

# Spilling Over

*Oil company says Hermosa using Gulf leak to fight claim*

**Howard Fine, Los Angeles Business Journal, 5-10-10**

The immense oil spill in the Gulf of Mexico is roiling a long-running dispute between a local oil company and the city of Hermosa Beach.

Macpherson Oil Co. of Santa Monica is seeking \$700 million in damages from the city's 1998 decision to terminate a lease that would have allowed Macpherson to drill in a city maintenance yard. Now, with a possible jury trial looming, the company is claiming that the city and drilling opponents are exploiting the oil spill.

"The city and the opponents are grandstanding about the situation in the Gulf of Mexico," said Macpherson Oil Chief Executive Don Macpherson in an interview last week. "They are using it to politicize this and to try to link that tragedy to oil projects onshore here in California. There's absolutely no connection between them."

Macpherson Oil had proposed upgrading an existing well and drilling up to 30 more wells on the maintenance yard, just a few blocks from the shore. Some of the wells would have been slant-drilled to go underneath the seabed, but there would have been no offshore rigs.

Macpherson is especially critical of an April 30 state hearing convened in the wake of the Gulf of Mexico spill to highlight potential dangers of drilling for oil along the California coastline, calling it "pure political theater that had nothing to do with our situation."

The hearing, held in Hermosa Beach, focused on the Macpherson lease dispute as well as a proposal from Houston-based Plains Exploration and Production Co. to expand its drilling operations in the Baldwin Hills. Another proposal from Denver-based Venoco Inc. to drill for oil in Carpinteria also came under attack. Hermosa Beach Mayor Michael DiVirgilio testified, while Macpherson said he was not even invited.

Hermosa Beach officials denied exploiting the Gulf of Mexico spill but contend it highlights the inherent danger of drilling for oil and lends considerable support to the city's decision to terminate Macpherson's lease.

"This is proof positive that there are catastrophic consequences that a community can face if it's near oil drilling operations," said DiVirgilio. "Despite the best assurances of safety, accidents will happen."

Indeed, the Gulf of Mexico blowout and resulting oil slick have resulted in a public backlash against drilling that could make it more difficult for Macpherson to win its case and recover the money sought from Hermosa Beach.

On April 30, Gov. Arnold Schwarzenegger reversed course and came out against a separate Plains Exploration drilling proposal off the Santa Barbara coast that he had previously supported. A few days later, a bill was introduced in Congress backed by the California delegation that would convert a moratorium on new drilling along the Pacific Coast into a permanent ban.

Onshore drilling like Macpherson's, even though close to shore, would presumably not be affected by the bill – but the atmosphere has become toxic for any kind of drilling proposal.

“(The) event that’s taken place in the gulf can play into the popular idea that it’s a bad idea to drill for oil generally,” said Sean Hecht, executive director of the Environmental Law Center at the UCLA School of Law. “This takes a risk that otherwise could be remote and it makes it very concrete and salient.”

### **Love-hate relationship**

Despite its dense urban setting, Los Angeles has long been home to oil and gas drilling operations. During the run-up in oil prices a few years ago, dozens of abandoned wells were expanded and restarted.

One of the largest oil fields on the West Coast lies underneath Long Beach and several other South Bay coastal cities; another field is in Baldwin Hills. Just blocks from the Hermosa Beach site, several wells are operating within the city of Redondo Beach.

As for Hermosa Beach, the city has had a love-hate relationship with oil. During the oil boom of the 1920s, derricks dotted the cityscape. Then, in 1932, residents fed up with the disruption and pollution passed a ban on drilling. The ban lasted nearly 50 years until 1984, when residents approved a limited exemption so that the city could reap millions of dollars in royalty payments from leasing the maintenance yard at Valley Drive and Sixth Street to an oil company.

Macpherson Oil, which has major operations in the Bakersfield area and ranks as the 10th largest oil producer in the state, won the bid to drill at the maintenance yard. The company signed a lease with the city in 1992.

The 1.3-acre site already contained a well that was abandoned after the 1932 ban. Macpherson’s plan called for bringing that old well back on line and drilling new wells, some of which would have used modern technology that allows drilling at an angle. As a result, some of the wells would have reached underneath the seabed. Macpherson also planned to build storage tanks on the site.

But opposition mounted from some nearby residents. In 1995, opponents placed a measure on the ballot to reinstate the complete ban; the measure passed with 56 percent support.

In the aftermath of the vote, the city pulled its support for Macpherson’s project and commissioned an environmental and safety study of the drilling proposal. The study found there was a one-in-3,000 chance of a fatality over the project’s 35-year lifetime, and there could be more than 30 onshore oil leaks and two major onshore oil releases. The most serious risk, the study said, was the possibility that a methane gas vapor cloud could be ignited, endangering nearby residents.

Hermosa Beach officials said that this information wasn’t available when the lease was approved in 1992 and cited the study in the city’s 1998 decision to terminate Macpherson’s lease. The company sued, claiming breach of contract. In its filing, Macpherson claimed that the information in the study wasn’t new and therefore did not justify breaking the lease.

“The issue is that government should hold their promises and be held accountable if they don’t,” Macpherson said.

Hermosa Beach has tried repeatedly to get the lawsuit dismissed, saying it has the discretion to cancel a lease if it subsequently finds a health and safety danger. City Hall also has accused Macpherson of trying to bankrupt the city, noting the \$700 million damage claim is about 22 times the city’s \$30 million annual operating budget.

Macpherson said last week that the \$700 million figure is a damage calculation based on the amount of oil expected to be recovered at the current price of oil, which last week was more than \$80 per barrel.

“That figure is not what we’re seeking from the city,” said James Bright, Macpherson’s attorney with the Glendale law firm Bright & Brown LLP. “We have to prove that damage figure in court and then use that to obtain what both sides regard as a fair settlement.”

### **Jury trial**

Earlier this year, the California Court of Appeal ruled that Macpherson had the right to proceed to a jury trial. In March, the city appealed that ruling to the state Supreme Court, which is expected to decide in the next few weeks whether to take the case. If the Supreme Court declines, the case will go back to Superior Court for a trial that could begin this year.

Meanwhile, any hopes that Macpherson would have had in persuading voters in Hermosa Beach to weaken or overturn the drilling ban have also vanished – at least for the time being.

“Right now, given the politics of a place like Hermosa Beach – located on a coast that has already voted to ban drilling – the prospect of overturning that ban is remote, especially in light of recent events in the Gulf of Mexico,” said Hecht of UCLA. “It’s a particularly bad moment for oil companies to want to do anything.”

Even if the ban were somehow reversed, the company has no stomach to try to overturn the ban and restart the drilling proposal.

“This really is an issue of trust with the city and, given our past experience, that trust simply isn’t there,” Macpherson said.