

CITY COUNCIL MEMORANDUM

TO: Mayor and City Council
FROM: Alvin G. Coby, City Manager
DATE: June 10, 2010
SUBJECT: BP Bayou Chico Operation – Monitoring and Remediation

City Council on May 27, 2010 directed the City Manager and City Attorney to research and pursue means to monitor the activities of British Petroleum (BP) at their Bayou Chico staging site and secure binding assurances from BP that in the event of any release into the soils or upon the waters of the Bayou that BP will bear the full responsibility and cost for remediation.

The City Manager and City Attorney have had an initial meeting with BP to discuss the City Council directive. Participating in the meeting were representatives from Escambia County, the Florida Department of Environmental Protection (DEP), and the Coast Guard. While BP questions the need for additional monitoring above and beyond that of DEP required by the Field Authorization for Solid Waste Staging, BP did provide the method for the City to file a reimbursement claim for City monitoring of the site.

The City will submit claims for all direct spill response operations through the Government Entity Claims Process. At the suggestion of BP, the intent of staff is to submit similar and any anticipated future costs associated with activities directly related to spill operations for either pre-approval or advance payment. It is the opinion of City staff that City monitoring of the site falls under BP's definition of compensable costs in that it is an additional administrative cost as a result of the Deepwater Horizon incident.

Relative to the issue of BP providing assurances to the City that any environmental damage to Bayou Chico will be expeditiously remediated, BP proposed entering into an Indemnification Agreement with the City. The Agreement, in the opinion of City staff, should stipulate that BP is responsible for remediation of any area it or its agents, assigns, invitees or contractors may damage during their operation. The Agreement would require BP to immediately restore any area damaged to the condition that existed prior to occupancy. Further, the Agreement would require that should BP fail to remediate any damage caused by their operations, then the City may undertake the remediation and BP would be liable to the City for all costs incurred including legal fees and other expenses necessary.

It is the intent of City staff to develop the Agreement for consideration by City Council on June 21 at Committee of the Whole.



City of
Pensacola