

BP Owes \$12M For Lease, Oil Spill Cleanup Co. Says

By **Daniel Wilson**

Law360, New York (August 09, 2012, 6:22 PM ET) -- An oil spill response contractor sued two BP PLC units in Minnesota federal court Thursday, accusing the oil giant of stiffing it on nearly \$12 million owed on a lease for oil skimmers used in cleanup efforts following the Deepwater Horizon blowout.

Quali Tech Environmental Inc. said BP America Inc. and BP Exploration and Production Inc. had used QTE-owned "Buster" oil skimmers to help clean up the massive oil spill resulting from the Deepwater Horizon disaster throughout 2010 but failed to return them at the end of cleanup operations, initially saying the equipment was lost. BP then refused to pay its contractually obligated fees for the period between the end of the cleanup and the eventual return of the equipment in October 2011, the complaint said.

"Ignoring the plain terms of the contract to which it agreed, BP has instead turned on the company on which it relied during BP's time of crisis," the complaint said.

BP hired oil-spill cleanup expert Mark Ploen, QTE's president, as a consultant in the immediate aftermath of the blowout in April 2010, the complaint said. Chaska, Minn.-based QTE has been involved in the cleanup of oil spills all over the world beginning with the 1987 Glacier Bay spill in Alaska, according to QTE.

Ploen recommended BP acquire the Buster skimmers to help clean up the oil spill, but expecting the spill to be solved quickly, BP instead asked QTE to buy the skimmers and lease them to BP for a daily fee, QTE said. QTE agreed, leasing 12 Buster systems of various types to BP beginning in May 2010, according to the complaint.

BP paid the invoices for the skimmers in full until the end of December 2010, praising both the effectiveness of the Buster units over traditional skimmer technology and Ploen's work as a consultant, QTE said.

However, beginning in fall 2010, BP sought to quickly wind down cleanup operations and ceased paying for boats and equipment it had hired to assist in the effort, regardless of ongoing contractual obligations, according to QTE. The wind-down of operations was marked by chaos, including the misplacement or loss of oil spill response equipment, the complaint said.

While BP returned three Buster systems to QTE in September 2010, they were in a state of disrepair, according to QTE. BP's liaison with QTE died in a plane crash in November 2011, and his replacement took until January to locate the rest of QTE's equipment, then refused to pay QTE's nearly \$1.3 million invoice for January and questioned QTE's invoices for October through December, saying the skimmers hadn't been used for oil spill cleanup during that time, the complaint said.

BP continued to hold the Buster equipment for nearly 10 months, costing QTE several missed opportunities and \$700,000 for replacement equipment, and refused to pay \$10.7 million it owed for that time, QTE said. The skimmers, once returned, were broken, weathered from improper storage and in unusable condition, which will cost \$350,000 to repair, according to the complaint. QTE has asked for compensatory damages, costs, disbursements, attorneys' and expert fees and pre-judgment interest back to January 2011.

The case is one of several filed against BP since the oil spill that accuse the company of renegeing on its obligations to parties that had assisted in the spill cleanup effort.

These include a case brought by nearly 500 fishermen in Louisiana federal court in November 2011, saying they had leased their boats to BP to help, then went weeks or months without their boats or any compensation as the company dragged its feet on decontaminating the boats.

BP did not immediately respond to a request for comment Thursday.

Quali Tech is represented by Craig S. Coleman, Gerard M. Nolting, Michelle E. Weinberg and William L. Roberts of Faegre Baker Daniels LLP.

Counsel information for BP was not available Thursday.

The case is Quali Tech Environmental Inc. v. BP America Inc. et al, case number 0:12-cv-01954, in the U.S. District Court for the District of Minnesota.

--Additional reporting by Lana Birbrair. Editing by Jeremy Barker.

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