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## BP takes Gulf oil spill heat, but what about other companies?

BP accepts responsibility for the massive Gulf oil spill, making it a lightning rod for public rebuke. But other companies, including Transocean and Halliburton, may be legally liable, too.

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**BP takes Gulf oil spill heat, but what about other companies?**



Company executives Lamar McKay of BP America, Inc. (L), Steven Newman of Transocean Limited (C), and Tim Probert of Halliburton (R), are sworn in during the Senate Environment and Public Works Committee hearing on the Gulf of Mexico oil spill May 11.

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By [Matt Rocheleau](#), Correspondent / June 9, 2010

### Boston

In headlines and among the public, the environmental disaster in the Gulf of Mexico typically is referred to as “the BP oil spill.”



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But, the oil giant will not be the only company facing legal battles, and it may not be the sole entity found responsible. So, why is BP taking all the heat for what has become the largest offshore oil spill in US history?

The company has claimed full responsibility for both the spill and for whatever is necessary to clean up the oil [that continues to flow](#). And in doing so, the company has become a lightning rod for public rebuke and boycotts of its products worldwide.

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"I think they had no choice because it was their well," says Peter Henning, a former Justice Department prosecutor now at Wayne State University Law School. "One of the big oil companies always takes the heat."

Though Mr. Henning said BP likely will be taking most of the blame, it was not the only company working on the Deepwater Horizon oil rig when it exploded on April 20, killed 11 crew members and flooding the Gulf with oil.

Among the other companies working on the rig at the time were rig owner Transocean Ltd. and sub-contractors Halliburton Co., Weatherford International Ltd., and M-I SWACO.

## Justice Department criminal probe

US Attorney General Eric Holder announced last week that the Justice Department has opened a criminal investigation focusing on BP as well as on Transocean and on Halliburton, which was doing work to cement the well 20 hours prior to when the spill began.

There are sure to be private and government lawsuits against all companies involved as well, says Zygmunt Plater, a Boston College law professor who chaired the legal research task force for the Exxon Valdez oil spill of 1989, until now the largest offshore spill in US history.

The Oil Pollution Act (OPA) of 1990, which the Exxon Valdez task force helped shape, essentially focuses the responsibility on one party for the sake of simplicity, says Mr. Plater. In this case BP is that party. However BP can and almost certainly will sue for contributions from other companies that may have been at all responsible for the spill.

However, Henning pointed out in a recent [New York Times column](#) that Transocean has an indemnification provision that may leave BP responsible for paying the cost of cleanup and recovery no matter what. Halliburton said in a recent call to investors that like Transocean they are legally indemnified from responsibility through their contract with BP.

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"It will be the contract law fight of all contract law fights," Henning said.



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While legal judgments are yet to be determined, says Plater, "My guess is there will be a lot of pointing of fingers."

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The blame game has already begun.

Officials from BP, Transocean, and Halliburton testified before Congress on May 11. Three days later, President Obama called those hearings a "ridiculous spectacle."

"You had executives of BP and Transocean and Halliburton falling over each other to point the finger of blame at somebody else," said Mr. Obama in a May 14 speech.

Henning and Plater each say they're not surprised that the other companies are keeping a low profile for the time being, letting BP become the face of the Gulf spill.

### 'A gathering storm of litigation'

"Their first reaction, of course, is self defense," Plater said. "I'm sure they're delighted BP is in the crosshairs, but they also know there is a gathering storm of litigation on the way."

Additionally, "they're not going to be able to duck [public scrutiny]," he said. "It's just postponed.... It will be a top story for months, if not longer."

According to BP spokeswoman Heidi Feick, the question of other companies stepping forward has not been discussed at BP. Their focus is on ending the spill and cleaning it up, she said.

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During its congressional testimony last month, Halliburton said it accepts no blame for the spill. That's Transocean's position as well, according to a spokesman.

Inevitably, Henning said "BP will happily name everyone who was involved," but in the meantime, BP will likely continue to act as a magnet for the blame, because continuing to point fingers before the oil stops flowing and cleanup is further along would damage BP's already-sullied image.

"The court of public opinion isn't fair; the media is not fair," he said, adding that BP was the most recognizable name and easiest to blame immediately after the disaster began. "But whether it's fair or not, [BP] will have to live with it."

The blame will be sorted out through litigation, Henning said, but it will be a drawn out process likely lasting a decade or more.

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