



Tel 352 692 5493
Fax 352 692 5494

Dennis L. Bryant

Bryant's Maritime Consulting
4845 SW 91st Way
Gainesville, FL 32608-8135

September 2010

Oil spill investigations

Dennis L. Bryant

The tragic Deepwater Horizon-Macondo explosion/fire/sinking/oil spill is destined to become the most investigated maritime casualty in history. Eleven men died when an explosion occurred on the Mobile Offshore Drilling Unit (MODU) on the night of April 20, 2010. The MODU was rapidly engulfed in flames. Amazingly, 115 other persons on the vessel survived, in large part due to the heroic efforts of the crew of the Damon B. Bankston, an offshore supply vessel (OSV) that was tending the MODU when the casualty occurred. The MODU continued burning until it sank on April 22.

Somewhere in the events between the explosion and the sinking, the pipeline connecting the Macondo wellhead on the seabed about a mile below the surface and the MODU was severed. Crude oil and natural gas began spewing from the pipeline breaks, but the extent of the discharge was not immediately realized. The drill site was some forty miles off the coast of Louisiana and almost a hundred miles from Port Fourchon, the nearest significant shoreside staging area.

After it was determined that oil and natural gas were flowing from the wellhead, remotely operated vehicles (ROV) were dispatched to the seafloor. They captured images of the situation, allowing experts to determine that the blowout preventer (BOP), located where the drill pipe emerged from the seabed, had failed to operate. The BOP was designed as a failsafe device to stop the flow of oil from a well when other control measures did not succeed.

The incident was declared a spill of national significance and Admiral Thad Allen, Commandant, US Coast Guard, was named by President Obama as the National Incident Commander (NIC) with full authority to oversee and direct efforts to stop the discharge and respond to the oil spill. Initial efforts to stop the discharge were unsuccessful and oil started coming ashore in Louisiana. Eventually, oil from the Macondo wellhead also came ashore in Mississippi, Alabama, and the Panhandle of Florida. Admiral Allen retired from active duty in late May, as previously scheduled, but stayed on the National Incident Commander. The flow of oil and natural gas was stopped on July 15, but not before an estimated 4.9 million barrels of oil escaped into the Gulf of Mexico during the 87 days that the well was uncontrolled. As of this writing, efforts continue to drill relief wells so that the drill pipe may be sealed and cemented permanently from the bottom.

Meanwhile, a series of investigations are underway, some public, some not.

E-mail
Internet

dennis.l.bryant@gmail.com
<http://brymar-consulting.com/>

One of the first public investigations was convened jointly by the US Department of Homeland Security and the Department of the Interior. They directed the US Coast Guard and the Minerals Management Service (MMS) to examine the circumstances surrounding the casualty and submit a report of their findings, conclusions, and recommendations. This investigation is clearly the most focused and the closest to completion. It has conducted three of its planned four public sessions, with the final session scheduled for late August (after submittal of this article for publication). To date, this investigation has revealed the division in command of the MODU between the master and the offshore installation manager, the failed attempt to activate the BOP before the MODU was abandoned, and the intentional “inhibition” of the alarm system, among other things. Witnesses testify under oath. One person who was called as a witness has refused to testify, citing his right against self-incrimination under the Fifth Amendment.

President Obama issued an Executive Order establishing the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. The co-chairs of this National Commission are former Senator Bob Graham and former Administrator of the Environmental Protection Agency William Reilly. Their mission is three-fold: (1) examine the facts and circumstances to determine the cause of the Deepwater Horizon oil disaster; (2) develop options for guarding against future oil spills associated with offshore drilling; and (3) submit a final report to the President within six months of the Commission’s first meeting. Its first meeting was held on July 12-13 in New Orleans. The second meeting is scheduled for August 25 in Washington, DC.

The Bureau of Ocean Energy Management, Regulation, and Enforcement, which grew out of the now-dismantled Minerals Management Service (MMS), is conducting a separate investigation into the preparedness of the offshore oil and gas industry as a whole to prevent and respond to future oil spills. This investigation is one of the bases for the Administration’s six-month moratorium on deepwater drilling.

The US Chemical Safety and Hazard Investigation Board (generally called the Chemical Safety Board or CSB) has opened an “investigation of the root causes of the accidental chemical release that destroyed the Deepwater Horizon rig and took the lives of 11 workers.” The CSB is similar to the better-known National Transportation Safety Board (NTSB), focusing on safety issues arising out of significant industrial incidents. In addition, various agencies are undertaking health studies.

It seems that virtually every committee in Congress that could possibly have oversight authority has conducted hearings on relative to the Deepwater Horizon-Macondo incident. Hearings have been held by the following Senate committees: Commerce, Science & Transportation; Energy and Natural Resources; Homeland Security and Governmental Affairs; and Judiciary. Hearings have also been held by the following committees of the House of Representatives: Education and Labor; Energy and Commerce; Judiciary; Natural Resources; Science and Technology; Small Business; and Transportation and Infrastructure. The most extensive work seems to have been done by the House Committee on Natural Resources, which launched its own investigation and (together with its subcommittees) conducted at least seven separate hearings.

Members of Congress submitted numerous bills, addressing everything from tax relief for individuals impacted by the spill to use of dispersants. One bill even proposes establishment of a Congressional Commission to investigate the oil spill incident, separate and apart from the Administration's National Commission. Several of the bills have been adopted by the House of Representatives. None have been adopted by the Senate. It is unclear whether any of these bills will be enacted by this Congress. If not, the legislative process must start afresh in January 2011.

The US Department of Justice (DOJ) has opened civil and criminal investigations into the circumstances surrounding the incident. It is not disclosing much regarding its efforts, only saying that there are multiple targets. It is probable that various individual Gulf coast states are opening similar investigations.

The National Research Council (NRC) has begun a research project related to the spill, as have the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA).

Trustees (federal, state, and tribal) of the various natural resources possibly impacted by the oil spill have commenced Natural Resource Damage Assessment (NRDA) investigations. These will examine impacts on everything from endangered species, such as whales and sea turtles, to coral, sea grass, shrimp, crabs, and sand fleas.

Numerous academic institutions, particularly those located in the Gulf coast states, have commenced research projects examining different aspects of the spill. While most are focused on environmental issues, others are looking at economic and sociological impacts.

Parties directly involved in the incident, including BP, Transocean (owner of the MODU), Halliburton (the well cementing company), and Cameron International (the company that manufactured the BOP), have commenced their own internal investigations. It is unclear how much, if any, of the results of these investigations will ever be available outside those particular companies. News reports, for example, indicate that BP has retained a number of outside experts and research institutions to assist on its investigation, but requires each to sign a stringent non-disclosure contract.

Private litigants and potential litigants have also begun investigations in preparation for the inevitable lawsuits against BP, Transocean, and others. It is virtually certain that the volume and extent of litigation arising out of this oil spill will far exceed that following the 1989 Exxon Valdez spill.

I support the concept of investigating incidents such as this for the purpose of reducing the risk of their recurrence. I question, though, whether we are well-served by the number of overlapping investigations on-going in this case.