

A Jan. 20 letter from eight U.S. senators, including Sens. James Inhofe (R-Okla.), ranking member of the Senate Committee on Environment and Public Works, and Lisa Murkowski (R-Alaska), ranking member of the Senate Committee on Energy and Natural Resources, made the same request.

'Tremendous Controversy.' The letter said the EPA report "has given rise to tremendous controversy" since it is the first time a federal agency has inferred "that hydraulic fracturing is the likely cause of groundwater contamination."

The senators said the potential economic impact of the Pavillion investigation "is certainly more than the \$500 million threshold" put forth by the Office of Management and Budget in defining whether a scientific assessment is considered "highly influential."

For similar reasons, Wyoming Gov. Matt Mead (R) on Jan. 17 called on EPA to extend the comment period.

Also on Jan. 17, EPA invited the public to nominate by Feb. 17 scientific experts for consideration as peer reviewers of the investigation report, Mylott said.

BY TRIPP BALTZ

More information on EPA's investigation of Pavillion's groundwater is available at <http://www.epa.gov/region8/superfund/wy/pavillion>.

The letter from the eight U.S. senators is available at <http://op.bna.com/env.nsf/r?Open=jstn-8qpvbh>

Enforcement

Exxon Mobil Agrees to Pay Montana \$2.4 Million for Yellowstone River Spill

MISSOULA, Mont.—Exxon Mobil Corp. has agreed to pay Montana some \$2.4 million to settle state charges related to a pipeline rupture near Billings, Mont., that spilled thousands of gallons of crude into the Yellowstone River.

The proposed settlement calls for Exxon Mobil Pipeline Co., an Exxon subsidiary, to pay a civil penalty of \$300,000 in cash and spend \$1.3 million on future "supplemental environmental projects" along the Yellowstone River in connection with the July 1 Silvertip Pipeline break.

The company also has agreed to pay more than \$760,000 to cover the state's costs in the aftermath of the rupture and spill.

"It was a very high penalty, but we're dealing with a company that had a very significant violation," Richard Opper, director of the Montana Department of Environmental Quality, told Bloomberg BNA Jan. 20.

Under the proposed "administrative order on consent" between Exxon Mobil and DEQ, Montana will get roughly \$760,400 to cover costs for its months of oversight and other work to deal with hundreds of acres of contamination (184 DEN A-3, 9/22/11).

"We are pleased to be able to resolve this environmental compliance issue," Exxon Mobil spokeswoman Claire Hassett told Bloomberg BNA in a Jan. 20 e-mail. "Exxon Mobil Pipeline Company regrets that this incident occurred and takes full responsibility for the cleanup. We are committed to completing this effort from start to finish."

The accord requires Exxon Mobil to follow a DEQ-approved plan to monitor soils and water, and to document still-visible oil. In cases where it would do more harm than good to remove the crude—a process that can harm vegetation and wildlife habitats—the company will let the residues degrade naturally over time.

The settlement also included an updated and larger estimate from Exxon Mobil regarding the amount of crude swept upstream in historically high waters amid a voluminous spring runoff. The ruptured pipeline released 1,509 barrels of oil, or more than 63,000 gallons, into the river, the company said. Previous estimates put the number at 1,000 barrels, or 42,000 gallons.

Montana Pleased, but Battles Continue. Montana said the settlement was a satisfactory conclusion to its enforcement action against Exxon Mobil for violations of the state's Water Quality Act.

The proposed agreement now faces a 30-day public comment period. Montana could sign the agreement and receive payment by late February.

Still pending is a lawsuit against Exxon Mobil filed by residents and businesses alleging that the company knew the pipeline was not buried deeply enough in the riverbed and was at risk of breaking (*Castro v. Exxon Mobil*, Mont. Dist. Ct., No. DV-11-1419, 10/4/11; 194 DEN A-2, 10/6/11)

The cause of the spill remains under investigation by the federal Pipeline and Hazardous Materials Safety Administration.

BY AMY LINN

The proposed settlement is available at <http://op.bna.com/env.nsf/r?Open=fwhe-8qprkb>.

The complaint in *Castro v. Exxon Mobil* is available at

Nanotechnology

Government, Industry, Advocacy Groups Work on Carbon Nanotube Release Measures

Government officials, chemical manufacturers, and representatives of labor and consumer advocacy groups are working to forge an agreement on ways to measure whether multiwalled carbon nanotubes are released from products, potentially exposing workers, consumers, or the environment.

The answer to that question could affect regulatory oversight, risk estimates, worker protections, product stewardship efforts, and the design of multiwalled carbon nanotubes as well as the plastics, resins, and other materials that contain them, government, industry, and other experts told Bloomberg BNA in interviews conducted in January.

The NanoRelease project is managed by the ILSI Research Foundation Center for Risk Science Innovation and Application (RSIA) with funding and technical support from U.S. and Canadian agencies and industry associations, primarily the American Chemistry Council, according to RSIA Director Richard Canady. ILSI, the International Life Sciences Institute, is a global non-profit organization that describes its mission as providing "science that improves public health and well-being."

Broad Participation. Overseeing NanoRelease is a steering committee that includes representatives of the Environmental Protection Agency, the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, Environment Canada, Health Canada, Swiss Federal Laboratories for Materials Science and Technology (Empa), the American Chemistry Council's Nanotechnology Panel, the AFL-CIO, and Consumers Union.

Some research suggests multiwalled carbon nanotubes may behave like asbestos fibers if inhaled (182 DEN A-12, 9/20/11).

At the same time, carbon nanotubes can conduct heat and electricity easily and make plastics and other materials light, yet very strong. Applications include space satellites, computers, medicines, wind turbines, car bumpers, and sports equipment.

"Carbon nanotubes (CNTs) are currently incorporated into various consumer products and numerous new applications and products containing CNTs are expected in the future. The potential for negative effects caused by CNT release into the environment is a prominent concern" but analytic methods to measure such releases are lacking, National Institute of Standards and Technology researcher Elijah Peterson and a team of scientists wrote in the October 2011 journal *Environmental Science and Technology*.

Cathy Fehrenbacher, chief of the exposure assessment branch within EPA's Office of Pollution Prevention and Toxics, told Bloomberg BNA that "we are very interested in the development of methods to assist us in understanding the potential for release and exposure."

Steering Committee co-chair Darrell Boverhof, a toxicologist with the Dow Chemical Co. who serves as a representative of ACC's Nanotechnology Panel, said chemical manufacturers are responsible for the safety of their products.

Chemical manufacturers hope to provide confidence in the safety tests they conduct by working with government officials, university scientists, and advocates to agree upon methods to conduct such tests, he said.

Canady said that "providing the tools to generate trusted data should benefit all and harm none because the methods can be used to inform safer product development from the start."

Information Sought Prior to June Workshop. To prepare for a June workshop, Canady and other steering committee members told Bloomberg BNA they are seeking unpublished information about methods chemical manufacturers, universities, government agencies, or other parties have used to measure releases of multiwalled carbon nanotubes from polymers such as plastics and resins.

Committee member John Monica, an attorney with Porter Wright Morris & Arthur LLP who helped organize carbon nanotube manufacturers into a NanoSafety Consortium for Carbon in 2010, said he is lining up companies that will contribute their nanotube products to the project.

Canady said participants also are working to identify the types of plastics or other polymers that will be tested. Different materials may be more or less likely to release multiwalled carbon nanotubes, he said.

Laboratory tests of the different materials and different types of multiwalled carbon nanotubes are expected

to begin in 2013, he said. Comments on the project are invited, Canady said.

By PAT RIZZUTO

Information about the NanoRelease project is available at <http://www.ilsr.org/ResearchFoundation/Pages/NanoReleaseOverview.aspx>.

Transportation

NHTSA Closes Volt Probe As House Panel Prepares to Question GM CEO, Agency Chief

General Motors CEO and Chairman Dan Akerson and National Highway Traffic Safety Administration chief David Strickland will testify before a Jan. 25 House oversight panel on the federal government's response to Chevrolet Volt battery fires.

The hearing will follow a Jan. 20 announcement that NHTSA has closed its safety defect investigation into the post-crash fire risk posed by the Volt's lithium-ion batteries.

Opened Nov. 25, the agency's investigation "concluded that no discernible defect trend exists and that the vehicle modifications recently developed by General Motors reduce the potential for battery intrusion resulting from side impacts," the agency said in a statement.

NHTSA's decision to close the investigation "is consistent with the results of our internal testing and assessment," GM said in its own statement Jan. 20. The company said the engineering enhancements it unveiled Jan. 5 "will provide additional protection for the battery, minimizing the risk of a post-crash fire in the days and weeks after a severe crash and rollover" (03 DEN A-5, 1/6/12).

The congressional hearing, titled "Volt Vehicle Fire: What Did NHTSA Know and When Did They Know It?" will aim to examine concerns that NHTSA may have intentionally delayed disclosure of Volt battery fires that occurred days, and even weeks, after federal crash tests.

GM spokesman Greg Martin told Bloomberg BNA Jan. 20 that Akerson is "looking forward" to testifying before the House Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending.

Agency Says It Acted 'Expediently.' The hearing follows an exchange of letters between Oversight Committee Chairman Darrell Issa and NHTSA's Strickland.

Issa said in a Dec. 7 letter that the panel was widening its investigation into fuel economy to include an examination of the safety concerns surrounding the Volt battery. The letter said the committee is "deeply troubled" that NHTSA "has deliberately suppressed public knowledge of the safety risk posed by the Chevrolet Volt."

The first crash-test fire occurred in May 2011, but the agency did not release the information until Nov. 11. NHTSA downplayed the test results at the time, saying the Volt's potential for a battery-related fire was no greater than that of a conventional gas-powered vehicle. Two weeks later the agency opened a formal investigation after additional crash tests confirmed fire concerns.