. KNIGHT, )  
FLORIS A. MALJERS, RICHARD L. OLVER, )  
RODNEY F. CHASE, JOHN G.S. )  
BUCHANAN, RICHARD C. WOOLLAM and )  
WILLIAM DOUGLAS FORD, )

Defendants, )

– and – )

BP P.L.C., BP AMERICA, INC., BP OIL CO. )  
INC. and BP EXPLORATION (ALASKA) INC., )

Nominal Defendants. )

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“The [BP] documents showcase the genesis of a corporate scandal that parallels the financial machinations that brought down Enron Corp.”

*Truthout Report, 8/11/06*

## **INTRODUCTION**

1. This is a stockholder derivative action on behalf of BP P.l.c. against the entire BP P.l.c. Board of Directors (the “Board”) and several of its present or former officers and directors for intentional, reckless and/or negligent breaches of their fiduciary duties of care and candor arising out of their causing BP P.l.c. and three of its U.S. subsidiaries – BP America, Inc. (“BP America”), BP Oil Co. Inc. (“BP Oil”) and BP Exploration (Alaska) Inc. (“BPX” or “BPXA”) (along with BP P.l.c. sometimes collectively referred to as “BP” or the “Company”) – to violate the laws of the United States and several of its states relating to environmental regulation and protection, worker and workplace safety and fair and honest trade practices. This intentional, reckless or negligent conduct has caused, and is continuing to cause, BP substantial damage from numerous expensive to defend, and costly to settle, lawsuits, the costs of responding to and the substantial fines and penalties involved in resolving civil and criminal investigations and enforcement proceedings, increased operating costs due to burdensome requirements and restrictions imposed by regulators, and lost revenues and profits due to operational shutdowns or curtailments, as well as serious harm to BP’s business reputation and goodwill, due to the adverse publicity resulting from these events.

2. Nominal defendant BP is a huge international company. It is the largest non-U.S.-based company listed on the New York Stock Exchange. BP is the largest oil and gas

producer in the U.S. In 1969, BP made a major oil discovery at Prudhoe Bay on Alaska's North Slope, and became part owner and sole operator of the biggest oilfield in the U.S. The Company operates approximately 10,000 miles of pipelines making it the second largest liquids pipeline company in the U.S. BP is also the second largest refiner in the U.S., the second largest fuels marketer and the second largest gasoline marketer, employing 34,000 people here with offices in Alaska and across the 50 states.

3. BP has more operations in the U.S. than in any other country and very substantial operations here in Alaska. Included within BP's operations are crude oil exploration and production, storage facilities, pipelines, refineries and dealings in refined petroleum products (including gasoline and propane). In years past, large international oil companies like BP came under substantial criticism from environmentalists, worker protection groups, consumer advocates and regulators, for the manner in which they conducted business. So, in an effort to differentiate BP from the other big oil companies and secure and/or hold onto their positions of power, prestige and profit with BP, defendants undertook a massive shareholder communications and public relations campaign to present BP, under their stewardship, as an exceptionally progressive, highly ethical and environmentally sensitive corporation, which stressed safety in its operations for the protection of its workers, communities, areas and people impacted by its operations and which was nevertheless achieving very substantial profits due to the skills of its top managers, operating under the oversight of BP's Board of Directors. As a result, these top managers and directors of BP held onto, and enjoyed, their prestigious and highly lucrative

BP positions, benefiting from the very considerable perquisites of their offices as directors and officers of one of the world's largest corporations.

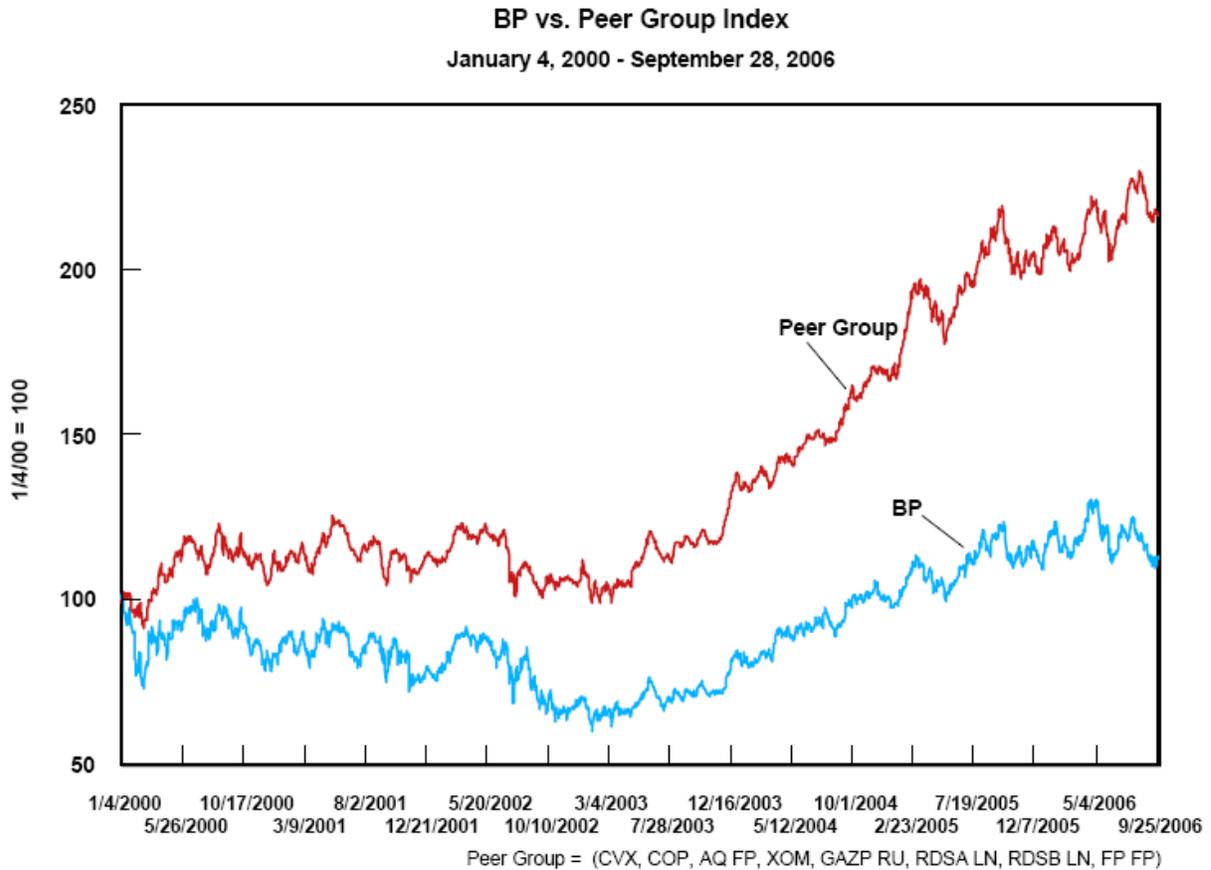
4. However, the true facts were quite different than these corporate fiduciaries presented to BP's owners – its shareholders. Faced with aging production and refining facilities, declining easily recoverable reserves at the giant Prudhoe Bay field in northern Alaska and intense competition in its key markets, defendants were resorting to, or encouraging and/or permitting BP's managers to resort to imprudent, improper and even illegal activities to cut costs, boost revenues and temporarily boost BP's reported results from operations. This included, especially in North America, refusing to make, or curtailing, expenditures for necessary plant and equipment maintenance and replacement, skimping on required inspection, maintenance and renewal expenditures for its refineries and pipelines, including those for its facilities at the Prudhoe Bay oil field and engaging in unfair and illegal trade practices, by manipulating the prices of propane, unleaded gas and crude oil. These imprudent and even illegal actions had the desired effect, *i.e.*, cutting BP's costs, while increasing its revenues and boosting its apparent profitability – in the short-term. Given the fact that defendants have limited tenures in their positions at BP, this was their real concern, not BP's long-term profitability or the long-term interests of the actual owners of BP, *i.e.*, its public shareholders. However, defendants' imprudent and even unlawful actions had an inevitable damaging impact, and a very negative one indeed, for BP's long-term future and that of its shareholder community. Despite repeated warnings and “red flags” regarding the dangers of their reckless, imprudent and illegal conduct, defendants refused to stop such conduct or take actions they knew were necessary to correct or remedy the

dangerous conditions created by that conduct. The damaging consequences of defendants' misconduct have manifested themselves repeatedly in recent years:

- BP has consistently suffered major operating problems at the Prudhoe Bay oil field, including the largest crude oil leak in the history of that field earlier this year, due to defective pipeline maintenance, curtailed inspection programs and inadequate worker training procedures and emergency response plans and procedures. This has resulted in numerous fines and penalties, an unusually high number of employee injuries, a significant curtailment of field production, employee dissatisfaction and moral problems, civil and criminal investigations, governmental directives forcing increased pipeline inspection and maintenance activities and a horrible public relations black eye for BP.
- BP has suffered an unusually – and unacceptably – large number of accidents and worker injuries at BP's Texas City, Texas refinery, culminating in a huge 2005 explosion. The explosion caused over 15 deaths and over 170 injuries and shut down the plant. The explosion resulted from the failure to properly maintain the plant, the use of outmoded and ill-maintained equipment and inadequate training of workers. The explosion has resulted in a rash of civil lawsuits, governmental investigations and the largest U.S. Occupational Safety and Health Administration ("OSHA") fine in U.S. history due to BP's egregious and willful safety violations and a horrible public relations black eye for BP, exacerbated by revelations that similar failures and operating deficiencies plague other BP refineries here in the U.S.
- BP has been targeted by widespread government accusations of and investigations into illegal price manipulation and fixing in the propane market (to which a BP employee has pled guilty), the crude oil over-the-counter market and the market for unleaded gasoline, which investigations burden the Company with substantial costs and the inconvenience of dealing with the existing investigations and expose it to the substantial threat of criminal indictment and fines and penalties, creating unfavorable public relations and a black eye for BP.

5. Defendants' grossly negligent – if not intentional – failure to oversee the corporate assets of this valuable enterprise have exposed BP to tens of millions of dollars in damages, potentially hundreds of millions of dollars in remedial costs and badly damaged

BP's corporate image and reputation. Not surprisingly, during recent years BP's ordinary shares have significantly underperformed the stock of its peers in the oil and gas industry:



6. The recent Prudhoe Bay oil field fiasco has come to epitomize BP's safety and environmental failures and violations in the U.S. According to the "Truthout Report" published on 8/11/06:

***Hundreds of pages of documents highlighting BP's nearly decade-long neglect of its Prudhoe Bay pipelines, its internal safety regulations, and the company's alleged cover-up of past oil spills that resulted from severely corroded pipelines are archived on a little known web site maintained by a former oil industry analyst who also acts as a spokesman for BP whistleblowers.***

*The documents showcase the genesis of a corporate scandal that parallels the financial machinations that brought down Enron Corp.*

*The BP documents, which include emails, photographs, videos, and letters sent to BP executives . . . as well as internal reports, all of which were early warnings about problems plaguing BP's Prudhoe Bay operations, were written by more than 100 company whistleblowers and date back as far as 1999.*

*The documents are extraordinary in that they provide a detailed picture of how BP seemingly ignored dozens of early warnings from employees that its drilling operations on Alaska's North Slope would be doomed if the company did not take immediate steps to upgrade its pipelines and other infrastructure.*

\* \* \*

The web site housing the smoking-gun emails, letters and reports, ANWRnews.com was launched by Chuck Hamel, an activist and former oil broker and analyst based in Alexandria, Virginia. *Hamel was contacted five years ago by a group of BP employees who were concerned that the company's massive cost-cutting measures at its Prudhoe Bay operations would have an adverse impact on safety and operations.*

\* \* \*

Hamel, who is credited with exposing weak pollution laws at the Valdez tanker port in the 1980s and electrical and maintenance problems with the trans-Alaska oil pipeline, immediately took up the BP whistleblowers' cause and in mid-2001 wrote a letter to BP president Lord John Browne raising the issue of safety and maintenance problems at the Prudhoe Bay facilities.

\* \* \*

*Additional whistleblowers came forward to expose the flaws at BP's North Slope operations, in some cases warning company executives and lawmakers that an Exxon Valdez-type disaster was bound to happen if BP did not invest additional funds in upgrading its corroded pipelines and non-operational safety valves.*

*"The situation will continue to deteriorate for the workers' safety and the environment until one of two things happen: Either there will be a major environmental catastrophe at Prudhoe Bay, similar to the Exxon*

*Valdez, or there will be a change in environmental and employee safety oversight in Alaska before that disaster occurs,”* according to a March 4, 2002, copy of BP employee William Burkett’s testimony before a Senate Committee chaired by Sen. Joseph Lieberman (D-Conn) and Sen. Bob Graham (D-Fla).

*BP refused to budge, and on several occasions, Hamel alleges, company executives lied to Congress and Alaska state regulators about the condition of its Prudhoe Bay facilities and the amount of money the company was spending on maintenance and pipeline upgrades.*

Indeed, earlier this year, Glen Plumlee, a senior financial analyst with Alyeska Pipeline Service Co., operator of the trans-Alaska pipeline system of which BP is a majority owner, filed a complaint with federal labor officials alleging that company executives retaliated against him because he cooperated with the Environmental Protection Agency’s criminal investigation into the company.

Plumlee, 51, of Anchorage, *told federal investigators he was pressured to boost estimates of how much Alyeska was spending to fight corrosion on the trans-Alaska oil pipeline.* Severe corrosion in one of BP’s transit pipelines at Prudhoe Bay, which connects directly to the trans-Alaska pipeline, is the reason the company shut down its North Slope operations this week.

\* \* \*

Plumlee claims that company executives pressured him in December 2005 to alter the amount of money BP-controlled Alyeska spent on pipeline corrosion – from \$28 million to \$46 million – for the previous year, which he refused to do.

\* \* \*

Another high-level executive of BP-controlled Alyeska also tried to warn company executives about numerous safety and maintenance problems associated with the 800-mile trans-Alaska pipeline system that, if continued to go unanswered, would have a direct impact on BP’s Prudhoe Bay operations.

Last August, Dan Hisey, the former chief operating officer of Alyeska, created a comprehensive list for Alyeska’s top executives of the 101 current and potential problems plaguing the pipeline system, one of which was severe corrosion. *A week after the list was circulated, Hisey’s position was abolished.*

\* \* \*

*Over the past five years, with profits from drilling declining as the volume of oil extracted from the North Slope fell from 800,000 barrels per day to half that, BP began instituting cost-cutting measures. Hundreds of employees were laid off, and as a result, Hamel claims, safety and maintenance of pipelines and other infrastructures at Prudhoe Bay suffered.*

In an interview with the *New York Times* published March 18, longtime BP employee *Marc Kovac said he and his co-workers warned BP on numerous occasions that cost-cutting measures affecting routine maintenance and inspection would greatly increase the likelihood of accidents, pipeline ruptures and splits.*

*“For years we’ve been warning the company about cutting back on maintenance,” Kovac told the New York Times. “We know that this could have been prevented.”*

7. BP officials have admitted this disaster was due to gross neglect and failure to react to many warnings. According to MSNBC.com:

#### **BP admits knowledge of corrosion problems**

\* \* \*

*BP now admits that senior company official were warned three years ago about serious corrosion problems in the pipeline being shut down this week.*

*The warnings were laid out in correspondence obtained by NBC News, between Chuck Hamel, an advocate for oil workers, and senior BP officials.*

Hamel writes that BP workers had come to him predicting a “*major catastrophic event*” and warning that “*cost-cutting*” had caused “*serious corrosion damage to flow lines and systems.*”

*“They were cheating in what’s required of them in normal business practice in an oil field to save money, to cut corners,” Hamel says.*

8. According to *The Wall Street Journal*:

#### **Congress to Begin Exploration Of BP’s Alaska Oil Problems**

The swirl of controversy marks a major setback for Lord Browne, who crafted for BP an image based on environmental and corporate responsibility. While many environmentalists and activist investors have been satisfied that BP matched actions with words, BP is now at risk of losing that goodwill after more than a year of safety, environmental and compliance problems in the U.S.

“I think some of the sort of emotional capital that [BP] has built up will be called in” amid the public scrutiny, said John Elkington, founder of SustainAbility Ltd., a corporate-responsibility consulting firm in London.

Lord Browne isn't expected to testify in hearings scheduled for today or at a Senate hearing on Prudhoe Bay scheduled next week before the Senate Energy and Natural Resources Committee. Instead, Mr. Malone, a native Texan and newly appointed chief executive of BP's American operations, will be the senior executive answering questions from lawmakers.

In March 2005, an explosion at BP's refinery in Texas City, Texas, killed 15 workers. The company was fined heavily for safety shortcomings stemming from the accident. Regulators are still poring over details of the accident, including whether senior BP executives bear more responsibility for safety shortcomings than the company has so far acknowledged.

Meanwhile, the Commodity Futures Trading Commission and Justice Department allege that the company manipulated the U.S. propane market in early 2004, a charge the company denies. Investigators are also probing the company's crude-oil and gasoline-market trading activities. BP has said it is cooperating with investigators but declined to comment further.

9. The 3/23/05 explosion and fire at BP's Texas City refinery was unprecedented.

It killed 15 workers and injured approximately 170 people. OSHA issued citations alleging more than 300 violations of 13 different OSHA standards, finding “*Egregious Willful Violations*,” “*Willful Safety Violations*” and “*Serious Safety Violations*” which BP agreed not to contest, paying a \$21.3 million penalty – the largest OSHA fine in history. A criminal investigation is ongoing. But the BP safety problems are not isolated or confined to Texas

City. On 4/24/06, OSHA issued two new OSHA citations to the BP Products' Toledo, Ohio refinery, fined BP, put it in the Enhanced Enforcement Program and issued a release stating:

“It is extremely disappointing that BP Products failed to learn from the lessons of Texas City to assure their workers’ safety and health,” OSHA Administrator Edwin Foulke, Jr. said. “Our Enhanced Enforcement Program (EEP) exists for companies like this who, *despite our enforcement and outreach efforts, ignore their obligations under the law and continually place their employees at risk.*”

10. According to the *Financial Times*:

In late 2004, Don Parus, site manager at BP’s biggest refinery, realized something was terribly wrong.

The site had suffered 22 fatalities over 30 years, its safety business plan for 2005 noted there was a key risk of the death of a worker in 12-18 months, and a BP safety presentation opened with the words: “*Texas City is not a safe place to work.*”

He commissioned a safety audit by the Telos Group, a Texas-based consultancy, which surveyed more than 1,100 employees, roughly 60 percent of the current workforce, and interviewed over 100.

The 338-page report, a copy of which has been obtained by the *Financial Times*, reveals a safety culture that made many fear working in the facility.

“*The history of investment neglect, coupled with the BP culture of lack of leadership accountability from frequent management changes, is setting BP Texas City up for a series of catastrophic events,*” is just one comment in the audit.

The report was finalized on January 21, 2005. Two months later, the accident predicted by several in the audit arrived: an explosion . . . .

\* \* \*

[A]n investigation of the accident by the US Chemical Safety and Hazard Investigation Board (CSB), an independent federal agency that investigates industrial chemical accidents, *revealed BP decided against upgrading equipment that might have prevented the accident; operated with malfunctioning equipment; and had worked staff 30 days straight in 12-*

*hour shifts, before the accident. It questioned the training and experience of key staff.*

\* \* \*

*[I]n the Telos audit, staff surveyed rated “making money” BP’s number one priority and “people” its last, at nine.*

11. According to *The Houston Chronicle*:

**BP LEADS NATION IN REFINERY FATALITIES;**

**Records show big gap between company and top U.S.-based peer**

BP leads the U.S. refining industry in deaths over the last decade, with 22 fatalities since 1995 – more than a quarter of those killed in refineries nationwide, a *Houston Chronicle* analysis shows.

\* \* \*

*More than 10 times as many people have died in BP refineries as in those owned by Exxon Mobil Corp., considered the company’s major U.S.-based peer.*

\* \* \*

[I]n the weeks prior to the Texas City blast, *the oil giant’s dismal record landed BP on an internal Occupational Safety & Health Administration watch list of companies for being “indifferent”* to its legal obligations to protect employee safety because of a fatal explosion in Texas City in September 2004 that killed two pipefitters and injured a third.

OSHA accused BP of a “willful” violation of its rules that led to the accident.

OSHA’s Enhanced Enforcement program “*zeroes in on employers with the gravest violations who have failed to take their safety and health responsibilities seriously,*” Jonathan Snare, acting assistant secretary of labor for Occupational Safety and Health, said in a recent speech.

*BP is the only major oil company on that list,* said John Miles, OSHA’s regional director

\* \* \*

The Texas City explosion was the seventh time a fatal accident had been reported this decade at a BP-owned facility – and the third fatal accident in Texas City.

\* \* \*

No other U.S. refining company reported as many death during the decade, according to a *Chronicle* analysis of 80 deaths described in newspaper reports, lawsuits, interviews with major oil companies, and government an industry statistics.

12. BP is also under investigation for manipulating and fixing propane and crude oil prices. The Commodity Futures Trading Commission (“CFTC”) has sued BP for the propane price manipulation, alleging it participated in a “*conspiracy*” to enrich BP by “inflating the price of propane” carried out with the “*knowledge, advice and consent of senior management.*” A BP employee has pled guilty and stated the scheme was approved by senior managers. A Department of Justice (“DOJ”) criminal investigation of BP continues. BP has also been sued for manipulating the price of crude oil on the New York Mercantile – and the DOJ is investigating this as well.

13. In an effort to present themselves as progressive, socially conscious individuals, who were highly competent stewards and managers of BP’s business, the defendants have repeatedly misrepresented how they were overseeing, managing and operating BP. They told the true owners of BP – the shareholders – that:

- “A particularly important task of the board is to monitor the way the company manages its approach to opportunities and risk, which may be operational, financial, environmental or ethical. This monitoring includes an annual review of the full range of possible risks, a review that shapes our continuing assessments. *The board’s committees review the business throughout the year.*”

- “Our role as a board . . . focuses on ensuring your interests are promoted and that our business maximizes *long-term value for you, our owners*. . . . We also monitor the operations of the business . . . to ensure both that BP’s activities live out the values we set and also, critically, that shareholder value lies at the heart of all we do.”
- “The board . . . works to ensure that your *long-term* interests as owners are both protected and enhanced. *Our work includes assessing the opportunities and risk confronting the group and monitoring the controls applied to manage and exploit them*. In its oversight of the group, the board recognizes the need for the executive team to exercise its judgment in the management of the business, displaying innovation and entrepreneurship – the qualities that have led BP to its current position – *but without compromising our standards of probity and transparency*.”
- “The way we work is guided by values – *integrity, honest dealing, treating everyone* with respect and dignity, striving for mutual advantage, transparency and contributing to human progress. These values are enshrined in practical policies and standards that govern areas of our activity, including health, *safety*, security, *environment, ethical conduct* and business relationships.”
- “We use a system of risk management to assess the impact of our activities on the environment, local economies and communities. Where appropriate, accountability for managing *environmental* and social impacts is part of managers’ performance contracts, with specific objectives and milestones. *People’s safety is of the highest priority. Managers are accountable for ensuring that safety risks are properly addressed, staff are trained and facilities are well maintained. We closely monitor our safety performance*.”
- “*People’s safety is of the highest priority. Managers are accountable for ensuring that safety risks are properly addressed, staff are fully trained and facilities are well maintained*. We closely monitor our safety performance. The number of serious injury cases (resulting in our employees or contractors being away from work for a day or more) has dropped from almost 30 per month in 1999 to 21 per month in 2003.”
- “In 2004, the number of injury cases (resulting in our employees or contractors being away from work for a day or more) was 0.08 per 200,000 hours worked, compared with 0.09 in 2003. This performance is approaching the best in our industry and also within our target set at 0.09 for 2004.”

- “We set the standard of corporate and financial performance on a global scale by delivering on promises that go beyond financials, *including environmental performance, safety . . . .*”
- “[T]he BP family embraces fixed, fundamental qualities that we apply to everything we do. These are our group values and they include *integrity, honesty*, dignity and respect for others and contributing to human progress. *These values cover health and safety; legal and ethical compliance; risk management . . . .*”
- “*Safety is fundamental to the way we conduct our business, as governed by our Guiding Principles*
  - Operations Review Team
  - Safety induction and training
  - Preventative measures
  - Industrial safety standards
  - Performance data”
- “Underpinning these objectives is our drive to ensure that we operate responsibly in all areas of our business. *This means making worker safety and protection of the environment top priorities in business delivery.*”
- “To ensure consistency on a global level, BP requires all of its major installations to develop and maintain an environmental management system (EMS) certified to meet ISO 14001 standards – an international standard that defines the overall structure and requirements of an EMS.”
- “The standard is based on compliance with regulations, prevention of pollution and continual improvement. Our compliance assurance process is an integral part of the overall EMS. Its structure is based on the Plan-Do-Check-Act that requires:
  - identification of legal and other requirements
  - determination of structure, responsibility and operational control
  - development of monitoring and measurement, corrective and prevention action

- management review.”
- “Legal requirements include applicable laws, regulations, permits, agency orders and enforceable agreements. Other requirements include initiatives set by industry groups and internal corporate agreements. Requirements are entered into a compliance matrix that summarizes applicable requirements for relevant projects, facilities and activities. The matrix is updated and maintained through periodic reviews to reflect new and revised requirements as well as changes in operations.”
- **“BPXA is committed to pollution prevention and waste minimization. Pollution prevention is a good business practice, reduces environmental risks, increases efficiency, reduces potential environmental liability and saves money. *Pollution prevention is integrated into our environmental management systems.*”**
- “BPXA spends about \$50 million annually to monitor, locate, repair and manage the effects of corrosion that occurs when an electrochemical process breaks down steel. On Alaska’s North Slope, we operate thousands of steel vessels and most of the 1,600-plus miles of pipelines that carry oil, water and gas from wellsites through processing facilities and ultimately to sales or injection points. *We semi-annually review our corrosion plan with the state Department of Environmental Conservation. Under the plan, corrosion managers direct corrosion mitigation resources to protect and extend the life of the assets.*”
- ***Internal corrosion rates have declined 90% since 1992. . . . The external corrosion program was substantially increased in 2002 from the historical level of more than 13,000 locations per year to about 35,000 locations in 2003.***

14. Unfortunately, BP has become one of the U.S.’s largest polluters and environmental law violators, operator of unsafe work facilities and fixer/manipulator of the prices of oil and propane products. Defendants’ conduct – cutting back on prudent and necessary expenditures to comply with environmental and worker safety laws and regulations and fixing product prices – was done to enrich themselves by boosting BP’s

apparent short-term profits, paying themselves grossly excessive compensation and benefits, knowing or recklessly disregarding that their actions hurt BP in the longer term.

15. Just how serious the current crisis surrounding BP is, is highlighted by hearings just held before a U.S. Congressional committee, as reported by the *Anchorage Daily News*:

### **Congress grills BP execs**

#### **House panel asks if company profit precluded pipeline maintenance**

. . . The first of at least four congressional hearings into why BP failed to prevent pipeline failures on Alaska's North Slope began dramatically Thursday when Richard Woollam, the company's corrosion chief until 2005, refused to testify, citing his right against self-incrimination.

In a day marked with blistering criticism of BP from Republicans and Democrats on the House Energy and Commerce Committee, the British-born Woollam, derided in an internal BP report as "King Richard" for his dictatorial style, declined to answer any questions.

The committee's investigations panel is looking into the failure of BP to monitor and control corrosion on two North Slope transit pipelines that feed the trans-Alaska pipeline.

One of those lines had a catastrophic leak March 2, spilling more than 200,000 gallons of oil in the tundra and the ice-locked shore of an unnamed lake. The other line had a smaller leak in August. Unsure of the reliability of either line, BP announced it would shut down all Prudhoe Bay production Aug. 6, then later limited the closure to the field's eastern half.

Over and over, the committee members grilled BP Exploration Alaska president Steve Marshall, demanding to know why BP neglected to conduct the only reliable test of the decay of an entire pipeline – a "smart pig" that travels inside the pipe and records the thickness of the wall along the pipe's length.

Marshall replied that company officials believed the line wasn't as susceptible to corrosion as others. The last smart pig run on the western line was in 1998; on the eastern line, it was 1992.

But was it just an error in judgment, the committee wanted to know, or was something else at work? Was BP shaving costs to increase profits? Were

executives trying to beef up their annual bonuses by meeting budgets regardless of the consequences? Along those lines, committee chairman Joe Barton, R-Texas, wondered aloud whether BP was “betting the farm” that the Prudhoe Bay field would run out before the pipeline failed, saving the costs of replacing it.

“Shame, shame, shame,” he said.

\* \* \*

Woollam was a late entry on the witness list. House investigators looking into claims that corrosion workers were afraid to criticize BP’s practices unearthed an internal BP report from 2004. That report, by the law firm Vinson & Elkins, said Woollam’s “overbearing management style” created a climate “where the fear of retaliation and intimidation could and did occur.”

\* \* \*

After pleading the Fifth Amendment in the packed committee room, Woollam was quickly dismissed from the hearing. He rushed from the Rayburn Building without speaking to reporters.

The Vinson & Elkins report recommended that Woollam be stripped of his supervisory duties. In January 2005, three months after the report was delivered, BP reassigned him to Houston. Malone said Woollam was recently placed on administrative leave, with pay.

Woollam, and the presence of a battery of defense attorneys, was a sharp reminder of grand jury proceedings in Anchorage hanging over the congressional hearings. The Justice Department and EPA are investigating whether the March 2 oil spill was a criminal violation of the Clean Water Act.

\* \* \*

The two transit lines were unregulated by the U.S. Transportation Department’s Pipeline and Hazardous Materials Safety Administration because they operated at low pressure in a remote area. Even after the spill, when the agency decided to impose its regulatory authority, BP resisted, said its administrator, Thomas Barrett, testifying in a later panel.

“It’s the kind of thing that would cause us to question their commitment,” said Rep. John Dingell, D-Mich.

Barrett's chief safety officer, Stacy Gerard, said BP had a pattern of resisting regulation. The company fought having its high-pressure lines included in a new integrity management program designed to increase safety, primarily through the use of pigs to clean and test the pipe.

16. Demand on the directors of BP to bring this lawsuit or vigorously pursue it would be a futile and useless act. To do so, they would have to sue themselves and/or people they have hired and supervised and thus not only expose their own incompetent and/or illegal behavior, but also expose themselves to gigantic uninsured liabilities. This they will not do. Thus, in order for the true facts to be uncovered, discovered and proved and the past harm to BP remedied, with future harm to it ameliorated or prevented, this action must be pursued by the plaintiffs derivatively on behalf of and for the benefit of BP. This action is brought in good faith for the benefit of BP and it is respectfully requested that this Court permit this action to proceed.

### **JURISDICTION AND VENUE**

17. This Court has jurisdiction over this action pursuant to Alaska Stats. §§22.10.020, 10.06.435(a), 10.06.740, and common law. Each individual defendant has minimum contacts with Alaska sufficient to justify that state's exercise of personal jurisdiction over each of them, consistent with the laws of Alaska and the United States Constitution.

18. Defendant BPX is a citizen of Alaska as its principal place of operations is located in Anchorage, Alaska. Certain of the other defendants are residents and citizens of Alaska. Plaintiff Pickett is a citizen and resident of Alaska. There is no diversity of citizenship and this case may not be removed to federal court.

19. Venue is proper in this County pursuant to Alaska Stat. §22.10.030 and Alaska R. Civ. P. 3, because, among other things, BP does substantial business in Anchorage County, including operating two of its major subsidiaries out of Anchorage, BPX, and BP Pipelines (Alaska) Inc. A very substantial part of the wrongdoing occurred in and/or had effect in Alaska. Much of the evidence to prove plaintiffs' claims – including the location of important physical and documentary evidence and witnesses able to provide live testimony – is here in Alaska. BPX pled guilty in Alaska to one felony count of knowingly violating CERCLA on 9/23/99, subjecting the Company to five years probation in Alaska. BP's federal regulators, the U.S. DOJ, the U.S. EPA and the Alaska Department of Environmental Conservation ("DEC") have all taken extensive regulatory and/or criminal actions against BP in Alaska (which form part of the basis of this suit) and are all currently investigating BP in Alaska.

### **THE PARTIES**

20. (a) Plaintiff UNITE HERE National Retirement Fund is, and was at the time of the commission of the wrongful acts complained of herein, a stockholder of BP. This plaintiff currently owns 6,000 BP ADRs.

(b) Plaintiff Jeffrey Pickett is, and was at the time of the commission of the wrongful acts complained of herein, a stockholder of BP. Jeffrey Pickett, a long-term individual BP shareholder, is a citizen and resident of Alaska.

21. Each plaintiff brings this action derivatively in the right of and for the benefit of BP. Each plaintiff will fairly and adequately represent the interests of BP and its shareholders in enforcing the rights of BP.

22. Nominal defendant BP P.l.c. is a U.K. corporation with its formal corporate headquarters in London. BP described itself as:

**The BP Group is one of the three largest integrated energy companies in the world. Headquartered in London, we have more than 103,000 employees and operations in more than 100 countries on six continents**

\* \* \*

BP's strategy is to apply the distinctive capabilities possessed by our people in a distinctive portfolio of assets, chiefly oil and gas fields, refineries, service stations and petrochemical plants. This takes place within a disciplined financial framework, thereby generating highly competitive, but secure returns.

Underpinning these objectives is our drive to ensure that we operate responsibly in all areas of our business. *This means making worker safety and protection of the environment top priorities in business delivery.*

\* \* \*

*We are the largest U.S. oil and gas producer and a major refiner and manufacturer of petrochemicals and specialty chemicals.*

\* \* \*

*We are organized so that we can achieve centralized direction . . . . Business units have responsibility for ensuring that operations on the ground are conducted in accordance with our values, principles and policies.*

23. BP described its business in Alaska as follows:

### **Our business in Alaska**

**BP Exploration (Alaska) Inc. (BPXA) operates 13 North Slope oil fields, four North Slope pipelines, and owns a significant interest in six other producing fields. Our 26.35% interest in the Prudhoe Bay natural gas resource is a large undeveloped source of natural gas**

- Alaska provides about 10% of our worldwide oil production

- we have been a major player in Alaska since 1969 when significant oil was found at Prudhoe Bay, following ten years of preliminary exploration and investment
- we are the operator of Prudhoe Bay, North America's largest oil field, following a realignment of oil and gas ownership interests in 2000
- our activities now center on commercializing known resources rather than exploration
- throughout our activities, we apply stringent environmental, safety, and social standards. Some of our commitments are incorporated within the Charter signed with the State of Alaska in 1999

As an upstream business of BP plc, BPXA is responsible for oil and gas exploration, development and production in Alaska.

BP Pipelines Alaska Inc. provides oversight for our interest in the Trans-Alaska Pipeline System and local North Slope pipelines.

BP Transportation (Alaska) has oversight for BP's shipping and interest as a common carrier for the Trans-Alaska Pipeline. We lease part of our 13-storey [sic] Anchorage headquarters to Alyeska Pipeline Service Company, the company that operates the Trans-Alaska Pipeline.

### **Standards of safety**

For BPXA and our contractors, safety takes priority in all operations. We have taken important steps since 2001 to act on the concerns of some of our staff about issues of operational integrity. Our framework for ensuring safety in all of our activities is described in "Our business performance".

### **Our business performance**

#### **Exploration, production and transportation: Highlights**

From our long-standing commitment to Alaska and our significant investment there for over 40 years, we are one of the major oil and gas producers in the state. We have historically been Alaska's largest investor and taxpayer. Examples of our investments in Alaska are highlighted below:

- we operate 13 North Slope oil fields, including Prudhoe Bay, with daily gross production of approximately 720,000 barrels of oil equivalent

- we have a 26.35% interest in the North Slope’s recoverable natural gas resource – some 35 trillion cubic feet
- 2003 BP Alaska net production was 12% higher than 2001, due to production from the Northstar field and the performance of satellite fields around the mature Prudhoe Bay and Kuparuk fields
- BP Pipelines owns about 47% of the 800-mile Trans-Alaska Pipeline System

24. BP is incorporated under English law, which permits or will permit this action to be maintained based on the allegations made in this Complaint. However, due to BP’s extensive U.S. and Alaskan operations, the large number of BP shareholders in the U.S., the locus of the wrongdoing, and the interests of the U.S. and Alaska impacted by that conduct under the local law exception to the internal affairs clause, the laws of Alaska or another appropriate U.S. jurisdiction may be applied to permit this action to be maintained. BP’s ties to – and impact on – the U.S. is highlighted by the following:

- 39% of BP’s worldwide shareholders reside in the U.S.
- BP has approximately 34,000 employees in the U.S., one-third of its total worldwide employees and more than in any other country.
- BP produces more crude oil in the U.S. than in any other country.
- BP produces more natural gas in the U.S. than in any other country.
- BP’s capital expenditures in the U.S. are larger than in any other country and BP has more operating capital employed in the U.S. than in any other country.

25. Nominal defendant BP America, Inc. (“BP America”) is a Delaware corporation headquartered in London, Illinois and a direct subsidiary of nominal party BP P.l.c.

26. Nominal defendant BP Oil Co. Inc. (“BP Oil”) is located at 4101 Winfield Rd, London, Illinois and a direct subsidiary of BP America.

27. Nominal defendant BP Exploration (Alaska) Inc. (“BPX” or “BPXA”) is a Delaware corporation with its principal place of business in Anchorage, Alaska, and a direct subsidiary of BP Oil. BPX is Alaska’s sixth-largest employer with 1,320 employees in 2003, and an annual payroll of \$204.2 million. According to BP, BPX was committed to safety in its operations:

**Safety and operational integrity**

As part of the BP group, BP Exploration (Alaska) Inc. (BPXA) is guided by corporate health, safety, security and environmental (HSSE) policies. . . .

Consistent with our global policies, BP in Alaska maintains an HSSE management system framework that is consistently applied to all BP businesses throughout the world. The framework includes expectations for the management of

- safety and accident prevention
- plant and equipment integrity
- pollution prevention

\* \* \*

The management of every business unit translates these expectations into performance targets. Each business in the Group must demonstrate continuing progress toward these targets through an HSSE assurance process that involves audits, reports and dialogue within the company.

Accordingly, within Alaska, BPX has

\* \* \*

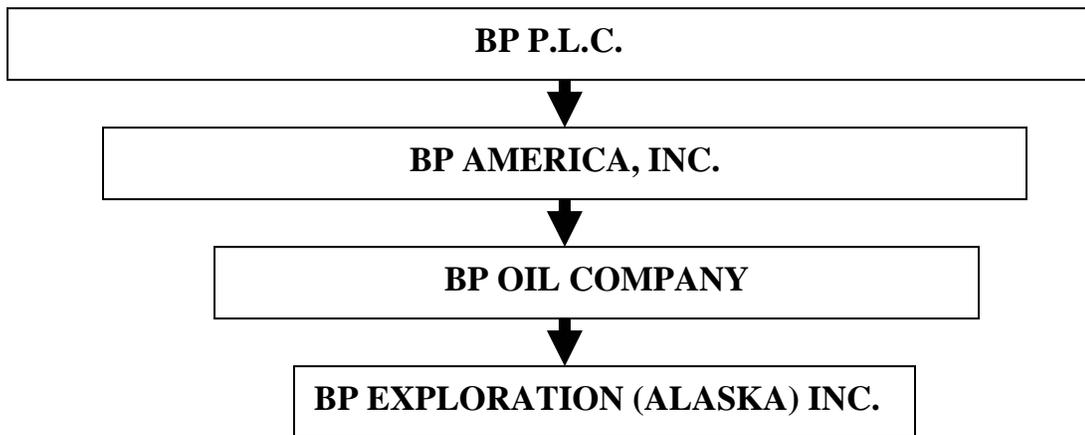
- *taken meaningful steps to prevent spills* and has responded promptly and effectively when spills have occurred at the company’s North Slope oil fields

\* \* \*

*[S]afety takes priority in all operations.* Our lost time accident rate on the North Slope has remained well below the average for all of US industry . . . .

As the Occupational Safety and Health Administration (OSHA) publishes injury data by industry and state, it is possible to put BPXA’s safety performance in context. *The data shows that sales clerks, food service workers, construction workers, truck drivers, newspaper staff, and others employed elsewhere in Alaska or the US are more likely to suffer a “Day Away From Work Case” (DAFWC) injury than a worker in one of BPXA’s North Slope oil fields.*

28. The corporate entities described above in ¶¶22-27, sometimes collectively referred to herein as “BP,” enjoy parent/subsidiary relationships as follows:



29. The defendants include the entire BP P.l.c. Board of Directors as of the filing of this Complaint, referred to herein sometimes as the “Director Defendants.” Along with the Director Defendants, the remainder of the BP officers and directors named below at ¶¶30-67 are referred to herein as the “Individual Defendants.”

30. Defendant Peter D. Sutherland (“Sutherland”) is the Non-Executive Chairman of the BP Board and has served as a BP director since 1995. Sutherland rejoined BP’s board in 1995, having been a non-executive director from 1990 to 1993, and was appointed Chairman in 1997. Sutherland, a barrister admitted to practice before the U.S. Supreme Court, has extensive contacts with the U.S. Sutherland also serves as the non-executive chairman of Goldman Sachs International and defendant The Lord John Browne serves as a director of the Goldman Sachs Group Inc., which is based in the U.S.

31. Defendant The Lord John Browne of Madingley (“Browne”) has served as BP’s Group Chief Executive Officer since 1995 and as an executive director since 1991. Browne has extensive contacts with the U.S. and visited Prudhoe Bay as recently as early 8/06. Browne joined BP in 1966 and subsequently held a variety of exploration and production and finance posts in the U.S., U.K. and Canada. Browne serves as a director of Intel Corporation in California and of the Goldman Sachs Group Inc. in New York City. Browne’s 2005 compensation package, worth over \$5.8 million, consisted of a salary of \$2.6 million and a bonus of \$3.1 million.

32. Defendant Ian M.G. Prosser (“Prosser”) has served as Non-Executive Deputy Chairman of the BP Board since 1999 and as a director since 1997. Prosser has extensive contacts with the U.S., including serving as a director of the Sara Lee Corporation.

33. Defendant Byron E. Grote (“Grote”) has served as BP’s Chief Financial Officer (“CFO”) since 2002 and as a director since 2000. Grote is a U.S. citizen and has extensive contacts with the U.S., having joined BP in 1987 following the acquisition of The Standard Oil Company of Ohio, where he had worked since 1979. Grote became BP’s

Treasurer in 1992 and in 1994 Regional Chief Executive for Latin America. Grote's 2005 compensation package, worth over \$2.0 million, consisted of a salary of \$923,000 and a bonus of \$1.1 million.

34. Defendant Anthony B. Hayward ("Hayward") has served as a BP's Chief Executive of Exploration and Production ("E&P") since 2003 and as a director since 2003. As the head of BP's E&P division, Hayward has extensive contacts with the U.S. due to his oversight of BP's U.S. operations. Hayward's 2005 compensation package, worth over \$1.6 million, consisted of a salary of \$784,420 and a bonus of \$837,200.

35. Defendant John A. Manzoni ("Manzoni") has served as BP's Chief Executive of Refining and Marketing since 2003 and as a director since 2003, having joined BP in 1983. Manzoni has extensive contacts with the U.S. having served as BP's Regional President for the eastern U.S. in 2000 and Executive Vice President and Chief Executive for BP's gas and power segment in 2001. Manzoni's 2005 compensation package, worth \$1.5 million, consisted of a salary of \$784,420 and a bonus of \$800,800.

36. Defendant David C. Allen ("Allen") has served as BP's Group Chief of Staff since 2003 and as a director since 2003. Allen has extensive U.S. contacts having joined BP in 1978 and subsequently undertaking a number of corporate and E&P roles in New York. Allen also serves as chairman of BP Pension Trustees Ltd., which oversees the pensions of BP workers in the U.S. Allen's 2005 compensation package, worth over \$1.6 million, consisted of a salary of \$784,420 and a bonus of \$873,600.

37. Defendant Iain C. Conn ("Conn") has served as a BP's Group Executive Officer, Strategic Resources since 2004 and as a director since 2004, having joined BP in

1986. Conn has extensive contacts with the U.S. having served as the Group Vice President of BP's refining and marketing business in 2000 and Chief Executive of Petrochemicals from 2002 to 2004. Conn also serves as Chairman of BP Pension Trustees Ltd., which oversees the pension of BP workers in the U.S. Conn's 2005 compensation package, worth over \$1.5 million, consisted of a salary of \$766,220 and a bonus of \$819,000.

38. Defendant John H. Bryan ("Bryan") has served as a Non-Executive Director of BP since 1998 when BP acquired Amoco where Bryan served as a director. Bryan is a U.S. citizen and has extensive contacts with the U.S.

39. Defendant Erroll B. Davis, Jr. ("Davis") has served as a Non-Executive Director of BP since 1998 when BP acquired Amoco where Davis served as a director. Davis is a U.S. citizen and has extensive contacts with the U.S.

40. Defendant Walter E. Massey ("Massey") has served as a Non-Executive Director of BP since 1998 when BP acquired Amoco where Massey served as a director. Massey is a U.S. citizen and has extensive contacts with the U.S.

41. Defendant DeAnne S. Julius ("Julius") has served as a Non-Executive Director of BP since 2001. Julius has extensive U.S. contacts, having begun her career as a project economist with the World Bank in Washington.

42. Defendant Thomas F.W. McKillop ("McKillop") has served as a Non-Executive Director of BP since 2004. He has extensive contacts with the U.S.

43. Defendant Antony Burgmans ("Burgmans") has served as a Non-Executive Director of BP since 2004. He has extensive contacts with the U.S.

44. Defendant Douglas J. Flint (“Flint”) has served as a Non-Executive Director of BP since 2005. He has extensive contacts with the U.S.

45. Defendant William M. Castell (“Castell”) has served as a Non-Executive Director of BP since July 2006. He has extensive contacts with the U.S.

46. Defendant H. Michael P. Miles (“Miles”) served as a Non-Executive Director of BP from 1994 until April 2006. As a Director of BP Pension Trustees Ltd. Miles oversaw the pension benefits of thousands of U.S. workers. He has extensive contacts with the U.S.

47. Defendant Michael H. Wilson (“M. Wilson”) served as a Non-Executive Director of BP from 1998 until he resigned in February 2006. Wilson has extensive U.S. contacts, having previously been a director of Amoco prior to the BP merger.

48. Defendant Robin B. Nicholson (“Nicholson”) served as a Non-Executive Director of BP from 1987-2005. Nicholson has extensive contacts with the U.S.

49. Defendant Charles F. Knight (“Knight”) served as a Non-Executive Director of BP from 1987-2005. Knight has extensive U.S. contacts having served as Chairman of Emerson Electric and as a Non-Executive Director of Anheuser-Busch, Morgan Stanley, IBM and SBC Communications.

50. Defendant Floris A. Maljers (“Maljers”) served as a Non-Executive Director of BP from 1998-2004. Maljers has extensive U.S. contacts, having previously served as a Non-Executive Director of Amoco from 1994-1998.

51. Defendant Richard L. Olver (“Olver”) served as BP’s Deputy CEO from 2003 to July 2004 and as a BP Executive Director from 1998 to July 2004. Olver has extensive U.S. contacts.

52. Defendant Rodney F. Chase (“Chase”) served as BP’s Deputy CEO and an Executive Director of BP from 1992-2003. Chase has extensive U.S. contacts having also served as a Non-Executive Director of Computer Sciences Corporation.

53. Defendant John G.S. Buchanan (“Buchanan”) served as BP’s CFO and an Executive Director of BP from 1996 to 11/02. Buchanan has extensive U.S. contacts.

54. Defendant William Douglas Ford (“Ford”) served as CEO of BP’s Refining and Marketing division and as an Executive Director of BP from 2000-2002, having previously served as an executive of Amoco. Ford is a U.S. citizen.

55. Defendant Robert A. Malone (“Malone”) has served as Chairman and President of BP America since 2006. He has extensive contacts with the U.S. Prior to his recent appointment, Malone had extensive contacts with the U.S., heading up BP’s shipping arm. Prior to accepting his current position, Malone held senior positions within Kennecott Copper Corporation and the Standard Oil Company of Ohio (Ohio), as well as at BP, where he was president, CEO, and Chief Operating Officer of Alyeska Pipeline Service Company, operator of the Trans Alaska Oil Pipeline.

56. Defendant Ross J. Pillari (“Pillari”) served as the President of BP America until 6/06. Pillari is a U.S. citizen, resides in Illinois and has extensive U.S. contacts having joined Standard Oil of Ohio in 1972, which was acquired by BP in 1987. Pillari returned from London in 1990 as BP’s Vice President of Retail Sales and in June 1996 assumed the dual role of Senior Vice President, Marketing and Oil and a director of BP Oil U.S.A. Following the merger with Amoco and the acquisition of ARCO, Pillari became the Group Vice President for the U.S.A., UK and Continental European retail operations.

57. Defendant Stephen Marshall (“Marshall”) is the President and served as a director of BPX until 1/06. Marshall is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

58. Defendant Debra A. Plumb (“Plumb”) is the Secretary and a director of BPX. She is a U.S. and Alaskan citizen, living in Alaska. She has extensive contacts with the U.S.

59. Defendant Debra A. Dowling (“Dowling”) is a director of BPX. She is a U.S. citizen. She has extensive contacts with the U.S.

60. Defendant Ian Springett (“Springett”) is a Vice President of BPX. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

61. Defendant Daniel B. Pinkert (“Pinkert”) served as a director and Vice President of BPX until at least 1/23/04. He is a U.S. citizen. He has extensive contacts with the U.S.

62. Defendant Neil R. McCleary (“McCleary”) served as a Senior Vice President of BPX until at least 1/22/02. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

63. Defendant Paula J. Clayton (“Clayton”) served as a Senior Vice President of BPX until at least 1/22/02. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

64. Defendant Alastair M. Graham (“Graham”) served as a Senior Vice President of BPX until at least 1/22/02. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

65. Defendant Chris J. Phillips (“Phillips”) served as a Senior Vice President of BPX until at least 1/22/02. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

66. Defendant Stanley P. Presley (“Presley”) served as a Senior Vice President of BPX until at least 1/22/02. He is a U.S. and Alaskan citizen, living in Alaska. He has extensive contacts with the U.S.

67. Defendant Richard C. Woollam (“Woollam”) is the former head of pipeline-corrosion monitoring for Bp at BPX. He was removed and transferred in 2005 because he intimidated employees and retaliated against them for warning of safety problems, including pipeline corrosion at BPX.

68. In recent years, BP’s Chairman or its Board has described the functions and operations of BP’s Board to BP’s shareholders. In 2002 they stated:

A particularly important task of the board is to monitor the way the company manages its approach to opportunities and risks, which may be operational, financial, environmental or ethical. This monitoring includes an annual review of the full range of possible risks, a review that shapes our continuing assessments. The board’s committees review the business throughout the year. . . .

We believe that we have robust policies and processes *that give the board a clear picture of the business as a whole, and the ability to monitor and assess changes and developments*. At the same time, the chief executive and his team must have the freedom and flexibility to exercise the day-to-day judgements needed to run the company.

These policies and processes are all the more important because, as a major international company, we come under intense and varied scrutiny in the societies in which we operate. This comes from regulatory authorities and others representing the interests of people who are affected in some way by our operations – as well as our shareholders, employees and customers.

In 2003:

The board, which comprises a majority of independent non-executive directors, works to ensure that your *long-term interests* as owners are both protected and enhanced. Our work includes assessing the opportunities and risks confronting the group and monitoring the controls applied to manage and exploit them. In its oversight of the group, the board recognizes the need for the executive team to exercise its judgment in the management of the business, displaying innovation and entrepreneurship – the qualities that have led BP to its current position – but without compromising our standards of probity and transparency.

In 2004:

Within a company with such a strong executive management team, it is important that the role of the board is understood. *As a board, we are conscious that we oversee the activities of the business in the interests of all our owners. . . .*”

. . . [O]ur board recognizes that the primary business of the board *is* corporate governance. Governing BP is not a matter to be driven solely by compliance concerns, but by the business purpose of the company you entrust us to govern on your behalf. Our role as a board therefore focuses on ensuring your interests are promoted and that our business maximizes long-term value for you, our owners.

. . . We also monitor the operations of the business in pursuit of that strategy to ensure both that BP’s activities live out the values we set and also, critically, that shareholder value lies at the heart of all we do.

69. Attachment A hereto is a chart showing which Individual Defendants held BP Board positions during key time periods. All of the BP Board members and managers sued in this action were aware of numerous warnings and red flags raised as to BP’s reckless conduct in the operation of its U.S. refineries and its operations on Alaska’s North Slope, including BP’s entry into a criminal plea agreement, a five-year probation stint, numerous claims BP violated that probation, and communications sent by BP employees and outsiders to the members of the BP Board containing serious warnings of BP’s reckless misconduct. All of these warnings were ignored, diverted or diluted and dangerous conditions were

ignored to the detriment of BP, its workers, the U.S., the State of Alaska and the shareholders – the real owners of BP.

### **DEFENDANTS' DUTIES**

70. By reason of their status as directors and/or executives of BP, defendants owed fiduciary duties of good faith, fair dealing, due care and candor to BP's shareholders and to the Company.

71. To discharge their legal duties, defendants were required to exercise reasonable and prudent supervision over BP's management, policies, practices, controls, and financial affairs pursuant to their fiduciary obligations to use the same care and diligence as would an ordinary prudent person in a similar position. By virtue of these obligations, defendants were required, among other things, to:

- (a) act in the best interests of BP;
- (b) govern BP in such a manner as to utilize the resources of the Company in a manner which benefits the Company and not the personal interests or preferences of defendants;
- (c) refrain from abusing their positions of control;
- (d) not to favor their own interests at the expense of BP;
- (e) in good faith, manage, conduct, supervise, and direct the business and affairs of BP carefully and prudently in accordance with federal and state laws, including the laws and regulations of the United States and the states of the U.S., including the States of Alaska and Texas;

(f) exercise reasonable control and supervision over the officers and employees of BP;

(g) maintain a proper division of authority and responsibility among the directors and/or officers of BP so as to prevent the dominance of any director and/or officer by any other director or executive of BP in the conduct of the business and affairs of BP;

(h) ensure that BP did not engage in unlawful, unsafe, imprudent or unsound practices, and become and remain informed as to how BP was, in fact, operating;

(i) upon receiving notice or information of an unlawful, unsafe, imprudent or unsound practice, to make a reasonable investigation in connection therewith and to take steps to correct that condition or practice; and

(j) to supervise the preparation and filing of any financial statements, reports or other information required by law from BP to be filed with the U.S. Securities and Exchange Commission (“SEC”) and/or distributed to BP shareholders, including BP’s 20-F Annual Reports to Shareholders and 6-K Reports of Foreign Issuers concerning the financial condition of BP, BP’s compliance with applicable law, and defendants’ stewardship of the Company’s assets and resources.

72. By reason of their directorial and/or officer positions, membership on the BP Board, and their ability to dominate and control BP’s business and corporate affairs at all relevant times, defendants owed BP and its shareholders obligations of candor, care, fidelity, trust and loyalty, and were required to use their ability to control BP in a fair, just and equitable manner, as well as to act in furtherance of BP’s and its shareholders’ best interest and not in furtherance of their own personal interest or preferences. In addition, each

defendant owed BP and its shareholders the duty to exercise care and diligence in the management and administration of BP's affairs and in the use and preservation of its property and assets.

73. Through their directorial positions, each director of BP controlled and dominated BP and its business and corporate affairs.

74. Each defendant is sued individually as a conspirator and aider and abettor, as well as in their capacity as present or former officers and directors and/or executives of BP (or any of its subsidiaries), and the liability of each arises from the fact that they have engaged in all or part of the unlawful acts, plans, schemes, or transactions complained of herein.

### **REPRESENTATIONS TO BP SHAREHOLDERS**

75. Over the past several years, defendants have consistently represented to the owners of BP – its shareholders – that they were competent and honest stewards and managers, committed to worker and workplace safety, environmental protection and legal compliance in BP's operations. BP's Board and top executives told BP's shareholders:

In all our activities we seek to display some unchanging fundamental qualities – *integrity, honest dealing* . . . .

To translate these into guides for practical action, we build on them in our group values. By bringing together intentions previously articulated in a number of different policy statements, these make it clear that the group aims

\* \* \*

- to carry on its business in an environmentally responsible manner . . . .

. . . [W]e express our group values under four headings: performance, people and capability, *health, safety and environment*, and external relationships.

76. BP's Board and top executives also told BP's shareholders:

**BP maintains a commitment to four brand values: to be progressive, innovative, green and performance driven**

Our place as one of the world's leading energy businesses is not a bragging right. It's a privilege built on the values that guide everything we do – from the oil fields, rigs and other sources of global energy that we harvest to the board rooms where key decisions about the company and its future are made.

These values keep us accountable to one another, the business world, our customers and the vast communities we serve. They also help us present consistent messages to our stakeholders.

**What do we mean by progressive?**

BP is a modern, dynamically led company that never stands still. In touch with society and our global communities, accessible and open, inclusive and diverse, we seek new and better approaches to the way we conduct business.

**How are we innovative?**

To us, innovative means combining *the latest technology* with the creative know-how of our employees worldwide, more than 100,000 strong, to find new solutions for our customers.

**What is the significance of being green?**

*Green summarizes our vision of environmental leadership . . . .*

**How do we approach performance?**

We set the standard of corporate and financial performance on a global scale by delivering on promises that go beyond financials, *including environmental, performance [and] safety . . . .*

**Group values**

\* \* \*

*These values cover health and safety, legal and ethical compliance . . . .*

77. BP's directors and top executives also told BP's shareholders:

**We describe the management frameworks, notably those on safety and the environment, which lie at the heart of our efforts to deliver first-class performance in a responsible manner**

\* \* \*

- **Safety and operational integrity**

*Safety is fundamental to the way we conduct our business, as governed by our Guiding Principles*

- Operations Review Team
- Safety induction and training
- Preventative measures
- Industrial safety standards
- Performance data

- **Environmental management systems**

The fundamental elements of our ISO 14001 certified environmental management system in Alaska

- Enhanced environmental management systems
- Using technology to reduce impact
- Waste management
- Spill prevention and response

78. As to its operational safety commitments, BP told its shareholders:

**Preventative measures**

**Important components of our safety management system are employee-led Advanced Safety Audits and behavior-based safety programs, near miss reporting and incident investigations**

Advanced Safety Audits are a behavioral observation process taught to supervisory and management personnel to assist them in engaging the workforce regarding daily at-risk behaviors. Employees describe the hazards inherent with the job and work with supervisors to best plan successful hazard mitigation plans.

In 2003, the Alaska Business Unit achieved BP world-class status in the number of safety observations conducted – a total of more than 70,000 safety inputs through Behavior-Based Safety programs and Advanced Safety Audits. Safety experts credit safety observations as main ingredients in achieving positive safety performance through the identification of ‘at-risk’ behaviors. BP Exploration (Alaska) Inc. (BPXA) incorporates four behavior-based programs across Alaska. Each is designed to identify behaviors that are critical to on-the-job-excellence, gather data on workgroup performance for site-specific behaviors, provide regular two-way feedback on workgroup performance for critical behaviors and remove barriers to continuous performance improvement.

The Near Miss Program encourages reporting of all close calls with the belief that bringing them to the attention of others can correct unsafe conditions or serve as a reminder in areas where extreme caution is warranted. Near misses are shared not only with the Alaska business but across other parts of the global BP organization. Near miss reporting also increased in 2003.

Incident investigation uses root cause analysis to determine the factors that lead to a safety incident. Serious incidents have a very formal, prescribed investigative process. For high-impact incidents involving serious injury or a fatality, an external investigation team is mobilized that includes a BP executive and Root Cause specialist from outside the Alaska business. Government agency investigations are often run independent and parallel to a company investigation but are fully supported by BP. Recommendations resulting from an investigation are assigned to individuals for follow-up and set into a schedule for completion. The results are shared among contractors, other BP locations and the industry to share the learning.

## **A-22**

In August 2002, one of our Prudhoe Bay operators was injured while starting up a well with high outer annulus pressure. As a result of thermal expansion the outer casing in well A-22 over pressured resulting in a release of gas that ignited in the wellhouse. We set in place more prescriptive

procedures during well start-ups and conducted remedial training to all our field operators.

The Alaska Oil and Gas Conservation Commission (AOGCC), a state oversight agency, accepted our revised policies and developed their own state rules for the operation of wells with high annular pressures; a phenomenon that is not unique to Prudhoe Bay or Alaska. In addition, the agency proposed a penalty of over \$2.5 million in December 2003. We disagree with their assessment and are seeking an informal review with the agency to appeal against the proposed penalty.

79. BP's directors and top executives also told BP's shareholders:

**To ensure consistency on a global level, BP requires all of its major installations to develop and maintain an environmental management system (EMS) certified to meet ISO 14001 standards – an international standard that defines the overall structure and requirements of an EMS**

The standard is based on compliance with regulations, prevention of pollution and continual improvement.

\* \* \*

### **Compliance assurance**

Our compliance assurance process is an integral part of the overall EMS. Its structure is based on the Plan-Do-Check-Act cycle that requires

- identification of legal and other requirements
- determination of structure, responsibility and operational control
- development of monitoring and measurement, corrective and prevention action
- management review

Legal requirements include applicable laws, regulations, permits, agency orders and enforceable agreements. Other requirements include initiatives set by industry groups and internal corporate agreements. Requirements are entered into a compliance matrix that summarizes applicable requirements for relevant projects, facilities and activities. The matrix is updated and maintained through periodic reviews to reflect new and revised requirements as well as changes in operations.

## **Pollution prevention**

BPXA is committed to pollution prevention and waste minimization. Pollution prevention is a good business practice, reduces environmental risks, increases efficiency, reduces potential environmental liability and saves money. Pollution prevention is integrated into our environmental management systems.

BPXA has developed a Pollution Prevention Guidance Manual to help managers incorporate pollution prevention into their site-specific EMS.

## **Contractor compliance**

To minimize the potential for environmental mishaps and associated company liability, contractors must comply with environmental requirements and reporting obligations that relate to their work. Selected contractors are required to have written EMSs that focus on compliance.

BPXA assigns managers to oversee contractor compliance and to evaluate their EMSs in 1999. BPXA established an outreach program called the “Contractor Toolbox” to help contractors develop and implement their own EMSs and improve their environmental performance. The voluntary program consists of workshops, self-assessments, mentoring and site visits.

## **Corrosion management**

BPXA spends about \$50 million annually to monitor, locate, repair and manage the effects of corrosion that occurs when an electrochemical process breaks down steel. On Alaska’s North Slope, we operate thousands of steel vessels and most of the 1,600-plus miles of pipelines that carry oil, water and gas from well sites through processing facilities and ultimately to sales or injection points. We semi-annually review our corrosion plan with the state Department of Environmental Conservation. Under the plan, corrosion managers direct corrosion mitigation resources to protect and extend the life of the assets.

***Internal corrosion rates have declined 90% since 1992.*** The annual inspection program consists of approximately 100,000 locations, internal corrosion inspections have remained relatively constant with about 60,000 inspections per year. ***The external corrosion program was substantially increased in 2002 from the historical level of more than 13,000 locations per year to about 35,000 locations in 2003.***

80. Regarding ethical conduct, including the duty to operate lawfully, in 2002,

BP's Board told the owners of BP, *i.e.*, its shareholders:

### **Ethical Conduct**

We expect our staff to act according to the highest standards of ethical behavior. This is reinforced through an annual process and through policy development, training and actions that uphold our standards, including disciplinary measures.

\* \* \*

Every year, those in positions of responsibility are asked to attest that their personal behavior and the actions of their teams comply with our ethical conduct policy. We significantly enhanced this process last year to encourage open discussion and sharing of ethical issues, which we believe will contribute to continuous improvement in the way we do business.

In 2005, they told them:

In everything we do, we are guided by our group values. These are aspirations that cover such areas *as health and safety*, continuous improvement, human capability and *environmentally sound operations*.

In 2004, they told them.

### **BP: our business**

The way we work is guided by values – *integrity, honest dealing*, treating everyone with respect and dignity, striving for mutual advantage, transparency and contributing to human progress. These values are enshrined in practical policies and standards that govern areas of our activity, including *health, safety*, security, *environment, ethical conduct* and business relationships.

We use a system of risk management to assess the impact of our activities on the environment, local economies and communities. Where appropriate, accountability for managing environmental and social impacts is part of managers' performance contracts, with specific objectives and milestones.

***People's safety is of the highest priority. Managers are accountable for ensuring that safety risks are properly addressed, staff are trained and facilities are well-maintained. We closely monitor our safety performance.***

In 2004, the number of injury cases (resulting in our employees or contractors being away from work for a day or more) was 0.08 per 200,000 hours worked, compared with 0.09 in 2003. This performance is approaching the best in our industry and also within our target set at 0.09 for 2004.

81. With regard to safety in its operations and care to avoid oil spills, BP constantly assured BP shareholders of the attention paid to these important matters and the success BP was achieving. In 2003, these stewards told the owners of BP's business:

The way we work is guided by values – integrity, honest dealing, treating everyone with respect and dignity, striving for mutual advantage and contributing to human progress. These values are developed into policies that govern areas including health, safety, security, environment, ethical conduct and business relationships.

We use a system of risk management to assess the impact of activities ***on the environment***, local economies and communities. Where appropriate, accountability for managing environmental and social impact is part of managers' performance contracts, with specific objectives and milestones.

People's safety is of the highest priority. ***Managers are accountable for ensuring that safety risks are properly addressed, staff are fully trained and facilities are well maintained.*** We closely monitor our safety performance. The number of serious injury cases (resulting in our employees or contractors being away from work for a day or more) has dropped from almost 38 per month in 1999 to 21 per month in 2003. In 2003, we achieved the target of maintaining our 2002 performance while introducing many new workforce members through our acquisition of Veba, whose injury rate was historically higher than that of BP.

82. With regard to protecting the environment, BP's Board told the owners of BP's business:

We will only work within or close to sensitive areas if we believe we can ***properly manage any risks to the environment.***

## SUBSTANTIVE ALLEGATIONS

### Alaska Safety and Environmental Problems

83. In 1968, oil was discovered in Prudhoe Bay on the Arctic Slope. By 1969, oil-lease sales were bringing revenues to Alaska. In 1974, construction began on the Trans-Alaska Pipeline System (“TAPS”) with Valdez as its southern terminus. TAPS, which includes the Prudhoe Bay collection and distribution facilities of BP, was completed in 1977.



84. Prudhoe Bay is often called the “North Slope,” which refers to a region larger than the state of Minnesota. The North Slope is entirely covered in permafrost, a condition where the soil about two feet down from the surface remains in a permanently frozen state. The permafrost, combined with the flatness of the land, results in an abundance of small lakes and ponds, because spring snow melt has nowhere to go.

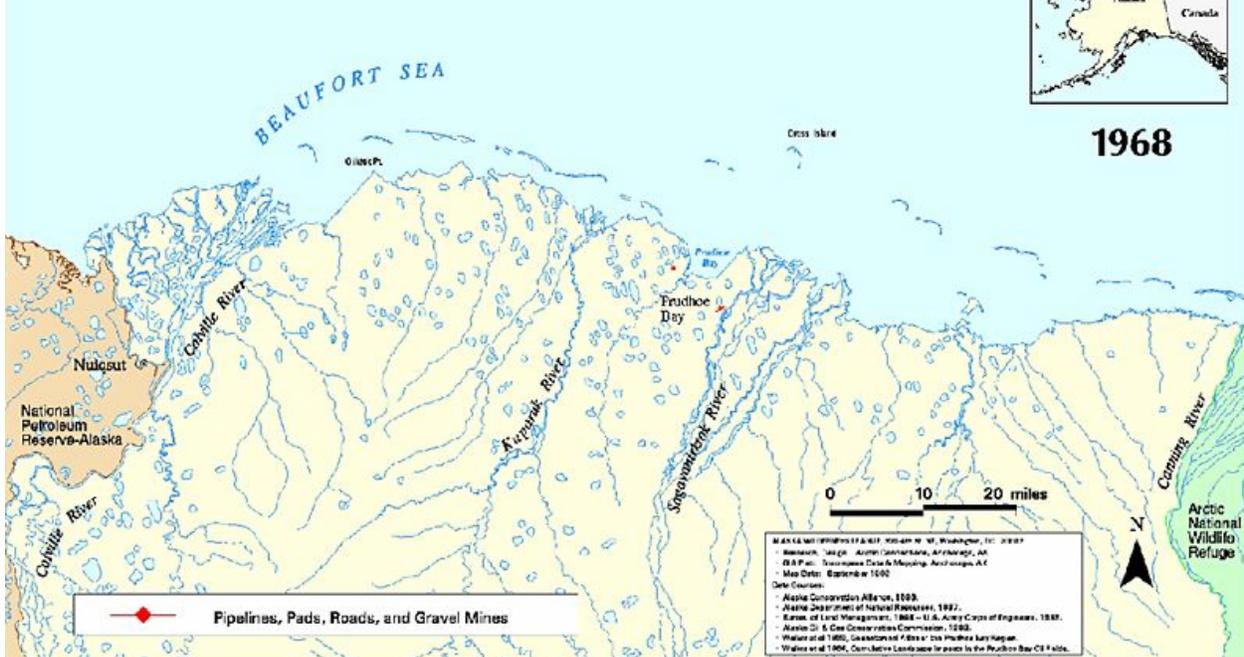
85. The oil of Prudhoe Bay lies in porous rock formations anywhere from 5,000 to 20,000 feet below the surface. It rises to the wellhead under its own geologic pressure, so no pumping is required. Produced oil normally comes up mixed with water, natural gas, and even paraffin wax crystals. Oil from all the wells on a given drill site or pad (usually 20-30

wells) is sent to a manifold building, which tests the production for the oil/gas/water ratio. The mixture is then sent to one of several flow stations/gathering centers, where the oil is separated out and sent down the pipeline to market. All of the water and some of the gas is re-injected back into the ground to enhance the formation pressure. A fraction of the natural gas is used to heat all the buildings in Prudhoe Bay. The rest is burnt off.

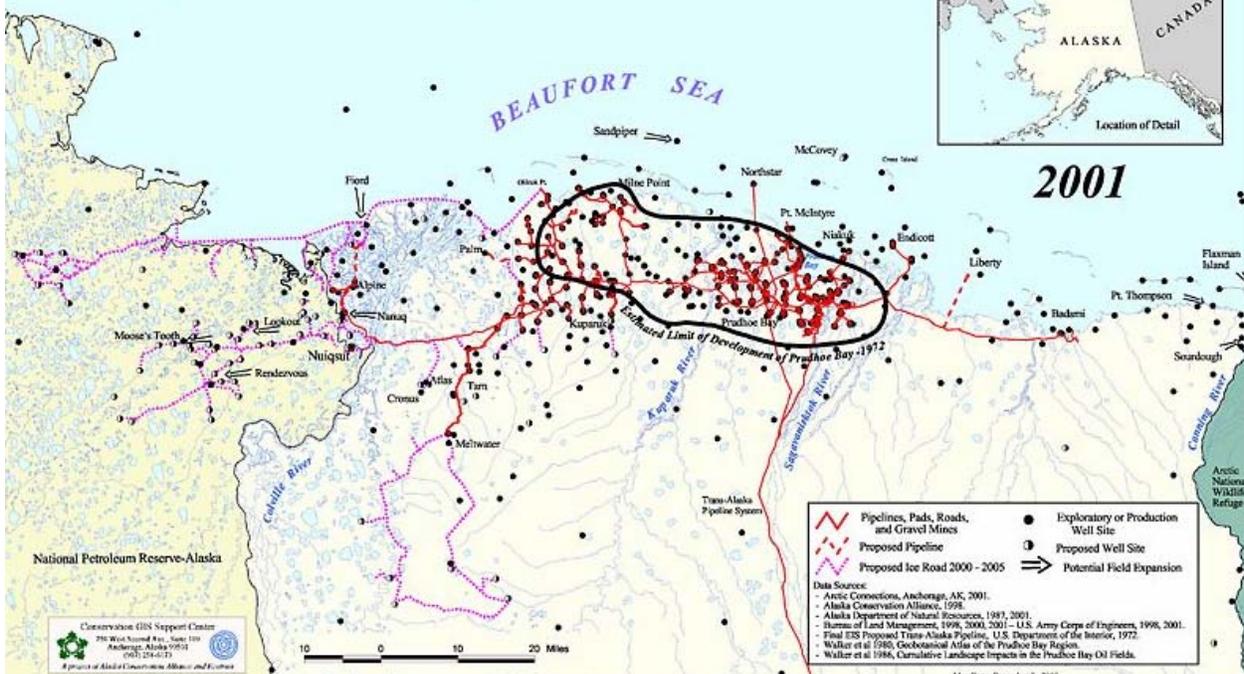
86. Since operations began in 1977, over 12.8 billion barrels of oil have been pumped from 19 producing North Slope fields. The Prudhoe Bay fields and the TAPS have suffered oil spills. Spills have long half-lives. One study found that 28 years after an initial spill there were still substantial hydrocarbons in the soil and little vegetation recovery.

87. The following maps show the growth of the oil industry in Prudhoe Bay from 1968 to 2001. The 2001 map includes proposed wells, ice roads, and three new field expansions within the National Petroleum Reserve – Alaska:

# Oil Development in America's Arctic



# Oil Exploration & Development in America's Arctic



88. Together with ConocoPhillips and ExxonMobil, BP controls 95 % of Alaska North Slope oil production and the 800-mile TAPS. Over the last two decades, defendants have caused and/or permitted BP's Alaska operations to consistently fail to comply with laws, regulations and practices required for the safe operations of the TAPS – at the same time, failing to live up to BP's publicly represented environmentally responsible image. As the available reserves in the Prudhoe Bay field have declined and the easily recoverable oil has been recovered, BP's top managers have curtailed BP's investments and expenditures there. BP admitted:

These are challenging times for BP and other producers in Alaska's oil and gas industry. Total North Slope production has declined since its peak in the late 1980s. Pressure on costs has increased. This makes efforts to control costs very important as the company strives to sustain its operations and keep them competitive for continued investment.

89. Unfortunately, BP has a long and sordid history of environmental law violations its executives now try to camouflage with a little green and yellow sunburst. In 1989, nearly 11 million gallons of oil spilled into Prince William Sound after the tanker Exxon Valdez ran aground. Exxon, whose sea captain was intoxicated when his tanker ran aground, shouldered the brunt of the public condemnation for the catastrophe. But BP owned and controlled a majority of the Alaskan oil on the tanker, of TAPS and of the consortium called "Alyeska" that ran Alaska's oil production. It was Alyeska that was responsible for maintenance and safety precautions and could have prevented the catastrophe. And it was Alyeska that initially responded to the spill until the response was taken over by Exxon. Just 10 months before the massive Valdez oil spill, Alyeska held a secret, top-level meeting. Alyeska's chief of operations at the Valdez terminal, Theo Polasek

(“Polasek”), warned at the meeting that it was “not possible” to contain an oil spill in the centre of Prince William Sound – exactly where the Exxon Valdez grounded. Polasek needed millions of dollars for spill containment equipment. The law required it; Alyeska promised it to regulators; then, at the meeting, the proposed spending was voted down. Smaller spills before the Exxon Valdez disaster had alerted Alyeska and BP that the port’s oil-spill containment system was ineffective. But, according to Alyeska’s lab technician Erlene Blake (“Blake”), management routinely ordered her to change test results to eliminate “oil-in-water” readings. Blake was told to dump out oily water and re-fill test tubes from a bucket of cleansed sea water, which they called the “Miracle Barrel.” Moreover, a confidential letter dated April 1984, four years before the Exxon Valdez spill, written by sea captain James Woodle (“Woodle”), then Alyeska’s Valdez port commander, warned management: ***“Due to a reduction in manning, age of equipment, limited training and lack of personnel, serious doubt exists that [we] would be able to contain and clean-up effectively a medium or large size oil spill.”*** According to captain Woodle, there had been a spill at Valdez before the Exxon collision – although not nearly as large. When he prepared to report it to the government, his supervisor forced him to take back the notice, with the Orwellian command, “You made a mistake. This was not an oil spill.” Because BP owned and controlled a majority of Alyeska, captain Woodle, technician Blake, and vice-president Polasek, all worked for BP.

90. When there is an oil spill, the chief objective is “containment.” The failure to contain the spreading oil from Exxon Valdez destroyed over 1,000 miles of coastline. BP’s

London headquarters had learned of the falsification of reports to the U.S. government years

before the spill. In September 1984, independent oil shipper Charles Hamel (“Hamel”), shaken by evidence he received from Alyeska employees, warned BP executives in London about dangerous goings-on at Valdez. Moreover, the port commander, Captain Woodle, delivered his list of missing equipment and personnel directly into the hands of BP’s then-Alaska chief, George Nelson. BP’s executives tried to bury the content of Woodle’s letter, details of Hamel’s London trip and other warnings of the deteriorating containment system. Alyeska tried to blackmail Woodle and when that failed, to bribe him, offering him pay-outs on condition that he leave the state, promising never to return. BP mounted a secret campaign to hound Hamel out of the industry. A CIA expert was hired to wiretap Hamel’s phone lines, smuggle microphones into his home, intercept his mail and try to entrap him with young women. The industrial espionage caper was personally ordered and controlled by BP executive James Hermiller, President of Alyeska. In the subsequent high-profile court case, a federal judge described the spying episode as “reminiscent of Nazi Germany.”

91. Approximately 200 lawsuits were filed in state and federal courts in Alaska seeking compensatory and punitive damages arising out of the Exxon Valdez oil spill in Prince William Sound. Most of those suits named Alyeska, and the other oil companies which own Alyeska, including BP which owned a 47% interest in Alyeska through a subsidiary of BP America. Alyeska and its owners have settled all the claims against them under these lawsuits at a very substantial cost in terms of fees, costs and settlements.

92. Between 1998 and 1999, BP and three of its contractors were ordered to pay a total of \$25 million in penalties for illegal re-injection of hazardous wastes into North Slope wellheads. The Company also pled guilty to a criminal count of illegal dumping, and paid a

\$500,000 criminal fine. BP was placed on five years of probation, an extreme step taken only due to BP's consistent violations of law. The re-injection rules were clear: *nothing* is to be re-injected beneath the frozen substrate of the North Slope that did not originate there, and *nothing* toxic is to be re-injected. Nevertheless, for years barrels of hazardous foreign substances, such as glycol and paint thinners, were brought to BP's Endicott production facility, on a man-made island 18 miles northeast of Prudhoe Bay, for re-injection. The illegal disposal was ongoing and took place only at night.

93. The terms of the Plea Agreement required BP to develop, implement and maintain a nationwide environmental management system ("EMS") consistent with the "best environmental practices" at *all* of BP's U.S. facilities engaged in oil exploration, drilling and/or production. According to the terms of BP's probation, BP was also prohibited from incentivizing employees to violate U.S. environmental laws through the payment of bonuses. Prior to entering into the Plea Agreement, defendants were required to provide evidence to the court that the directors of BPX had authorized the terms of the Plea Agreement.

94. During 2000, three BP America subsidiaries were forced to reach an agreement with the U.S. EPA and several states to settle alleged violations of various Clean Air Act requirements at several BP locations throughout the U.S. A Consent Decree was finalized in early 2001. This settlement, which addressed emissions of sulphur dioxide and nitrogen dioxide, required the installation of additional controls at all eight of BP's U.S. refineries at a cost, over an eight-year period, of approximately \$500 million, and the payment of a \$10 million penalty. The three BP America subsidiaries, and their officers and directors, remain subject to the terms of the Consent Decree through 2008.

95. During 10/01, the TAPS was pierced by bullets causing a major oil spill. The legally required master plan for TAPS oil spill response represented that the pipeline owners maintained a variety of spill response equipment that is readily available for rapid response to any emergency. One of the listed items is a bullet hole clamp. But when a miscreant shot a hole in the pipeline with a high-powered rifle in 10/01, it was revealed that the bullet hole clamp could not be used. As a result, a thick stream of crude oil poured into the nearby trees for 36 hours.

96. Finding BP was behind schedule on installing leak-detection systems required by law, in 2002 the State of Alaska fined BP \$300,000 and ordered it to install an accurate leak-detection system on the major Prudhoe Bay crude oil pipelines. BP purportedly complied, adding equipment designed to alert field workers whenever there was a leak.

97. To stress the progress being made in Alaska, in 1/06, BP's Board and top executives told BP's shareholders:

**Upgrades to the trans Alaska pipeline will reduce operating costs, extend the line's economic life and reduce air emissions**

The 1.290km (800-mile) trans-Alaska oil pipeline from Prudhoe Bay on Alaska's North Slope to Valdez on the state's southern coast is undergoing an upgrade costing more than \$250 million – the biggest single investment in the pipeline since oil began flowing from Prudhoe Bay nearly three decades ago.

\* \* \*

“The upgrade should save about 10% a year in operating costs, extend the economic life of the pipeline and improve the economics of North Slope oil,” says [Mike Heatwole, manager of corporate communications for Alyeska Pipeline Service Company, the firm which operates and maintains the pipeline on behalf of BP and other owners].

\* \* \*

“The new pipeline control systems, automation and electrification technology are used in the pipeline industry all over the world,” Notes Heatwole. “This project creates a simplified fit-for-purpose system that is less expensive to operate *without sacrificing the safety or integrity of our system.*”

98. There are caribou crossings on the North Slope intersecting the pipeline. In 2003, BP promised Alaska it would check all caribou crossings in search of standing water in the culverts. Water is a danger for pipelines, triggering corrosion that can quickly eat through steel. BP made the promise after three small holes developed in a 24-inch pipeline, allowing 1,500 gallons of crude oil to leak.

99. BP’s “transit” lines carry supposedly refinery-ready petroleum from processing plants that remove water and sludge. BP has represented it had a monitoring system that was working effectively and would detect leaks on the transit lines which carried crude oil from the processing plants, where water was supposedly removed, to gathering centers where they were put into the TAPS and carried to Valdez.

100. In the months leading up to the 3/06 spill at Prudhoe Bay, the North Slope Borough (the local government entity) twice urged that better leak-detection equipment than that used on the Prudhoe Bay pipeline be installed. Then-currently available leak detectors were capable of performing more than twice as well as those BP was using. BP refused.

101. BP executives and directors neglected key pipelines at the core of the vast Prudhoe Bay field, allowing bacterial-ridden sludge to build up inside the lines and corrosion to go unchecked. The transit lines where the huge leaks of 3/06 occurred had been installed in 1976 and were 30 years old. These pipelines were designed to be used only 25 years and had reached the end of their useful life in 2000. To avoid the huge cost of doing so,

defendants had not replaced them. *Moreover, they had neglected to clean the interior of some of these pipelines for 14 years, producing a buildup of sludge a foot thick in the pipes.* By contrast, other pipelines (non-transit) are cleaned using scraper pigs about every two weeks. The bacteria that caused the corrosion in the transit lines is shielded from the chemicals BP adds to the oil flow to suppress corrosion by the sludge. Corrosion is a constant problem for oil pipelines. The combination of oil, gas, carbon dioxide and water can form carbonic acid that eats away steel pipe. In a field like Prudhoe Bay, corrosion is more likely because BP is pumping water from the Beaufort Sea into the wells to help push out the oil as pressure in the aging field declines. Now the wells are producing 1.3 million barrels per day of water, along with 400,000 barrels of oil. The sludge buildup in the 22 miles of transit lines was exacerbated by the low and slow flow rate through the lines which were originally designed to handle much larger and faster-moving volumes of oil. Prudhoe has been pumping since 1977 and once produced four times what it does today. And BP's internal records lay bare a company keenly aware of the corrosion problem. In 1999, as a condition for approving BP's merger with Arco, which previously operated part of the Prudhoe Bay field, state officials called for twice-yearly meetings with BP to review the Company's corrosion monitoring. That year, BP workers approached Hamel with concerns that, to hold down costs, the Company was skimping on use of a corrosion-prevention chemical. In a 5/04 letter to BP director defendant Massey, Chairman of the BP Board's Environmental Committee, Hamel warned of "cost-cutting, causing serious corrosion damage" to lines and worker fears of "a catastrophic event." BP responded by sending a flank of Vinson & Elkins lawyers to hush the workers through intimidation tactics. After the

BP Board and Company executives failed to fix the problems described, Hamel went to EPA officials. BPX managers have admitted that during late 2004 and early 2005 BP found that the corrosion in its North Slope pipelines was rapidly growing worse. However, the Company only increased its corrosion-prevention budget from \$50 million in 2004 to \$71 million in 2006, a grossly inadequate amount. The 3/06 leak was due to pipe corrosion.

102. The transit pipe carried supposedly high-quality crude oil from plants that separate water from oil on the western side of Prudhoe, about six miles to Pump Station 1, the starting point of the 800 mile TAP. BP and state investigators immediately determined that corrosion had eaten the pipe from the inside out. The pipe, 34 inches in diameter, was installed in 1976, a year before production began at Prudhoe. The hole was approximately a quarter-inch long and a half-inch wide and was located below a gravel caribou crossing (a mound of gravel placed over elevated, above-ground North Slope pipelines to allow the animals to cross). This section of transit line had known interior and exterior corrosion damage. As a result, BP had downgraded the maximum pressure allowed within the line, but had taken no other corrective action.

103. The pipeline between Gathering Center 2 and pump Station 1 was a low-pressure transit line covered by the 2002 order to install leak-detection systems. Under state law, a leak-detection system must sound an alarm for field workers if the pipeline's oil flow dips by 1 percent or more in a 24-hour period. BP Vice President Maureen Johnson ("Johnson") initially insisted that the leak-detection alarm *did not sound*. BP spokesman, Daren Beaudou ("Beaudou"), said the leak-detection system had been tested and that "*it*

*complies with regulations.” However, a report issued in connection with a state regulatory investigation in 4/06 revealed that the leak-detection alarm rang for four days to no avail!*

104. BP’s leak response system failed in connection with the massive 3/06 leak and spill. Oil had been leaking for five days from a corroded pipeline between facilities at Prudhoe Bay when a worker driving a deserted stretch of road in the Prudhoe Bay oil field noticed a strong petroleum odor and stopped to investigate on 3/2/06. Between 1996 and 2004, E&P operations in the sprawling Prudhoe Bay complex resulted in many small oil spills, but this one – estimated at approximately 201,000 barrels – was by far the biggest oil spill in nearly three decades of North Slope petroleum production. A thick layer of black crude oil spread over the cold mantle of ice and snow.

105. The spill caused major business disruption for BP, shutting down a pipeline that carried approximately 100,000 barrels of oil per day, or 12% of the total North Slope production. The spill also exposed BP to scrutiny from federal pipeline regulators, members of Congress and criminal investigations by Alaska State authorities and the U.S. Department of Justice.

106. On 3/22/06, BP told its shareholders:

**BP and contractor personnel are continuing business resumption activities related to the March 2 oil spill at the company’s Prudhoe Bay, Alaska oil field.**

\* \* \*

The oil spill was caused by a leak in a small section of a 34-inch diameter pipeline that transfers oil from one of six processing plants at the Prudhoe Bay complex to the Trans Alaska Pipeline System (TAPS). The leaking section of pipe has been repaired and the three-mile section of pipeline

is being inspected prior to re-start. Re-start of the line is expected in four to six weeks.

\* \* \*

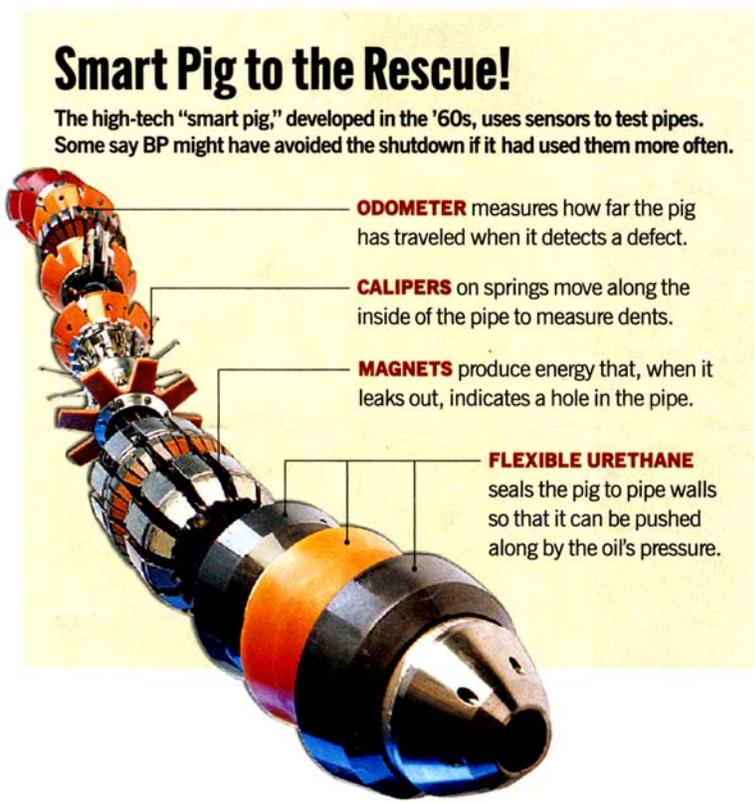
Preliminary investigation results indicate the leak was caused by internal corrosion in the pipe.

107. In the weeks following the spill the U.S. Pipeline and Hazardous Materials Safety Administration (“PHMSA”) took the highly unusual step of ordering BP to inspect all of the Company’s pipelines. The leak investigation turned up at least six additional “anomalies” along a five-kilometer segment of the pipeline that failed, with the same internal corrosion seen in several places. *At the worst trouble spots, the pipeline’s carbon steel wall, normally more than a third of an inch thick, was down to 0.04 of an inch, a razor-thin barrier.* The Department of Transportation’s preliminary investigation found the pipeline’s leak-detection system “*was not effective in recognizing and identifying the failure.*” The PHMSA also found that BP had last tested the line with a so-called smart pig – a bullet-shaped electronic device that slides through a pipe to locate and identify corroded or weak spots – *in 1998, and that the Company had no regular pigging schedule!* Pigging is one of

the most important ways to find flaws in pipeline walls.<sup>1</sup> The PHMSA ordered BP to meet 10 conditions for returning the then-idled pipeline to service (including the eastern and western Prudhoe lines and the Lisburne lines), including: (i) repairing corrosion damage to the satisfaction of federal officials before restarting the pipeline that leaked; (ii) developing plans to reduce internal corrosion on all three major pipelines within three months; and (iii) reviewing and improving leak-detection systems on the pipelines within three months. BP is

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finally cleaning the sludge – *but as of 8/14/06 those cleaning efforts had to be suspended out of fear too much sludge was being pushed into the TAPS!*

108. Set forth below is a summary of BP's terrible safety record in Alaska, as of 7/06 – a record that could only have existed where the corporate stewards and managers involved turned a blind eye to U.S. and Alaskan law and their fiduciary obligations:

- **1998-1999: BP and Contractors Pay \$26 Million in Penalties for Illegal Re-injection of Hazardous Wastes** – The re-injection rules are clear, nothing is to be re-injected beneath the frozen substrate of the North Slope that did not originate there, and nothing toxic is to be re-injected. Nevertheless, for years, barrels of hazardous foreign substances, such as glycol and paint thinners, were brought to the Endicott production facility, on a man-made island 18 miles northeast of Prudhoe Bay, for re-injection. When an intrepid worker questioned this practice in 1995, BP characterized the re-injection as two isolated incidents. But, in reality, the illegal disposal was ongoing and took place only at night. After an extended investigation, BP, its drilling contractor Doyon Drilling, and three workers paid \$1.55 million in civil penalties, while BP and Doyon Drilling agreed to spend an additional \$17 million to improve their environmental compliance programs.
- **October 2001: TAPs Bullet Hole Oil Spills** – The legally required master plan for TAPS oil spill response boasts that the pipeline owners maintain a variety of spill response equipment that is readily available for rapid response to any emergency. One of the listed items is a bullet hole clamp. But when a miscreant shot a hole in the pipeline with a high-powered rifle in 10/01, it was revealed that the celebrated bullet hole clamp could not be used. As a result, a thick stream of crude oil poured into the nearby trees for 36 hours, destroying nearly 2-1/2 acres of trees.
- **2001-2002: North Slope Worker Safety Problems** – In 8/01, after North Slope workers complained that budget cuts forced them to work with worn-out and dangerous equipment, BP insisted that its North Slope operations were safer now than ever. In 8/02, when an explosion and fire at a Prudhoe Bay wellhouse put a veteran worker in the hospital with serious burns, BP claimed that well inspections prior to the blast had been properly conducted. Later admitting that this claims was false, BP again promised to improve its field monitoring and safety programs. Four months later, a welder repairing a high-pressure line at Prudhoe Bay was killed when a plug blew out of the line.

- **March 2006: Oil Spill at Prudhoe Bay** – Oil had been leaking for five days from a corroded pipeline between facilities at Prudhoe Bay when a worker driving a deserted stretch of road in the Prudhoe Bay oil field noticed a strong petroleum odor and stopped to investigate. This spill – estimated at approximately 200,000 gallons – was by far the biggest oil spill in nearly three decades of North Slope petroleum production. An EPA criminal investigation is ongoing and a state oil pollution fine may be levied.
- **July 2006: Well Failures** – 57 of approximately 2,200 oil wells in the Prudhoe Bay complex were shut down for inspection and possible repair. The final 12 were not shut down until worker complaints again drew national press attention.

109. Then, on 8/6/06, another leak at BP's Prudhoe pipelines – just one mile from BP's corrosion-control office – caused the Company to shut down *all* Prudhoe Bay operations after approximately 1,000 gallons of oil leaked. *Upon inspection, BP workers found five holes in the pipeline caused by the same corrosion that caused the 3/06 spill.*

110. BP had been required to comply with the federal order to test and inspect its pipelines following the 3/06 spill. Before BP could comply with the order and “pig” the transit lines, it had to remove the sludge which blocked the pipe and was one of the reasons pigging had not been done for years. BP had just removed the sludge from and “pigged” the pipeline that sprung a leak on 8/6/06, finding *16 bad spots in the steel pipeline wall. This portion of the transit line had not been pigged since 1992 – 14 years earlier!* Gary Crawford, BP's Corrosion Detection Team Leader in Prudhoe Bay, told *USA Today* “We're actually a water field that produces oil. . . . Back in the '80s, they didn't have water, so you didn't have to worry about corrosion.” In response to the 8/6/06 spill, BP spokesman Beaudou admitted that “Pigging and cleaning, clearly in hindsight, would have removed the solids that we believe helped foster the growth of these microbes.” BPX President,

defendant Marshall, agreed: “*Clearly, in hindsight, that program was not sufficient.*” On 8/17/06, Marshall testified at a joint meeting of the State and House resources committee admitting that BP had “*a gap in our corrosion inspection system*” that allowed the transit lines to corrode and develop holes through which oil could escape. A DOT official, Tom Barrett, expressed shock at BP’s poor level of maintenance stating, “What disappointed me was the level of care that BP paid to these lines. . . . *It’s not the level of care we would have expected from a company like this in this industry.*”

111. As a result of this disaster and the revelations that surrounded it, regulators have cracked down on BP. On 8/18/06, the *Financial Times* reported:

#### **BP faces tighter Alaska controls**

*The US government is “accelerating” efforts to impose additional regulatory controls on BP’s Alaskan oilfield, half of which has been shut for severe corrosion.*

Tom Barrett, administrator of the Department of Transportation’s Pipeline and Hazardous Materials Safety Administration, said in an interview that he would issue a notice within one to two weeks laying out new rules to guide safe operation of BP’s oil transit lines. His office said they could come within days.

“We’re moving to bring them under more federal oversight,” Mr. Barrett said “If they had maintained the lines properly, we would not be in this situation.”

The government’s decision to take swift regulatory control over the pipelines is embarrassing for BP.

“Companies have the first obligation to operate safely,” Mr. Barrett said.

The DOT, convinced that this was not the case at BP’s Alaskan operations, ordered four daily surveys of all of BP’s low-pressure lines at Prudhoe Bay, North America’s largest oil field.

It also must use heat-seeing infrared equipment to spot leak and conduct visual walking, driving or flying surveys up and down the entire 22-mile length of the system.

The order also directs BP to strip the insulation from its western operating line, which regulators have permitted to continue operating, and conduct ultrasonic tests, using technology similar to a sonogram, to obtain a complete picture of the line's conditions.

112. On 8/19/06, BP received subpoenas from the DEC seeking decades worth of records pertaining to pipeline maintenance and the 3/06 and 8/06 spills.

113. A federal grand jury had been impaneled in Anchorage in 2005 to investigate alleged criminal violations of the federal Clean Water Act by BP. Following the 3/06 spill, the grand jury uncovered a report prepared under contract with the State of Alaska in 2001 by Coffman Engineers, a Seattle-based firm, which raised significant red flags about BP's monitoring of corrosion in its Alaska pipelines. The grand jury also obtained the original Coffman report *which was significantly altered – watered-down* – after intervention by BP executives. The 2001 Coffman report questioned whether BP was using remote-operated devices that check for corrosion and other wear extensively enough. The 2001 Coffman report described the so-called “smart pigging” as *“the only inspection technique capable of looking at the whole internal and external corrosion picture.”* After the intervention of BP executives, most of the Coffman report comments about “pigging” were eliminated from the final report published in early 2002. In the aftermath of the 3/06 spill, BP's executives conceded that BP had not “pigged” the transit lines in western Prudhoe since 1998.

114. All of this could have been avoided if BP had used the state-of-the-art, high-tech pigging, cleaning and corrosion-testing equipment on all of the 1,500 miles of above-

ground pipeline that winds its way around the 200,000-acre field. ***“In hindsight, we should have been pigging,”*** said Copeland, Prudhoe Bay field manager. Whistleblowers have for years issued warnings about ineffective corrosion monitoring. Industry experts state that for BP to say it did not suspect microbial bacteria in its transit lines is just not credible. Microbiologic-influenced corrosion (“MIC,” as it is known in the industry) has been something oil companies have guarded against for decade. ***“Any prudent operator is going to be sure it does not have MIC and is going to periodically run cleaning pigs to sweep out colonies if they do form,”*** says Rick Kuprewicz, president of Accufact, a pipeline energy consulting firm. Maintenance pigging, which scrapes the sides of the pipeline with metal bristles, is considered the best way to get rid of corrosion-causing agents. BP had not pigged the damaged eastern pipeline since 1992. It had not pigged the one on the western side since 1998. ***In contrast, Alyeska, which runs the trans-Alaska pipeline that carries BP’s oil 800 miles across Alaska to Valdez, pigs its lines every two weeks!***

115. Following the 3/06 spill, Mary Barnes, BP’s federal probation officer who monitored its compliance with the five-year probation arising out of its entry into the Plea Agreement in Alaska, questioned whether BP had adequately inspected and repaired its North Slope transit pipelines during its probation. The EMS monitoring program required BP to comply with the ***“best environmental practices”*** in all of its U.S. operations. Ridgway Hall, a private Washington, D.C. attorney, appointed by the Alaska federal court to oversee BP’s management system during the term of its probation, stated on 8/18/06 that “Part of the management system was paying careful attention to equipment, ***equipment maintenance, preventive maintenance,*** wherever there is a risk of environmental releases, because part of

the management system was to try to maximize environmental compliance, including both regulatory requirements and minimizing releases.”

116. BP officials have admitted this disaster was due to gross neglect and failure to react to many warnings.

117. According to the *Financial Times*:

In 2003, Steve Marshall, president of BP Alaska, warned in an internal memo to staff: “Beginning now, we will focus on safety as we have never focused on it before, as if our lives and our future in Alaska depended on it. Because they do.”

The previous year, the site had more than 11 recordable injuries and one day-away-from-work case per month, a well explosion that severely injured an operator, the death of a contract worker, and an average of more than six vehicle incidents per month. It seemed things could only get better.

Yet, in the three years since Mr. Marshall’s call to action, BP has continued to suffer accidents and regulatory violations.

The situation came to a head last month, when a BP pipeline spilled up to 270,000 gallons of crude – the biggest spill ever in Prudhoe Bay, North America’s largest oil field.

***The Alaska Department of Environmental Conservation has blamed corrosion for the spill, something workers have for years complained had been neglected by management.***

“BP management is focused on their own short-term profit and not on BP’s long-term impact to this country,” said Marc Kovac, a mechanic who has worked at the Alaska field for 28 years. “This breach is not an isolated case. BP has experienced ruptures in the recent past and more lines other than this one are in a similar condition.”

\* \* \*

***Workers in Alaska have long . . . complain[ed] that BP cuts corners, putting workers and the environment at risk, charges BP adamantly denies. As far back as 1999, an e-mail obtained by the FT documents concerns being raised over staff ability to respond to critical events given the increase in workloads.***

To keep day-away-from-work cases down, one worker said, ***BP sometimes ordered those injured back to work, a complaint also made in a safety audit on BP in Texas.***

An internal union e-mail obtained by the FT says a worker helping with the March clean-up in Alaska slipped on the icy road, breaking a wrist and tearing two knee ligaments: To hide the incident, BP management ordered this man back to work to keep this incident off the “time off work for a work-related injury” record, the union said. . . .

118. According to MSNBC.com:

### **BP admits knowledge of corrosion problems**

\* \* \*

***BP now admits that senior company officials were warned three years ago about serious corrosion problems in the pipeline being shut down this week.***

The warnings were laid out in correspondence obtained by NBC News, between Chuck Hamel, an advocate for oil workers, and senior BP officials.

Hamel writes that BP workers had come to him predicting a “***major catastrophic event***” and warning that “***cost-cutting***” had caused “***serious corrosion damage to flow lines and systems.***”

“***They were cheating in what’s required of them in normal business practice in an oil field to save money, to cut corners,***” Hamel says.

\* \* \*

***In the last few months, a number of BP workers have told the FBI that beginning in 1999, supervisors ordered them to cut back on a key chemical – known as corrosion inhibitor – put into the system to protect pipes. After a major spill last March, BP told federal regulators there was “a reduced level of corrosion inhibitor” in the system that failed. Federal officials ordered BP to inject more chemicals into the pipeline.***

119. According to the “*Truthout Report*” of 8/11/06:

***Hundreds of pages of documents highlighting BP’s nearly decade-long neglect of its Prudhoe Bay pipelines, its internal safety regulations, and the company’s alleged cover-up of past oil spills that resulted from severely***

*corroded pipelines are archived on a little known web site maintained by a former oil industry analyst who also acts as a spokesman for BP whistleblowers.*

*The documents showcase the genesis of a corporate scandal that parallels the financial machinations that brought down Enron Corp.*

*The BP documents, which include emails, photographs, videos, and letters sent to BP executives . . . as well as internal reports, all of which were early warnings about problems plaguing BP's Prudhoe Bay operations, were written by more than 100 company whistleblowers and date back as far as 1999.*

*The documents are extraordinary in that they provide a detailed picture of how BP seemingly ignored dozens of early warnings from employees that its drilling operations on Alaska's North Slope would be doomed if the company did not take immediate steps to upgrade its pipelines and other infrastructure.*

\* \* \*

The web site housing the smoking-gun emails, letters and reports, ANWRnews.com was launched by Chuck Hamel, an activist and former oil broker and analyst based in Alexandria, Virginia. *Hamel was contacted five years ago by a group of BP employees who were concerned that the company's massive cost-cutting measures at its Prudhoe Bay operations would have an adverse impact on safety and operations.*

"We were concerned about BP's cost-cutting efforts undermining our ability to respond to emergencies, and reducing the reliability of critical safety systems," states a letter sent to Hamel, signed by dozens of BP's Prudhoe Bay employees on April 13, 2001. "We were concerned about the lack of preventative maintenance on our equipment. We had suffered a major fire, which burned a well pad module to the ground, and nearly cost one of our operators his life."

Hamel, who is credited with exposing weak pollution laws at the Valdez tanker port in the 1980s and electrical and maintenance problems with the trans-Alaska oil pipeline, immediately took up the BP whistleblowers' cause and in mid-2001 wrote a letter to BP president Lord John Browne raising the issue of safety and maintenance problems at the Prudhoe Bay facilities.

\* \* \*

Additional whistleblowers came forward to expose the flaws at BP's North Slope operations, in some cases warning company executives and lawmakers that *an Exxon Valdez-type disaster was bound to happen if BP did not invest additional funds in upgrading its corroded pipelines and non-operational safety valves.*

*“The situation will continue to deteriorate for the workers’ safety and the environment until one of two things happen: Either there will be a major environmental catastrophe at Prudhoe Bay, similar to the Exxon Valdez, or there will be a change in environmental and employee safety oversight in Alaska before that disaster occurs,”* according to a March 4, 2002, copy of BP employee William Burkett’s testimony before a Senate Committee chaired by Sen. Joseph Lieberman (D-Conn) and Sen. Bob Graham (D-Fla).

*BP refused to budge, and on several occasions, Hamel alleges, company executives lied to Congress and Alaska state regulators about the condition of its Prudhoe Bay facilities and the amount of money the company was spending on maintenance and pipeline upgrades.*

Indeed, earlier this year, Glen Plumlee, a senior financial analyst with Alyeska Pipeline Service Co., operator of the trans-Alaska pipeline system of which BP is a majority owner, filed a complaint with federal labor officials alleging that company executives retaliated against him because he cooperated with the Environmental Protection Agency’s criminal investigation into the company.

*Plumlee, 51, of Anchorage, told federal investigators he was pressured to boost estimates of how much Alyeska was spending to fight corrosion on the trans-Alaska oil pipeline.* Severe corrosion in one of BP’s transit pipelines at Prudhoe Bay, which connects directly to the trans-Alaska pipeline, is the reason the company shut down its North Slope operations this week.

\* \* \*

Plumlee claims that company executives pressured him in *December 2005 to alter the amount of money BP-controlled Alyeska spent on pipeline corrosion – from \$28 million to \$46 million – for the previous year, which he refused to do.*

Plumlee added that it wasn’t the first time he had been asked to cook the books. “On September 19, 2005, an Alyeska executive asked him to pull together the numbers on corrosion spending for Steve Marshall, BP

Exploration (Alaska) Inc.’s president,” according to an April 5 report in the *Fairbanks News-Miner*.

Another high-level executive of BP-controlled Alyeska also tried to warn company executives about numerous safety and maintenance problems associated with the 800-mile trans-Alaska pipeline system that, if continued to go unanswered, would have a direct impact on BP’s Prudhoe Bay operations.

***Last August, Dan Hisey, the former chief operating officer of Alyeska, created a comprehensive list for Alyeska’s top executives of the 101 current and potential problems plaguing the pipeline system, one of which was severe corrosion. A week after the list was circulated, Hisey’s position was abolished.***

\* \* \*

***Over the past five years, with profits from drilling declining as the volume of oil extracted from the North Slope fell from 800,000 barrels per day to half that, BP began instituting cost-cutting measures. Hundreds of employees were laid off, and as a result, Hamel claims, safety and maintenance of pipelines and other infrastructure at Prudhoe Bay suffered.***

In an interview with the *New York Times* published March 18, longtime BP employee Marc Kovac said he and his co-workers warned BP on numerous occasions that cost-cutting measures affecting routine maintenance and inspection would greatly increase the likelihood of accidents, pipeline ruptures and spills.

***“For years we’ve been warning the company about cutting back on maintenance,” Kovac told the *New York Times*. “We know that this could have been prevented.”***

\* \* \*

Three weeks ago, before severe corrosion was discovered in a transit pipeline, forcing the closure of BP’s Prudhoe Bay operations Sunday, the company was forced to shut down 12 oil wells after whistleblowers contacted a reporter at the *Financial Times* to say 50 of the wells were leaking gas and hydrocarbon fluids – a serious environmental hazard as well and a risk to employees.

120. Following the 3/06 and 8/06 spills, U.S. Senator Ted Stevens stated that he had learned that BP employees routinely recorded measurements over the years that should have

caused them to question the conditions. Stevens learned this through the Company's own admissions that demonstrated that BP had allowed corrosion to eat away 81% of the steel in portions of one of its major transit lines. Stevens stated that because BP officials told him they had "special procedures to check for corrosion and erosion and any sludge inside the pipeline . . . *[w]e should've known every time there was 1 percent gone.*" Stevens was also angered when he learned that the byproducts of bacteria colonies in the pipe may have been responsible for the corrosion, indicating BP was sending substandard oil down the line: "Bacteria only exist in these pipelines in water. Its not there in oil, its not there in gas, it has to be in water. . . . The oil that went in, that should be of the quality it doesn't have any water." Stevens, an oil industry veteran, has stated that BP's monitoring system was deficient because it failed to eliminate water in the oil.

121. When senior BP executives were ordered to appear before the U.S. Congress on 9/7/06, the former head of pipeline-corrosion monitoring for BP in Alaska *refused to testify under oath as outraged lawmakers grilled Company officials over the causes of the massive 3/06 oil spill. Defendant Richard C. Woollam, who lawmakers identified as a former head of corrosion monitoring at Prudhoe Bay, invoked the Fifth Amendment of the U.S. Constitution in refusing to answer all questions from a House Subcommittee!* "If a company – one of the world's most successful oil companies – can't do the basic maintenance needed to keep Prudhoe Bay's oil field operating safely and without interruption, maybe it shouldn't be operating the pipeline," said Rep. Joe Barton. Rep. Diana DeGette said she was especially disappointed in BP, since it professes in advertising to pride itself on protecting the environment. *"I applaud BP for trying to move beyond petroleum,*

*but maybe it should start by sticking to the basics and begin to focus on rudimentary pipe maintenance,”* she said. Rep. Bart Stupak said the spill-related shutdown raises questions about why there were no redundancies built into the pipeline system that carries Prudhoe Bay oil to market so that the shutdown would not have been necessary. “It is not Monday morning quarterbacking to suggest BP should have had a plan,” Stupak said.

122. Just how serious the current crisis surrounding BP is, is highlighted by hearings just held before a U.S. Congressional committee, as reported by the *Anchorage Daily News*:

### **Congress grills BP execs**

#### **House panel asks if company profit precluded pipeline maintenance**

The first of at least four congressional hearings into why BP failed to prevent pipeline failures on Alaska’s North Slope began dramatically Thursday when Richard Woollam, the company’s corrosion chief until 2005, refused to testify, citing his right against self-incrimination. In a day marked with blistering criticism of BP from Republicans and Democrats on the House Energy and Commerce Committee, the British-born Woollam, derided in an internal BP report as “King Richard” for his dictatorial style, declined to answer any questions.

The committee’s investigations panel is looking into the failure of BP to monitor and control corrosion on two North Slope transit pipelines that feed the trans-Alaska pipeline. One of those lines had a catastrophic leak March 2, spilling more than 200,000 gallons of oil in the tundra and the ice-locked shore of an unnamed lake. The other line had a smaller leak in August. Unsure of the reliability of either line, BP announced it would shut down all Prudhoe Bay production Aug. 6, then later limited the closure to the field’s eastern half.

Over and over, the committee members grilled BP Exploration Alaska president Steve Marshall, demanding to know why BP neglected to conduct the only reliable test of the decay of an entire pipeline – a “smart pig” that travels inside the pipe and records the thickness of the wall along the pipe’s length.

Marshall replied that company officials believed the line wasn't as susceptible to corrosion as others. The last smart pig run on the western line was in 1998; on the eastern line, it was 1992.

But was it just an error in judgment, the committee wanted to know, or was something else at work? Was BP shaving costs to increase profits? Were executives trying to beef up their annual bonuses by meeting budgets regardless of the consequences? Along those lines, committee chairman Joe Barton, R-Texas, wondered aloud whether BP was "betting the farm" that the Prudhoe Bay field would run out before the pipeline failed, saving the costs of replacing it.

"Shame, shame, shame," he said.

\* \* \*

Woollam was a late entry on the witness list. House investigators looking into claims that corrosion workers were afraid to criticize BP's practices unearthed an internal BP report from 2004. That report, by the law firm Vinson & Elkins, said Woollam's "overbearing management style" created a climate "where the fear of retaliation and intimidation could and did occur."

\* \* \*

After pleading the Fifth Amendment in the packed committee room, Woollam was quickly dismissed from the hearing. He rushed from the Rayburn Building without speaking to reporters.

The Vinson & Elkins report recommended that Woollam be stripped of his supervisory duties. In January 2005, three months after the report was delivered, BP reassigned him to Houston. Malone said Woollam was recently placed on administrative leave, with pay.

Woollam, and the presence of a battery of defense attorneys, was a sharp reminder of grand jury proceedings in Anchorage hanging over the congressional hearings. The Justice Department and EPA are investigating whether the March 2 oil spill was a criminal violation of the Clean Water Act.

\* \* \*

The two transit lines were unregulated by the U.S. Transportation Department's Pipeline and Hazardous Materials Safety Administration because they operated at low pressure in a remote area. Even after the spill,

when the agency decided to impose its regulatory authority, BP resisted, said its administrator, Thomas Barrett, testifying in a later panel.

“It’s the kind of thing that would cause us to question their commitment,” said Rep. John Dingell, D-Mich.

Barrett’s chief safety officer, Stacy Gerard, said BP had a pattern of resisting regulation. The company fought having its high-pressure lines included in a new integrity management program designed to increase safety, primarily through the use of pigs to clean and test the pipe.

### **Other Environmental Problems**

123. In 3/03 and 1/05, the South Coast Air Quality Management District in California filed civil lawsuits against BP’s Carson, California refinery, seeking penalties for various alleged air quality violations. In 3/05, BP agreed to settle all outstanding claims for \$25 million in cash penalties and approximately \$6 million in past emissions fees. Under the terms of the settlement, BP also had to fund \$30 million over ten years in community benefit programs and \$20 million in new refinery projects aimed at reducing emissions. In 2005, BP paid a total of approximately \$56 million in environmental and safety fines and penalties in the U.S.

### **Workplace Safety Problems**

124. During 2001 to 2002, BP experienced an unusual, and unacceptably high, number of significant worker safety problems in its U.S. operations. In 8/01, after North Slope workers complained that budget cuts forced them to work with worn-out and dangerous equipment, BP insisted that its North Slope operations were safer than ever. Yet, in 8/02, when an explosion and fire at a Prudhoe Bay wellhouse put a veteran worker in the hospital with serious burns, BP claimed that well inspections prior to the blast had been

properly conducted. Later, *admitting that this representation was false*, BP promised to improve its field monitoring and safety programs. Four months later, a welder repairing a high-pressure line at Prudhoe Bay *was killed when a plug blew out of the line*.

125. Then, on 3/23/05, an explosion and fire at BP's Texas City refinery killed 15 workers and injured approximately 170, prompting an onslaught of lawsuits against BP. Company-generated reports admitted poor management and lack of hazard awareness as reasons for the blast. OSHA, the U.S. Chemical Safety and Hazard Investigation Board ("CSB"), the U.S. Environmental Protection Agency and the Texas Commission on Environmental Quality, among other agencies, have conducted or are conducting investigations. At the conclusion of their investigation, OSHA issued citations alleging more than 300 violations of 13 different OSHA standards. BP agreed not to contest the citations. BP settled that matter with OSHA on 9/22/05, paying a \$21.3 million penalty and undertaking a number of corrective actions designed to make the refinery safer. OSHA referred the matter to the U.S. DOJ, and the DOJ has opened a criminal investigation.

126. The safety failures at BP's Texas City refinery were grotesque. On 9/22/05, OSHA issued a release describing BP's "*Egregious Willful Violations*," "*Willful Safety Violations*" and "*Serious Safety Violations*." The release was headlined and stating:

**OSHA Fines BP Products North America More Than \$21 Million Following Texas City Explosion**

**Company Agrees To Make Extensive Plant-Wide Improvements**

. . . BP Products North America Inc. has agreed to pay more than \$21 million in penalties for safety and health violations following an investigation of a fatal explosion at its Texas City, Texas, plant March 23 that claimed the lives of 15 workers and injured more than 170 others. The penalties are part

of a settlement agreement announced today by the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA).

\* \* \*

“This citation and penalty – *nearly double the next largest fine in OSHA history* – sends a strong message to all employers about the need to protect workers and make health and safety a core value,” Solicitor of Labor Howard M. Radzely stated. “BP will pay the full fine, abate all the hazards, and significantly improve their safety measures.”

\* \* \*

**Egregious Willful Violations**

\* \* \*

**TOTAL PROPOSED PENALTIES FOR EGREGIOUS WILLFUL VIOLATIONS: \$20,720,000.**

Willful violations are those committed with an intentional disregard of, or plain indifference to, the requirements of the Occupational Safety and Health Act and regulations.

**Willful Safety Violations**

\* \* \*

**TOTAL PROPOSED PENALTY FOR WILLFUL HEALTH VIOLATIONS: \$140,000.**

**Serious Safety Violations**

\* \* \*

**TOTAL PROPOSED PENALTY FOR SERIOUS SAFETY ITEMS: \$86,500.**

**Serious Health Violations**

\* \* \*

**TOTAL PROPOSED PENALTY FOR SERIOUS HEALTH VIOLATIONS: \$70,000.**

**SUMMARY OF PROPOSED PENALTIES:**

EGREGIOUS WILLFUL	\$20,720,000
WILLFUL	490,000
SERIOUS	156,000
OTHER THAN SERIOUS	2,000
TOTAL FOR ALL VIOLATIONS:	\$21,361,500

127. The BP refinery safety problems are not isolated or confined to Texas City. On 4/24/06, OSHA issued two OSHA citations to the BP Products' Toledo, Ohio refinery. The penalty assessed for both citations was \$2.4 million. On 4/25/06, OSHA issued a release stating:

**OSHA Fines BP \$2.4 Million for Safety and Health Violations**

**Inspection Initiated under Enhanced Enforcement Program**

. . . The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) today fined BP Products North America, Inc. more than \$2.4 million for unsafe operations at the company's Oregon, Ohio refinery. *OSHA's inspection identified a number of violations similar to those found during an investigation of the fatal explosion at BP's Texas City, Texas, refinery that claimed the lives of 15 workers and injured more than 170 others.*

*"It is extremely disappointing that BP Products failed to learn from the lessons of Texas City to assure their workers' safety and health," said Edwin Foulke, Jr., OSHA assistant secretary. "Our Enhanced Enforcement Program (EEP) exists for companies like this who, despite our enforcement and outreach efforts, ignore their obligations under the law and continually place their employees at risk."*

OSHA's Toledo Area Office initiated an inspection at the Ohio refinery in response to an alert issued by OSHA under the EEP. The inspection resulted in 32 per-instance willful citations, with penalties of more than \$2.2 million. . . .

BP was fined an additional \$140,000 for two *willful violations*.

128. BP's worker safety shortcomings are systemic. According to the *Financial Times*:

A safety audit of BP's biggest refinery, obtained by the *Financial Times*, reveals the ***UK oil giant deferred maintenance and delayed repairs to the extent that staffers concluded equipment was in a "dangerous condition."***

The views in that 2005 audit conducted by an independent consultancy echoed those of BP staffers as far away as Alaska, ***who have warned for four years that staff and the environment were at significant risk, as accidents continued unabated.***

In the past year, both locations have experienced severe accidents. The audited refinery in Texas City exploded in 2005, killing 15 people and injuring an estimated 500 in the deadliest refinery accident for more than a decade. . . .

That BP operations in Texas and Alaska have suffered such significant lapses, amid employee complaints about safety, supports the US Chemical Safety and Hazard Investigation Board, an independent federal agency charged with investigating industrial chemical accidents, in questioning BP's safety culture.

129. BP's top executives were warned about the serious problems at Texas City.

The *Financial Times* also reported:

In late 2004, Don Parus, site manager at BP's biggest refinery, realised something was terribly wrong.

The site had suffered 22 fatalities over 30 years, its safety business plan for 2005 noted there was a key risk of the death of a worker in 12-18 months, and a BP safety presentation opened with the words: ***"Texas City is not a safe place to work."***

He commissioned a safety audit by the Telos Group, a Texas-based consultancy, which surveyed more than 1,100 employees, roughly 60 percent of the current workforce, and interviewed over 100.

The 338-page report, a copy of which has been obtained by the *Financial Times*, reveals a safety culture that made many fear working in the facility.

***“The history of investment neglect, coupled with the BP culture of lack of leadership accountability from frequent management changes, is setting BP Texas City up for a series of catastrophic events,” is just one comment in the audit.***

The report was finalised on January 21, 2005. Two months later, the accident predicted by several in the audit arrived: an explosion killed 15 people and injured an estimated 500 in the deadliest refinery accident in more than a decade. Four months later, the site suffered another explosion.

It is unclear how much BP’s leadership knew about site safety. Several in the audit said they were ***bullied about accidents so much that many went unreported***. A risk identified in BP’s 2005 safety business plan, seen by the FT, was that the site would not report all incidents for ***“fear of consequences.”***

Ronnie Chappell, BP spokesman, said there had been a “comprehensive effort by Texas City refinery leadership to drive continued safety improvement, encourage the reporting of injuries and near misses and ensure the thorough and complete investigation of injuries and incidents at the refinery.”

That said, an investigation of the accident by the US Chemical Safety and Hazard Investigation Board (CSB), an independent federal agency that investigates industrial chemical accidents, ***revealed BP decided against upgrading equipment that might have prevented the accident; operated with malfunctioning equipment; and had worked staff 30 days straight in 12-hour shifts, before the accident. It questioned the training and experience of key staff.***

“In a corporation with a good safety culture, near-miss reporting is actively encouraged and corrective steps are put in place before disaster strikes,” said Carolyn W. Merritt, chairwoman of the CSB. ***“The CSB was concerned enough about what we saw in Texas City to recommend an examination throughout BP North America.”***

BP has undertaken that examination and shut the refinery for a \$1bn repair programme. The Department of Labor uncovered over 300 violations and settled with BP, which did not admit fault, but agreed to improve processes and pay a maximum \$21m fine.

The Department of Labor has referred the case to the Department of Justice to review for “criminal action”.

*“Even if the lapses at the Texas City refinery were an aberration, where was the corporate oversight to bring that facility into line?”* Ms. Merritt asked. “BP needs to make certain that it has effective safety systems, maintenance resources, staffing, and auditing in place to prevent major safety or environmental incidents.”

\* \* \*

*[I]n the Telos audit, staff surveyed rated “making money” BP’s number one priority and “people” its last, at nine.*

“At the refinery, there’s a frame of mind like, ‘We are the ones that make the money’,” said a worker in the audit. “They take pride in running on thin air, but if they do it by killing someone every 18 months, then you don’t have bragging rights about production.”

William Bradley Bessire, a contract worker, was so severely injured in the explosion he has metal plates in his back, can barely move his neck, and is in constant pain. He is suing for gross negligence. “I always worried about the safety of being in that refinery,” he told the FT. “Every time you drove up to the gate and badged in, you worried; there is not a person who works in that place that does not worry.”

130. BP’s refinery safety record is the *worst* in the U.S. According to *The Houston*

*Chronicle*:

## **BP LEADS NATION IN REFINERY FATALITIES;**

### **Records show big gap between company and top U.S.-based peers**

BP leads the U.S. refining industry in deaths over the last decade, with 22 fatalities since 1995 – more than a quarter of those killed in refineries nationwide, a *Houston Chronicle* analysis shows.

The company’s total includes 15 contractors who died in the March 23 Texas City accident, as well as those who died in seven other fatal accidents, including one just last week in Washington state.

More than 10 times as many people have died in BP refineries as in those owned by Exxon Mobil Corp., considered the company’s major U.S.-based peer.

\* \* \*

***But in the weeks prior to the Texas City blast, the oil giant's dismal record landed BP on an internal Occupational Safety & Health Administration watch list of companies for being "indifferent" to its legal obligations to protect employee safety because of a fatal explosion in Texas City in September 2004 that killed two pipefitters and injured a third.***

OSHA accused BP of a "willful" violation of its rules that led to the accident.

OSHA's Enhanced Enforcement program "***zeroes in on employers with the gravest violations who have failed to take their safety and health responsibilities seriously,***" Jonathan Snare, acting assistant secretary of labor for Occupational Safety and Health, said in a recent speech.

***BP is the only major oil company on that list,*** said John Miles, OSHA's regional director.

\* \* \*

### **Signs of trouble**

Under the program, OSHA inspectors were to conduct follow-up inspections at BP's Texas City refinery, and also look for potential systemic problems at BP facilities in other states.

But before that happened, the Texas City refinery again exploded on March 23, 2005. It killed 15 contractors and injured more than 100 other people.

"We had not been back out there because we had just finished issuing the (previous citation) three weeks before," Miles said. "But they would have been under much more scrutiny."

***The fact that Texas City has had repeated fatalities and repeated fines is a sign of potential trouble within BP, said Charles Jeffress, a former director of OSHA.***

"It's their biggest refinery and you'd think this would get some attention, so if their flagship's not getting attention, well, shame on them," he said.

\* \* \*

The Texas City explosion was the seventh time a fatal accident had been reported this decade at a BP-owned facility – and the third fatal accident in Texas City.

### **Leading in fatalities**

*No other U.S. refining company reported as many death during the decade, according to a Chronicle analysis of 80 deaths described in newspaper reports, lawsuits, interviews with major oil companies, and government an industry statistics.*

Among big oil companies, only Shell and its Houston-based refining companies came close to BP's death toll. Shell Oil Products, predecessor Equilon Enterprises and sister company Motiva Enterprises together recorded 11 deaths – *half the BP total*. The last fatality was in 2001.

\* \* \*

Miles, the OSHA regional administrator, called the unit that blew up in Texas City “antiquated equipment that is no longer used.”

### **Fair Trade, Price-Fixing/Manipulation**

131. Propane is the fourth most important source of fuel in the U.S. and residential/commercial demand for propane constitutes approximately 43% of U.S. domestic propane demand. Because the majority of this usage is for heating, the demand from this sector is highly seasonal. Much of this heating fuel is consumed in the U.S. Northeast and Midwest. The majority of households that use propane for heating rely on it for their sole source of heat. Propane is most commonly used to provide energy in areas not serviced by natural gas distribution systems, so it is commonly used in rural regions. Because propane is a heating fuel, demand from the residential and commercial markets tends to be inelastic, or price insensitive. *When prices for propane increase quickly, consumers of propane in the residential/commercial sector are generally unable to switch to other fuel sources for heating and, therefore, must either pay the price offered by propane merchants, or freeze.*

132. BP's BP Products North America trading subsidiary artificially forced up propane prices during the peak 2003 and 2004 winter heating seasons by buying up huge propane stocks only to withhold them from the market. In early 7/06, a former BP trader, Dennis Abbott ("Abbott"), pleaded guilty to manipulating the propane market and some very damning tape recordings of Abbott and other BP traders engaging in the scheme surfaced. The CFTC, which regulates the propane-trading market, has now brought charges against BP, saying that BP's traders were manipulating propane prices. According to the government, Abbott and the other BP executives and traders were enriched for their misconduct through "*bonuses and other remuneration from BP*" and "*the purpose of the conspiracy was to enrich BP by inflating the price of propane . . . and then selling it at the inflated prices.*"

133. The CFTC alleges that during 2/04, propane prices jumped more than 40% to about 90 cents a gallon, a price that "would not otherwise have been reached under normal pressures of supply and demand." BP managed to manipulate upward the price by buying stocks of propane until it controlled almost 90% of the domestic market. Ronnie Chappell, a BP spokesman, conceded that the Company's own internal investigation confirmed that several BP trading employees failed "to adhere to BP policies governing trading activities." The government also alleges that the market manipulation was carried out "*with the knowledge, advice and consent of senior management*" at BP. Abbott, who is presently cooperating in the U.S. government's investigation of BP, pled guilty to charges that he tried to "manipulate and corner the propane market."

134. The CFTC filed its enforcement action against BP in the federal district court in Illinois on 6/26/06 charging the Company with running a sham trading scheme designed to “corner” the U.S. propane market, putting hundreds of thousands, if not millions, of U.S. consumers at risk. Outraged with the evidence of BP’s callousness toward the plight of U.S. energy consumers, the CFTC is now seeking permanent injunctive relief, disgorgement, restitution, and payment of civil monetary penalties against BP. The CFTC’s 6/26/06 press release explained the civil charges BP is facing in detail, stating in relevant part:

**U.S. Commodity Futures Trading Commission Charges BP Products North America, Inc. with Cornering the Propane Market and Manipulating the Price of Propane**

**Complaint Alleges that BP’s Actions Resulted in Higher Prices for Residential and Commercial Consumers of Propane**

. . . The U.S. Commodity Futures Trading Commission (CFTC) announced today the filing of a civil enforcement action in the United States District Court for the Northern District of Illinois against BP Products North America, Inc. (BP), a wholly owned subsidiary of BP plc, alleging that ***BP manipulated the price of February 2004 TET physical propane by, among other things, cornering the market for February 2004 TET physical propane.*** The CFTC also charges BP with attempting to manipulate the price of April 2003 TET physical propane by ***attempting to corner the April 2003 TET physical propane market.***

The CFTC’s complaint alleges that:

***With the knowledge, advice, and consent of senior management,*** BP employees developed and executed a speculative trading strategy in which BP cornered the February 2004 TET physical propane market;

\* \* \*

By cornering the TET propane market, BP employees sought to generate a profit for BP of at least \$20 million “with potential for upside from there”; and

BP's scheme to corner the market caused the price of TET propane to become artificially high.

*“Cornering a commodity market is more than a threat to market integrity. It is an illegal activity that could have repercussions for commercial market participants as well as retail consumers around this country.* This case clearly illustrates that complex and covert trading patterns will not prevent us from aggressively pursuing and exposing those that violate the Commodity Exchange Act,” said Gregory Mocek, the CFTC’s Director of Enforcement.

According to the complaint, in order to accomplish the corner during February 2004, BP employees purchased enormous quantities of propane to establish a dominant and controlling long position in February 2004 TET physical propane. The complaint further alleges that as a result of BP’s strategy, as of February 17, 2004, BP’s position in February 2004 TET physical propane exceeded the entire TEPPCO system propane inventory; and at the end of February 2004, BP owned over 88% of all TET propane.

Because BP possessed a dominant and controlling position in February 2004 TET propane, the complaint alleges, BP was able to dictate prices at which BP would sell the February 2004 TET propane to the shorts on at least February 27, 2004. According to the complaint, BP’s actions caused the price of February 2004 TET propane to increase to over 90 cents per gallon on February 27, 2004—a price that would not otherwise have been reached under the normal pressures of supply and demand. As alleged in the complaint, during the winter months, including February, TET propane is purchased by retail consumers, typically those in more rural regions, to heat their homes.

The CFTC complaint further alleges that February 2004 was not the first time that BP engaged in an effort to corner the TET physical propane market. BP, by and through its employees, attempted to manipulate the price of April 2003 TET physical propane through a similar strategy of taking a dominant and controlling long position, the complaint alleges. The complaint also alleges that a BP employee described the April 2003 TET propane trading strategy as a “trial run” of the February 2004 TET strategy to corner the propane market.

135. That same day the DOJ issued a release announcing Abbott’s guilty plea:

**Former BP North America Trader Pleads Guilty to Conspiracy  
to Manipulate and Corner the Propane Market**

. . . Dennis N. Abbott, a former trader at a U.S. subsidiary of British Petroleum, has pleaded guilty to conspiring to manipulate and corner the propane market in the winter of 2004, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Abbott, 34, of Houston, entered his plea to a conspiracy charge today in U.S. District Court for the District of Columbia, before Judge James Robertson. ***Under the terms of a plea agreement, Abbott faces up to five years in prison, a fine of \$250,000, and supervised release following any incarceration. Abbott has agreed to cooperate with law enforcement officials in an ongoing investigation.***

Abbott admitted in his plea agreement and an accompanying factual statement that from Feb. 5, 2004 through July 28, 2004, he and other employees of a British Petroleum subsidiary, BP Products North America (BP), agreed to manipulate the February 2004 propane market for TET propane. Abbott admitted that prior to taking actions in furtherance of the scheme, he participated in a conversation with a co-conspirator in which they agreed that the market corner would permit BP not only to profit from the manipulation, but if successful, they would know BP could “control the market at will.”

Abbott admitted that he and his conspirators carried out the strategy by using BP’s market power and financial resources to buy large quantities of February 2004 TET propane to become the dominant long-holder of TET propane. The conspirators intended that their purchasing strategy would corner the market by reducing the supply of February 2004 TET propane, permitting them to sell propane at an artificially inflated price. If the plan was successful, BP would receive excessive profits derived through artificial manipulation of the market. By the end of February 2004, the conspirators controlled approximately 90 percent of TET propane supplies in the United States. Abbott admitted that the conspirators then sold TET propane at the end of February at an artificially inflated price and caused other market participants to pay a higher price than would have been available but for the market manipulation. ***The purpose of the conspiracy was to enrich BP by inflating the price of propane in February 2004 and then selling it at the inflated prices, and to enrich the conspirators through bonuses and other remuneration from BP.***

Abbott admitted that he understood that the scheme was approved by senior executives at BP, and that steps were taken to avoid detection by market participants and others. For example, the co-conspirators were directed to

avoid using any language such as “squeeze,” “leverage,” and “corner,” when describing the trading strategy in emails and telephone conversations.

136. Because the government has obtained compelling evidence from the tapes, defendants will have a hard time defending and preventing BP from suffering the same fate as its now convicted trader, Abbott. On 2/5/04, one of the initial planning stages of BP’s manipulative scheme was captured in a taped conversation. In this recorded conversation, one of BP’s traders called Abbott to discuss obtaining management approval for the execution of their propane trading strategy, agreeing to “corner” the 2/04 propane market by taking steps to ensure they could “control the market at will” and thereby profit from future market manipulations. In the recording, these BP traders describe the benefits of executing the 2/04 propane “corner” as follows:

Radley: Two things I thought of. One, in terms of whether we should do this or not, in terms of talking to Jim [Summers], what we stand to gain, is not just we’d make money out of it, ***but we would know from thereafter that we can control the market at will.*** If we never break the threshold, we’ll never know what the answer is, you know what I mean?

Abbott: Yeah, if you go for it, you’ll know okay, wait a minute this market is way too big and we could never ever do this.

Their conversation then continued:

Radley: The second point is, that I would imagine that ***the minimum operating level at the end of Feb. is higher than it is at the end of March or April*** because I think the wholesalers have to hold barrels.

Abbott: have to have something on hand, in order to pump the first day. That’s right.

Radley: So I think the minimum level might be a little higher than we're assuming based on what we experienced in April. ***When we squeezed the April May.***

Abbott: ***Right, which was one of the reasons why it was harder to own all that April.*** That's why we had to take on a little bit more than we thought we had to take on, in April. And that's why I think that 2 mm, 2.1 mm bbls as that min in Feb., I think that's real, man, I think that is, ***that's the bottom at TET.***

The remark "When we squeezed the April May," refers to BP's earlier attempted manipulation of the 4/03 propane price through an attempted corner of the market. In fact, more tapes were uncovered showing the 2004 squeeze had been perfected by an earlier squeeze in 2003. Going into the month of 4/03, BP had established a significant long position in 4/03 propane. On 4/2/03, in a taped conversation, three BP traders had the following conversation:

Abbott: How does it feel taking on the whole market, man?

Claborn: Whew. It's pretty big man.

Abbott: Dude, you're the entire [expletive deleted] propane market.

\* \* \*

Radley: ***Don't worry about it, it's the first two days of the month. Plenty of lead time for people to think that barrels will emerge and take a short position.***

\* \* \*

Abbott: No, I mean, it's cool, 100% of the open interest in propane probably, and, uh 3% of the open interest in nat gas. . . . I dig it, it just, sometimes its hard, it just feels hard to take on the whole market sometimes . . . .

\* \* \*

Radley: Here's my one fear, and it's a significant fear. Everybody waits until the last [expletive deleted] day to cover, and then we get wound up in a [expletive deleted] bunch of legal disputes. That's my fear.

Abbott: Yeah.

Radley: That's my fear. People don't cover, don't cover, then the last day they either default or come to us to get them out of it and then we have to try and basically set a price that seems fair . . . .

137. Despite their statements that they were “the entire propane market” and “100% of the open interest in propane,” on 4/2/03, BP employees, acting pursuant to a BP trading supervisor's instructions, continued to purchase 4/03 propane in significant quantities throughout the month of 4/03. BP employees, acting pursuant to the supervisors' instructions, continued to purchase 4/03 propane throughout the month in an effort to corner the 4/03 propane market, knowing that once BP cornered the 4/03 propane market, BP could force those who were short 4/03 propane to buy 4/03 propane from BP at high prices dictated by BP. That significant increase in cost, in turn, would be passed onto the U.S.'s neediest energy consumers.

138. In late 8/06, the DOJ sent subpoenas to BP investigating new claims of possible manipulation of the global over-the-counter crude oil market in 2003 and in 2004. The DOJ's probe is focused, in part, on whether BP used information about its pipelines and oil storage facilities at Cushing, Oklahoma to influence crude-oil price benchmarks. In a separate criminal probe, investigators are examining whether BP manipulated gasoline prices on a single day's trading on the New York Mercantile Exchange in 2002.

139. On 9/6/06, a civil class action suit was filed by Richard Hershey (“Hersey”) in federal court in Manhattan alleging that BP used its position as a large supplier of oil and gas to influence the price of light, sweet crude oil futures on the New York Mercantile Exchange. Hersey’s complaint mirrors the new allegations being probed by the CFTC. The lawsuit, which is seeking class-action status, alleges that BP used its dominant ownership of crude oil pipeline connections into and out of Cushing, Oklahoma, and its ownership of crude oil storage facilities there to control the amount of oil available to other market participants for delivery at Cushing, a key oil-delivery point. As a result, light sweet crude oil futures contracts were manipulated to “artificial levels” in 2003 and in 2004, the lawsuit claims.

140. BP’s trading desk, which during fiscal 2005 accounted for 13% of the Company’s \$22 billion in profits, has a reputation for aggressive tactics and BP has faced repeated inquiries and enforcement actions over its aggressive trading practices in the past. In 9/03, BP was fined \$2.5 million by the New York Mercantile Exchange – *then a “record” fine – to resolve oil trading violations in 2001 and 2002. Allegations included wash trading, violations of rules governing the responsibility of exchange members for the actions of their employees, violations of rules governing hedging transactions, as well as “conduct substantially detrimental” to the exchange’s interests.* The settlement included fines of \$250,000 for each of the 10 allegations, the maximum fine allowable at the time of the settlement’s negotiation. The total settlement was the largest ever agreed to by the New York Mercantile Exchange. Ronnie Chappell, BP’s London spokesman, was quick to state that BP *did not* intend to take any disciplinary action against the Chicago traders involved in the allegations. BP also agreed that year to pay \$3 million as part of a settlement of claims

SHAREHOLDER DERIVATIVE COMPLAINT FOR BREACH OF FIDUCIARY DUTY  
Pickett v. Madingley, et al., 3AN-06-\_\_\_\_\_Civil

that it had profited from false trades in the power market during the California energy crisis of 2000 and 2001. Five years earlier BP was fined a record £125,000 by the international petroleum exchange for fraudulent trades in Brent crude futures. By causing BP to violate the U.S. consumer protection and fair trade laws, defendants have exposed BP to criminal liability and tens of millions of dollars in potential fines, penalties, forfeitures and civil damages.

### **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

141. Plaintiffs hereby incorporate ¶¶1-140 above.

142. Plaintiffs bring this action derivatively in the right and for the benefit of BP to redress injuries suffered and to be suffered by BP as a direct result of the breaches of fiduciary duty, violations of law, misappropriation of information and corporate waste, as well as the aiding and abetting thereof, by the corporate and the individual defendants. BP is named as a nominal party solely in a derivative capacity.

143. Plaintiffs will adequately and fairly represent the interests of BP and its shareholders in enforcing and prosecuting its rights.

144. In bringing this action, plaintiffs have satisfied all statutory procedural requirements of Alaska law. First, plaintiffs have standing to bring this action as shareholders and/or beneficial owners of BP P.l.c. Second, plaintiffs will fairly and adequately represent the interests of the Company in enforcing the rights of the Company, as detailed herein. Third, this action is not being used by plaintiffs to gain any personal advantage, nor do plaintiffs maintain any person agenda other than seeking to correct the wrong that has been done to the Company. To this end, plaintiffs have taken steps to file this

action and have retained counsel experienced in derivative litigation and corporate governance actions. To the extent court permission is required to continue this action, such permission is hereby sought.

145. The BP P.l.c. Board cannot exercise independent objective judgment in deciding whether to bring this action or whether to vigorously prosecute this action, as detailed herein, and thus, pursuant to Alaska Stat. §10.06.435 and otherwise, plaintiffs' demand upon the Company to take the action requested herein is excused. For the following reasons and those detailed elsewhere in this Complaint, BP P.l.c.'s Board and its management are also antagonistic to this lawsuit and thus, plaintiffs have not made a pre-filing demand on the BP P.l.c. Board to initiate this action:

(a) The members of BP P.l.c.'s Board have demonstrated their unwillingness and/or inability to act in compliance with their fiduciary obligations and/or to sue themselves and/or their fellow directors and allies in the top ranks of the corporation for the violations of law complained of herein. These are people they have developed professional relationships with, who are their friends and with whom they have entangling financial alliances, interests and dependencies, and therefore, they are not able to and will not vigorously prosecute any such action.

(b) The members of BP P.l.c.'s Board have benefited, and will continue to benefit, from the wrongdoing herein alleged and have engaged in such conduct to preserve their positions of control and the perquisites derived thereof, and are incapable of exercising independent objective judgment in deciding whether to bring this action. Defendants

Browne, Allen, Conn, Grote, Hayward, and Manzoni are so-called "inside directors" and are

executives of BP P.l.c. Six of BP P.l.c.’s 18 directors, or one-third, are current executives of the Company.

(c) The inside directors were well compensated for their services during the relevant period. The inside directors are each eligible to receive significant bonuses as part of their compensation equal to 120%-150+% of their salary. The Remuneration Committee and Browne determine these bonuses based on the recipient having reached a number of targets, 50% of which are financial and operational metrics such as earnings before interest, tax, depreciation and amortization (“EBITDA”) and return on average capital employed (“ROCE”); 30% of which are based on reaching annual strategic milestones taken from the group five-year business plan, including business development; and only 20% of which are based on subjective evaluations. Other objective considerations may override the 20% subjective evaluation factor, such as competitor results, analysts’ reports and the view from the chairmen of other BP Board committees. As such, despite defendants’ failure to oversee and manage the Company’s operations, its repeated violations of law and resulting payment of excessive fines and penalties, and criminal conviction here in the U.S., the directors and officers were rewarded handsomely throughout the relevant period. Set forth below are tables showing the compensation to the individual defendants during 2000-2005:

	2000	2001	2002	2003	2004	2005	2000- 2005
<b>Chairman</b>							
Sutherland	\$244,000	\$403,000	\$503,000	\$636,000	\$714,000	\$910,000	\$3,410,000
<b>Dep.Chairman</b>							
Prosser	\$121,000	\$122,000	\$147,000	\$187,000	\$201,000	\$246,000	\$1,024,000

**Directors**

Bryan	\$88,000	\$82,000	\$120,000	\$155,000	\$183,000	\$200,000	\$828,000
Burgmans					\$97,000	\$164,000	\$261,000
Davis	\$88,000	\$82,000	\$120,000	\$147,000	\$192,000	\$200,000	\$829,000
Flint						\$164,000	\$164,000
Julius		\$6,000	\$95,000	\$130,000	\$137,000	\$195,000	\$563,000
McKillop					\$70,000	\$164,000	\$234,000
Knight	\$83,000	\$78,000	\$95,000	\$155,000	\$165,000	\$198,780	\$774,780
Maijers	\$65,000	\$78,000	\$95,000	\$130,000			\$368,000
Massey	\$83,000	\$94,000	\$135,000	\$179,000	\$210,000	\$237,000	\$938,000
Miles	\$69,000	\$78,000	\$95,900	\$131,000	\$137,000	\$164,000	\$674,900
Nicholson	\$99,000	\$111,800	\$140,000	\$187,600	\$201,600	\$247,280	\$987,280
M. Wilson	\$88,000	\$86,000	\$116,000	\$155,000	\$174,000	\$191,000	\$810,000

Defendant	Year	Salary	Bonus	Salary + Bonus	2000- 2005
<b>Browne</b> Group CEO & Exec. Dir.	2000	\$1,231,000	\$1,396,000	\$2,627,000	
	2001	\$1,728,000	\$2,566,000	\$4,294,000	
	2002	\$1,926,000	\$2,543,000	\$4,469,000	
	2003	\$2,145,080	\$3,067,660	\$5,212,740	
	2004	\$2,529,060	\$4,172,400	\$6,701,460	
	2005	\$2,640,820	\$3,185,000	\$5,825,820	\$29,130,020
<b>Buchanan</b> CFO & Exec. Dir.	2000	\$680,000	\$771,000	\$1,451,000	
	2001	\$691,000	\$933,000	\$1,624,000	
	2002	\$715,000	\$787,000	\$1,502,000	\$4,577,000
<b>Chase</b> Dep. Grp. CEO & Exec. Dir.	2000	\$770,000	\$873,000	\$1,643,000	
	2001	\$850,000	\$1,147,000	\$1,997,000	
	2002	\$960,000	\$1,152,000	\$2,112,000	
	2003	\$376,530	\$480,850	\$857,380	\$6,609,380
<b>Ford</b> CEO Refin. & Mrktg. & Exec. Dir.	2000	\$620,000	\$703,003	\$1,323,003	
	2001	\$720,000	\$972,000	\$1,692,000	
	2002	\$180,000	\$180,000	\$360,000	\$3,375,003
<b>Gibson-Smith</b> Exec. Dir.	2000	\$619,000	\$702,000	\$1,321,000	
	2001	\$497,000	\$773,000	\$1,270,000	\$2,591,000
<b>Grote</b> CFO & Exec. Dir.	2000	\$225,000	\$255,000	\$480,000	
	2001	\$665,000	\$898,000	\$1,563,000	
	2002	\$713,000	\$856,000	\$1,569,000	
	2003	\$770,000	\$1,001,000	\$1,771,000	
	2004	\$841,000	\$1,262,000	\$2,103,000	
	2005	\$923,000	\$1,100,000	\$2,023,000	\$9,509,000

<b>Olver</b>	2000	\$649,000	\$736,000	\$1,385,000	
Dep. Grp. CEO & Exec. Dir.	2001	\$708,000	\$956,000	\$1,664,000	
	2002	\$795,000	\$954,000	\$1,749,000	
	2003	\$929,100	\$1,207,830	\$2,136,930	
	2004	\$534,360	\$801,540	\$1,335,900	\$8,270,830
<b>Allen</b>	2003	\$598,210	\$748,170	\$1,346,380	
Chief of Staff & Exec. Dir.	2004	\$750,300	\$1,125,450	\$1,875,750	
	2005	\$784,420	\$873,600	\$1,658,020	\$4,880,150
<b>Hayward</b>	2003	\$598,210	\$748,170	\$1,346,380	
CEO E&P and Exec. Dir.	2004	\$750,300	\$1,125,450	\$1,875,750	
	2005	\$784,420	\$837,200	\$1,621,620	\$4,843,750
<b>Manzoni</b>	2003	\$598,210	\$777,510	\$1,375,720	
CEO Refin. & Mrktg. & Exec. Dir.	2004	\$750,300	\$1,125,450	\$1,875,750	
	2005	\$784,420	\$800,800	\$1,585,220	\$4,836,690
<b>Conn</b>	2004	\$366,000	\$549,000	\$915,000	
CEO Strategic Resources & Exec. Dir.	2005	\$766,220	\$819,000	\$1,585,220	\$2,500,220

(d) The members of BP's Remuneration Committee determine the terms of engagement and remuneration of the executive directors and "monitor" the policies applied by the group chief executives in remunerating other senior executives. The members of the Remuneration Committee during FY 2005 were Prosser, Bryan, Davis, Julius, McKillop and Massey. The committee consisted of Prosser, Davis, Julius and McKillop during FY 2004. The committee consisted of defendants Nicholson (chairman), Julius (chairman elect), Davis, Knight, Prosser, Bryan, and McKillop during FY 2003. The committee consisted of defendants Nicholson (chairman), Davis, Julius, Knight and Prosser during FY 2002. By virtue of the fact each member of the Remuneration Committee was charged with ensuring that BP's compensation principles preserved the Company's assets and promoted long-term shareholder value and the compensation principles actually applied achieved the contrary, defendants Prosser, Bryan, Davis, Julius, McKillop and Massey are personally implicated by

the allegations contained herein and they would have been unable to comply with their fiduciary duties to disinterestedly consider a pre-suit demand of the allegations contained herein.

(e) Moreover, defendant Browne was “consulted on matters relating to [compensation of] the other executive directors who report to him and on matters relating to the performance of the company.” By virtue of the fact that Browne decides the compensation of defendants Allen, Conn, Grote, Hayward, and Manzoni, he effectively controls them and they could not comply with the fiduciary duties to independently consider a pre-suit demand to bring the claims alleged herein against Browne or the other members of the BP P.l.c. Board.

(f) The members of BP’s Audit Committee were charged with (i) reviewing all annual and quarterly financial reports, including significant accounting policies, estimates and judgments, and overseeing the group’s internal audit processes; (ii) reviewing the group’s accounting and reporting treatment of environmental and decommissioning provisions, tax exposures, pension assumptions and the status of current litigation and “gain[ing] assurance that such liabilities and contingencies [are] appropriately reflected in the financial results”; (iii) overseeing the groups’ risk management and internal control functions; (iv) ensuring compliance with applicable provisions of the Sarbanes-Oxley Act of 2002, including evaluating internal controls as required by rules pursuant to Section 404 of the Act; (v) reviewing all whistle-blower reports raised through the employee concerns programme (OpenTalk); and (vi) overseeing auditor independence and rotation. The

members of the Audit committee were defendants Prosser (chairman), Bryan, Davis, Miles,

Flint, and M. Wilson during FY 2005; Prosser (chairman), Bryan, Davis, Miles, and M. Wilson during FY 2004; Prosser (chairman), Bryan and Davis during FY 2003; and Prosser (chairman), Bryan and Davis during FY 2002. By virtue of the fact that each member of the Audit Committee was charged with ensuring that BP's accounting and reporting practices ensured that all potential liability was accurately calculated and reported to the Company's investors and its was not, defendants Prosser, Bryan, Davis, and Flint are personally implicated by the allegations contained herein and they would have been unable to comply with their fiduciary duties to disinterestedly consider a pre-suit demand of the allegations contained here.

(g) The members of the BP Board's Ethics and Environment Assurance Committee were charged with (i) monitoring all matters relating to the "executive management's processes to address environmental, health and safety, security and ethical behavior issues," including monitoring "the observance of the executive limitations relating to non-financial risks to the group"; (ii) receiving and review reports "from executive management on current developments in business and functional areas giving rise to ongoing and emergent non-financial risks to the Group's activities," including oversight of the group's pipeline projects; (iii) reviewing all potential and actual environmental liabilities; (iv) reviewing the group's health, safety and environmental performance, including "[g]reenhouse gas and other emissions, spills and containment practices and safety at work issues, both group-wide and in specific businesses and locations"; (v) reviewing employee health issues; (vii) reviewing ethical behavior, including reviewing results of the "annual ethics certification process and OpenTalk (BP's employee concerns reporting programme),

as well as other conduct and compliance issues”; and (vii) reviewing the group’s “capacity and capability to respond to catastrophic events and to maintain its business activities.” The members of the committee during the relevant period were defendants Massey (chairman), McKillop, and Burgmans during FY 2005; Massey (chairman), Burgmans, Miles and M. Wilson during FY 2004; Massey (chairman), Burgmans, Maljers, Miles, and M. Wilson during FY 2003; and Massey (chairman), Maljers, Miles and M. Wilson during FY 2002. By virtue of the fact each member of the Ethics and Environment Assurance Committee was charged with overseeing the Company’s environmental law compliance, ethics and risk mitigation, among other things, defendants Massey, McKillop and Burgmans are personally implicated by the allegations contained herein and they would have been unable to comply with their fiduciary duties to disinterestedly consider a pre-suit demand of the allegations contained here.

(h) The members of the BP Board’s Chairman’s Committee were charged with overseeing “broad issues of governance, including the performance of the chairman and the group chief executive, succession planning, the organization of the group and any matters referred to it for an opinion from another board committee.” The members of the committee during the relevant period were defendants Sutherland (chairman), Prosser, Bryan, Burgmans, Davis, Flint, Julius, McKillop and Massey during FY 2005; Sutherland (chairman), Prosser, Bryan, Burgmans, Davis, Julius, McKillop, Massey, Miles and M. Wilson during FY 2004; Sutherland (chairman), Prosser, Bryan, Burgmans, Davis, Flint, Julius, Knight, McKillop, Massey, Miles, Nicholson and M. Wilson during FY 2003; and Sutherland (chairman), Prosser, Bryan, Burgmans, Davis, Julius, Knight, Maljers, Massey,

Miles, Nicholson and M. Wilson during FY 2002. By virtue of the fact each member of the Chairman's Committee was charged with overseeing the Company's governance and the performance of the group's chiefs, each outside defendant is personally implicated by the allegations contained herein and they would have been unable to comply with their fiduciary duties to disinterestedly consider a pre-suit demand of the allegations contained here.

(i) BP P.l.c.'s so-called "outside directors" are also handsomely rewarded for their service on BP P.l.c.'s Board and their willingness to accommodate the inside directors. Specifically, for instance, each outside director currently receives a stipend of £75,000 (increased from £65,000 during FY 2004), and a "transatlantic attendance allowance" fee of £5,000 each time they undertake transatlantic or intercontinental travel for the purpose of attending a board meeting or board committee meeting. The Chairman receives an annual stipend of £500,000 (increased from £390,000 during FY 2004). The Deputy Chairman receives an annual stipend of £100,000 (increased from £85,000 during FY 2004) and transatlantic and committee chairmanship fees (the Deputy Chairman is the chairman of the Audit Committee). Board members get other *valuable professional perquisites* from their positions as well. While the Board describes these members as "Non-Executive" and characterizes them as "independent," their remuneration, which converts to a value of approximately \$142,000 (plus stock options), renders them anything but. For instance, Chairman Sutherland's "day job" is serving as the non-executive chairman of Goldman Sachs International, for which he is paid no more than \$75,000 plus interests in

restricted shares.<sup>2</sup> That, combined with Sutherland's stipend for serving as a non-executive director at the Royal Bank of Scotland Group cannot compete with the £500,000 Chairman's fee he gets from BP and the BP pay makes up a considerably larger component of his annual income. Similarly, defendant Bryan receives \$75,000 for his service as a non-executive director of Goldman Sachs, an annual stipend for serving as a director of GM, significantly less than the \$142,000+ he receives from BP plus transatlantic fees of an estimated \$9,400 for each board meeting attended in London, again constituting a significant portion of his annual income. Defendant Davis serves as the chancellor of the University System of Georgia, where he receives an annual compensation package valued at approximately \$540,000 (including base salary, a housing allowance, a car and reimbursement for club memberships and other entertainment expenses), and defendant Massey serves as President of Morehouse College and is estimated to receive a comparable compensation package. Again, the \$142,000+ received from BP is a significant portion of these men's annual incomes, rendering each of them dependent on BP and controlled by its executives who control their continued service on the BP Board.

(j) Members of the BP P.l.c. Board as a whole have close alliances with and allegiances to the inside directors, who engaged in the primary illegal activities

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<sup>2</sup> Goldman Sachs' non-executive directors receive an annual stipend of \$75,000 and an annual equity grant of 3,000 fully vested restricted stock units ("RSUS"), 1,500 fully vested RSUS and 6,000 fully vested options, or 12,000 fully vested options, at the non-executive director's election.

complained of herein, and are dependent upon them for continuation of their lucrative and prestigious positions as directors:

(i) ***Interlocking Directorships.*** Directors Browne and Bryan sit on the Goldman Sachs board of directors where defendant Sutherland serves as the non-executive chairman of Goldman Sachs International. Browne and Bryan both sit on the compensation committee that determines Sutherland's compensation and Sutherland oversees Browne's compensation as CEO of BP and Bryan's compensation as a director of BP. Accordingly, Browne is controlled by Bryan and Sutherland and Sutherland is controlled by Browne and Bryan and neither Browne nor Sutherland could independently consider a pre-suit demand to bring the allegations contained herein against the other.

(ii) ***Interlocking Directorships.*** McKillop serves as the chairman of The Royal Bank of Scotland Group and Sutherland serves as a non-executive director at the Royal Bank of Scotland Group. McKillop sits on BP's remuneration committee and Sutherland sits on the remuneration committee of the Royal Bank of Scotland Group, permitting each to oversee the compensation of the other.

(iii) In 1974, Bryan became president and a director of Sara Lee Corporation and served as chief executive officer from 1975 to 2000 and as chairman of the board from 1976 until his retirement in 2001. Prosser has served as a non-executive director of Sara Lee since 2004 at the request of Bryan with the acquiescence of the current Sara Lee Board.

(iv) Bryan serves as a trustee of the University of Chicago where Massey served as vice president for research and professor of physics from 1984 to 1991.

(v) Julius is a non-executive director of Lloyds TSB Group PLC where McKillop and Prosser previously served as non-executive directors of Lloyds TSB Group PLC.

(vi) Grote became commercial vice president for BP's Alaskan North Slope production activities, was appointed commercial general manager of BP exploration in 1989, and following the merger of BP and Amoco, in 1999 he was appointed executive vice president of BP's E&P. These posts afforded Grote a high degree of expertise in North Slope oil production issues, including pipeline corrosion problems.

(vii) Hayward was appointed director of BP exploration in 1997, in 1999 following the merger of BP and Amoco, he became a group vice president and a member of the upstream executive committee, and was appointed an executive vice president in 2002, becoming chief operating officer for BP's E&P later that year. These posts afforded Hayward a high degree of expertise in North Slope oil production issues, including pipeline corrosion problems.

(viii) Julius began her career in 1975 as a project economist with the World Bank in Washington, where her work included oil and gas projects in a number of Asian and African countries, and served as the chief economist at the Royal Dutch Shell Group in London from 1989 until 1993. These posts afforded Julius a high degree of expertise in oil production issues, including pipeline corrosion problems.

(ix) Manzoni previously served as BP's Vice President Prudhoe Bay in Alaska, affording Manzoni a high degree of expertise in North Slope oil production issues, including pipeline corrosion problems at Prudhoe Bay.

(x) Massey received a number of letters from Hamel detailing the corrosion issues at Prudhoe Bay during the relevant period which he failed to cause the Board to act upon despite his heightened duties as a member of both the Chairman's and the Ethics and Environmental Assurance Committees.

(k) BP's current and past officers and directors are protected against personal liability for their acts of mismanagement, waste and breach of fiduciary duty alleged in this Complaint by directors' and officers' liability insurance which they caused the Company to purchase for their protection with corporate funds, *i.e.*, monies belonging to the stockholders of BP. However, due to certain changes in the language of directors' and officers' liability insurance policies in the past few years, the directors' and officers' liability insurance policies covering the defendants in this case contain provisions which eliminate coverage for any action brought directly by BP P.l.c. against these defendants, known as, *inter alia*, the "insured versus insured exclusion." As a result, if these directors were to sue themselves or certain of the officers of BP, there would be no directors' and officers' insurance protection and thus, this is a further reason why the Director Defendants will not bring such a suit. On the other hand, if the suit is brought derivatively, as this action is brought, such insurance coverage exists and will provide a basis for the Company to effectuate a recovery.

(l) In order to bring this action for breaching their fiduciary duties, the members of the BP P.l.c. Board would have been required to sue themselves and/or their fellow directors and allies in the top ranks of the Company, who are their personal friends

and with whom they have entangling financial alliances, interests and dependencies, which they would not do.

## **FIRST CAUSE OF ACTION**

### **(Derivative Claim for Breach of Fiduciary Duties Against All Defendants)**

146. Plaintiffs hereby incorporate ¶¶1-145.

147. Defendants are fiduciaries of BP and of all of its public shareholders and owe to them the duty to conduct the business of the Company loyally, faithfully, carefully, diligently and prudently. This cause of action is asserted based upon the defendants' acts in violation of applicable law, which acts constitute a breach of fiduciary duty.

148. Defendants, in their roles as executives and/or directors of the Company, participated in the acts of mismanagement alleged herein and/or acted in gross disregard of the facts and/or failed to exercise due care to prevent the unlawful conduct.

149. Defendants are responsible for the gross mismanagement of BP, for abdicating their corporate responsibilities and mismanaging the Company in at least the following ways:

(a) They caused BP to violate applicable law, disregarding their duties as fiduciaries.

(b) They have caused BP to violate core worker safety and environmental laws and exposed the Company and its shareholders to criminal liability and unnecessary costs, fines, penalties and tort liability.

(c) They exposed the Company and its shareholders to massive fines, penalties and compensatory damage awards for violations of U.S. and Alaska state environmental laws.

(d) They subjected BP to adverse publicity and loss of goodwill, greatly increased its costs to raise capital, and impaired its earnings.

150. The damage to BP's reputation, standing and business goodwill is epitomized by a 9/2/06 *Wall Street Journal* (on-line) article:

### **BP Prepares to Move Beyond Browne**

#### **Before Passing the Reins, Chief Needs to Tighten Grip To Restore Stock's Premium**

Lord Browne of Madingley is near the end of his time at the helm of BP PLC. During the past 11 years, he has certainly turned the former British government-owned oil company into a giant. Along the way, Lord Browne's reputation has grown with BP's girth. Shareholders, however, haven't correspondingly benefited from BP's global shopping spree.

Regulatory investigations into possible market manipulation in the U.S. and accidents in Alaska and Texas have thrown the issue into sharp relief and reduced the premium traditionally accorded to BP's shares. BP says it is aware of the regulatory inquiries and "cooperating fully" with U.S. authorities.

These issues have also put the company in the crosshairs of American legislators. The politicians are already worried about popular anger over rising gasoline prices at a time of record profits for Big Oil, and will grill senior BP executives, led by the president of its U.S. arm, about pipeline leaks in the coming week on Capitol Hill.

Other major oil firms haven't suffered similar problems in the U.S. . . . .

151. The harm to BP's reputation is further shown by the way U.S. lawmakers savaged it at a recent hearing, saying "BP" stands for "bloated profits," "broken pipelines" or "bad pipelines." As *CNN Money.com* reported:

## **BP “fell short” on pipeline, execs admit**

### **Malone calls failures “unacceptable,” Former BP corrosion monitor pleads Fifth, as execs grilled over Prudhoe Bay.**

. . . BP’s top U.S. executives told lawmakers Thursday that the company stumbled by failing to prevent a major Alaskan pipeline from becoming crippled by corrosion.

At the hearing, a former BP official responsible for monitoring pipeline corrosion invoked the Fifth Amendment in response to the panel’s questions about the problems that led to the partial shutdown of the nation’s largest oilfield.

“BP’s operating failures are unacceptable,” BP America Chairman Bob Malone told members of a House panel. “They have fallen short of what the American people expect of BP and they have fallen short of what we expect of ourselves.”

\* \* \*

“I deeply regret this situation occurring on my watch,” said Steve Marshall, president of BP exploration in Alaska . . . .

. . . He also said BP would increase “pigging” with a pipeline analysis device to try to prevent further problems and was investigating the source of corrosion that precipitated the spill.

Pigging is the process of running a mechanical device through a pipeline to clean it or to test for corrosion. Lawmakers said that BP relied too heavily on ultrasound analysis, which does not work on some of the more deeply buried pipelines.

Company executives expressed regret for the maintenance failures . . . .

### **Fifth Amendment**

Richard Woollam, who used to head corrosion monitoring for BP at Prudhoe Bay, invoked his Fifth Amendment right against self-incrimination to avoid answering questions from lawmakers.

Marshall of BP said Woollam was pulled from a supervisory position and transferred out of Alaska after outside investigations determined there was

an “atmosphere of intimidation” in the corrosion monitoring department that was “suppressing safety concerns.”

Marshall said Woollam is still employed by BP but that he is on paid leave. . . .

The hearing began with a browbeating from Rep. Joe Barton of Texas, chairman of the House Energy and Commerce Committee.

***“Years of neglecting to inspect the most important oil-gathering pipeline in this country is not acceptable,”*** the Republican told the hearing held by the committee’s investigations and oversight panel.

If BP, “one of the world’s most successful oil companies,” is incapable of conducting basic maintenance on the walls of some of the country’s most important oil pipelines, then regulators should ***“let somebody else do it,”*** Barton said.

Rep. Jan Schakowsky, D-Ill., said it was ***“truly beyond comprehension”*** that a profitable company such as BP would fail to maintain the infrastructure that was the basis for its earnings, adopting a ***“see-no-evil approach to Prudhoe Bay operations.”***

***The company was also criticized for presenting itself, through advertising, as environmentally friendly while failing to prevent damaging oil spills.***

***“If the company spent as much on maintenance as it does on advertising and lobbying for tax cuts, none of us would have to be here today,”*** said Schakowsky.

Focusing on BP’s slogan of “Beyond Petroleum,” Rep. Ed Markey, D-Mass., said, “BP stands for a company with ***bloated profits that failed to fix bad pipelines.***”

152. As a result of defendants’ wrongful conduct and wrongful actions, including the failure to maintain a system of internal controls adequate to insure the Company’s compliance with all applicable laws, BP has suffered considerable damage to and drastic diminution in the value of its assets.

153. All defendants, singly and in concert, engaged in the aforesaid conduct in intentional breach and/or reckless disregard of their fiduciary duties to the Company.

154. Defendants conspired to abuse, and did abuse, the control vested in them by virtue of their high-level positions in the Company.

155. By reason of the foregoing, defendants have breached their fiduciary obligations to BP and its shareholders.

156. BP and its shareholders have been injured by reason of the defendants' failure to exercise the reasonable and ordinary care owed to the Company by its directors, officers, managing agents and employees in disregard of their fiduciary duties to the Company. Plaintiffs, as shareholders and representatives of BP, seek damages and other relief for the Company as hereinafter set forth.

## **SECOND CAUSE OF ACTION**

### **(Derivative Claim for Waste of Corporate Assets Against All Defendants)**

157. Plaintiffs hereby incorporate ¶¶1-145.

158. As a direct result of the wrongdoing alleged herein, defendants have unreasonably and unnecessarily caused BP to expend hundreds of millions of dollars of corporate assets, and have subjected the Company to additional liability in the untold millions of dollars, to the extreme detriment of the Company.

159. Additionally, as set forth above, defendants have awarded themselves excessively lucrative compensation which has no reasonable basis, but instead is designed

only to enrich themselves in spite of their abominable stewardship and the Company's dismal performance.

160. As a direct and proximate result of these defendants' waste of corporate assets as alleged herein, BP has sustained damages.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs demand judgment as follows:

A. Awarding money damages against all defendants, jointly and severally, for all losses and damages suffered as a result of the acts and transactions complained of herein, together with pre-judgment interest, molded in a fashion to ensure defendants do not participate therein or benefit thereby;

B. Directing all defendants to account for all damages caused by them and all profits and special benefits and unjust enrichment they have obtained as a result of their unlawful conduct, including all salaries, bonuses, fees stock awards, options and common stock sale proceeds and imposing a constructive trust thereon;

C. Directing BP to take all necessary actions to reform and improve its corporate governance and internal control procedures to comply with the Sarbanes-Oxley Act of 2002, including, but not limited to, putting forward for a shareholder vote resolutions for amendments to the companies' Articles and taking such other action as may be necessary to place before shareholders for a vote the following Corporate Governance Policies:

(i) an amendment to the Company's Articles limiting the number of executive directors on the BP Board to two;

(ii) a proposal to strengthen the BP Board's supervision of operations and develop and implement procedures for greater shareholder input into the policies and guidelines of the Board;

(iii) establishing an environmental and litigation exposure oversight committee, staffed fully with independent directors and provided a budget to retain independent counsel and advisors;

(iv) a provision to permit the shareholders of BP to nominate at least three candidates for election to the BP Board;

(v) appropriately test and then strengthen the internal audit and control functions;

(vi) reform executive compensation;

(vii) require full compliance with Sarbanes-Oxley; and

(viii) permit shareholders to question all executive directors of BP at the Annual General Meeting and establish a more transparent process for receiving and evaluating shareholder proposals.

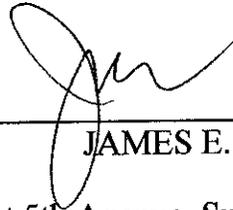
D. Awarding punitive damages;

E. Awarding costs and disbursements of this action, including reasonable attorneys', accountants', and experts' fees; and

F. Granting such other and further relief as this Court may deem just and proper.

DATED: October 2, 2006

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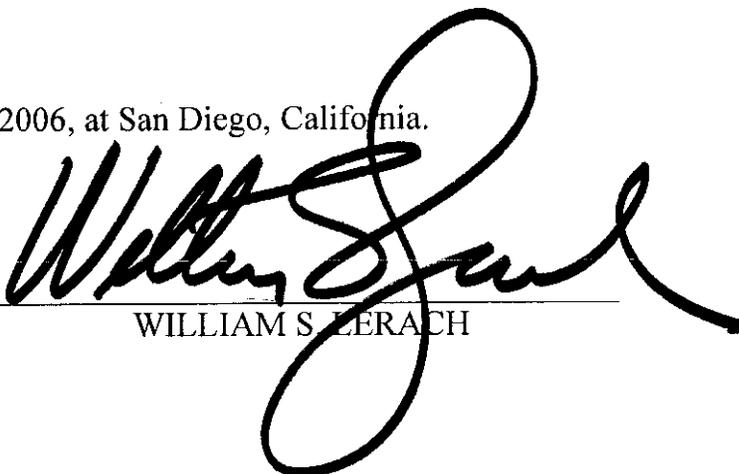
## VERIFICATION

I, WILLIAM S. LERACH, hereby declare as follows:

I am a member of the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP, counsel for plaintiffs in the above-entitled action. I have read the foregoing Complaint and know the contents thereof. I am informed and believe the matters therein are true and on that ground allege that the matters stated herein are true.

I make this Verification because plaintiffs are absent from the County of San Diego where I maintain my office.

Executed this 28th day of September, 2006, at San Diego, California.



WILLIAM S. LERACH