



# OIL SPILL

## Landowners sue ExxonMobil over Yellowstone River oil spill



OCTOBER 04, 2011 10:15 PM • BY JAN FALSTAD OF THE GAZETTE STAFF

Three months after the ExxonMobil Silvertip pipeline burst near Laurel, pouring about 42,000 gallons of crude oil into the flooded Yellowstone River, the disaster has spilled over into the courts.

Billings attorney Cliff Edwards filed a class action lawsuit Tuesday in Yellowstone County District

Court on behalf of eight landowners. The suit asks for a jury trial and unspecified punitive damages from Exxon for long-term harm to their land and businesses.

“The only thing corporations understand is money, and I intend to cost them enough money for what they did to make them think twice before they do this again.” Edwards said. “This is outrageous.”

Dale Getz, a community relations adviser for ExxonMobil in Billings, said this is the first lawsuit to his knowledge resulting from the July 1 spill. His company doesn’t comment on pending litigation, he said.

“We’re going to be here until the job is done,” Getz said earlier this year.

But according to Edwards’ lawsuit, Exxon’s cleanup has been “haphazard, sloppy and not well coordinated.”

The lawsuit names ExxonMobil Oil Corp., ExxonMobil Pipeline in Houston, and two Billings individuals, Billings refinery manager Jon Wetmore and pipeline terminal superintendent Jason Montgomery, alleging damage including trespass, nuisance and stigma. That last allegation was made because landowners selling their land will have to disclose the oil spill to prospective buyers for years to come, Edwards said.

Other plaintiffs include a company that owns land near the confluence of the Clark’s Fork and Yellowstone River, where Capt. William Clark camped in 1806, and a gravel pit off Johnson Road in Lockwood that was flooded with oily water.

Business activities on affected “oiled, soiled and spoiled properties” have been interrupted and

damaged, the lawsuit claims.

“They haven’t been able to mine a shovelful of gravel since then,” Edwards said, adding that the companies can’t legally sell oiled sand and gravel and they can’t easily drain the contaminated pit that is so close to the Yellowstone River.

Brad Kembel, who owns 100 acres of riverfront land near Worden, said he joined the lawsuit, his first ever, after Exxon workers made several failed attempts to clean his land.

While he was combining malt barley, the first ExxonMobil workers came onto his land, unannounced, on a survey mission, he said. One adjuster kept telling him the oil wasn’t anything to worry about and would be gone in a couple of months, he said.

Kembel then picked up a glob of oil from some grass to illustrate the problem.

“Out of the blue, he knocked it out of my hand with his walking stick,” Kembel said, adding he was too surprised and shocked to react.

He said the first cleanup crew worked mostly on his cousin’s neighboring land and they didn’t do much in a day.

After he complained, Exxon sent out another team in early August. More than 20 people dressed in hazardous materials suits spent a day loading about 98 bags of soiled oil residue into a large container, but that barely dented the pollution along 100 acres of riverfront, he said.

Then a team dressed in blue jeans, without gloves, spent another day trying to clean up, Kembel said.

Then officials from Houston came to visit, apologized for the spill and promised to try again.

But the third cleanup team of around 50 people drove four-wheelers all over, wrecking his grass and still missing an obvious blob three feet from the road, he said.

“They had ridden by a patch of oil so many times, their dust covered it up,” Kembel said.

If the oil isn’t cleaned up before winter, spring runoffs will spread the trouble, he said.

Should he decide to sell his property, Exxon officials promised to run soil tests to prove the land is clean, but Kembel said that wasn’t practical either.

“It just takes one spot to screw up our sale,” he said. “I don’t know if it will go away. I’m not a chemist.”

The original Silvertip pipeline, buried about 5 feet to 7 feet under the Yellowstone River, was exposed by the near-record floodwaters in July. Last month, Exxon completed a new section of the 12-inch pipeline buried far deeper, 60 to 70 feet, and resumed the oil flow.

At the peak of the cleanup in August, ExxonMobil had nearly 1,100 workers cleaning up oil. Now the company is in the reclamation phase and is down to about 150 workers, Getz said Tuesday. An earlier preliminary estimate pegged the cleanup costs at \$42 million.

Before starting the cleanup in July, the company first surveyed about 9,600 acres, with the help

of state and federal agencies. Less than 40 percent of those acres had oil and less than 10 acres had heavy oil impacts, Getz said.

Some landowners have received generous Exxon payouts, Kembel said, and the oil giant bought a boat for the Yellowstone County Sheriff's Office so it could help scout for oil.

But, Kembel said he was put off by a parting gift from one oil company official who handed him an Exxon flashlight with an 800 number to call if he had more concerns.

"This pollution won't go away. It's marked our land probably for the rest of our lives and they give me a \$2 flashlight that's made in China," he said.

## Landowners' lawsuit

The following are suing ExxonMobil for damage caused the oil spill on July 1.

- Brad Kembel: 100 acres near Worden with about ¾ mile of river frontage.
- Tina Castro: 2 acres with about 750 feet of river frontage.
- College Park LLC: 190 acres at the confluence of the Clark's Fork and the Yellowstone River, where explorer Captain William Clark reportedly camped.
- Jim Edwards: An island of 153-acres in the Yellowstone River.
- Larry Fox: 70 acres near Worden.
- A handful of companies that own a gravel pit and crushing operation near Johnson Lane in Lockwood: LLC Properties LLC; MCL Property Holdings LLC; CMG, Inc; Johnson Lane Enterprises Inc.
- Jim Swanson: Four acres and a home half a mile below the pipeline rupture.
- Jerry Williams, Cathy Williams, Erika Williams Madrigal and Brock Williams: 800 acres with three homes just downstream from the break near Laurel.



[Top of Page](#)   [Home](#)   [Full Site](#)

© Copyright 2012, [The Billings Gazette](#), Billings, MT