



Carol McCoy

10/01/02 09:53 AM
MDT

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Subject: Suggest answer to Q: re: liability and the need to refer to other statutes

Arlene--Hi. I just read my suggested answer below to Rob and he thought it sounded "really responsive" to Johnny French's question re: whether holding an individual strictly liable for damages means the person will be held wholly liable. Hope you agree. Carol

SUGGESTED ANSWER -- Under a strict liability statute, like 16 USC 19jj, a person that is found to be strictly liable for damages can be held wholly liable. In pursuing court action for damages, the NPS would file claims against all parties that can be identified as being responsible for the damages, either partially or wholly. The ultimate apportionment of liability among more than one defendant would be a decision for the court. In addition to seeking damages under 19jj and the 9B regulations, the NPS would evaluate its ability to pursue legal claims under the Oil Pollution Act (OPA), the Comprehensive Environmental Response, Compensation and Liability Act (CERLA) and the Clean Water Act (CWA).

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Arlene Wimer



Arlene Wimer

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10/01/02 09:11 AM
CDT

cc:
Subject: Have a Question !

Good Morning Carol,

I have one last question to finish off the responses. I have sent the text from the comment and then what Rob said below. But I'm not sure how detailed it should be answered. Looks like a lawyer question to me. Please help!

Thank You,
Arlene

Section 1.2.3, NPS Oversight and Monitoring of Nonfederal Oil and Gas Operations, pp. 4,5 --
The section's statements about strict liability for damages and the Superintendent's authority to suspend operations violating terms or conditions of operating plans are very encouraging.

37. However, does holding any person strictly liable for damages or injury also mean the person will be held wholly liable?

Condition Number 2 in Table 5 on p. 27 indicates that BNP's liabilities are severely limited.

This should be **Response #37**. With regards to the second highlighted comment beginning with 'However, does holding...'. per Rob, "What about CERCLA, CWA, and OPA? Probably should mention all of them and emphasize that the NPS will utilize all legal authorities to hold responsible parties wholly liable". Need an answer here.