

# OFFICE OF THE OMBUDSMAN

Stanley Sporkin  
Ombudsman  
(USDC Judge, Retired)

1300 Eye Street, NW – Suite 900  
Washington, DC 20005

February 3, 2010

Mr. John C. Mingé  
President, BPXA  
900 E. Benson Boulevard  
Anchorage, Alaska 99516

Dear Mr. Minge,

At your request our office is providing you a response to the questions about the work of the Office of the Ombudsman posed by the U.S. House of Representative's Energy and Commerce Committee's January 14, 2010 letter to you. The Committee asked for an update on operations in the Ombudsman's office, including the number and types of concerns received by the office, and the actions the company has taken in response to those concerns. We appreciate the opportunity to address those questions.

## ***Office of the Ombudsman Operational Update***

The Office of the Ombudsman was officially opened for business in the fall of 2006, shortly after the Congressional hearings at which Mr. Robert Malone, then President of BP America, Inc., announced its creation. The Office, located in Washington, D.C., is staffed by a small number of full time employees, and such consultant investigators, engineers, lawyers, and other experts as we find necessary to address the concerns that we receive. We operate a "hotline" that is staffed by our own personnel, 24 hours a day, seven days a week. The office also has an interactive web site, [www.ombudsmanecp.com](http://www.ombudsmanecp.com), which is available to anyone interested in contacting us. We accept concerns from everyone, including BP employees, contractors, concerned members of the public, Government agencies, and indeed have responded to requests from the Congress of the United States.

Originally, the Ombudsman's Office was established for a period of 18 months, then extended for an additional 21 months, and just recently Lamar McKay, the present Chairman and President of BP America, Inc. has given it another extension until June 30, 2011. A key objective to be achieved during this current term is to determine the future existence of the Office and how, if feasible, to merge it into BP's existing employee concerns program structure.

As you know, the primary focus of our office was initially the Alaska operations. Early in the process we circulated to all employees a detailed questionnaire, seeking to identify any unresolved concerns. The results proved to be quite helpful in providing us with valuable information as to how and where to deploy our resources. The specific results from that process are included in the Legacy Issue Report that was provided to the Committee Staff in 2008.

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Although the largest number of concerns since the inception of the program have come from BP's Alaska operations, we have received concerns from contractors and employees across the United States – from all five of the US refineries, two of BP's off shore platforms, and various other facilities and operations, including Wyoming, Louisiana, Kansas, Illinois, and oil terminals from the coastal states. We have also been tasked with ten special project assignments from BP executives, including investigations, work environment assessments, and interventions. Our staff has been extremely busy in facilitating identification and resolution of problems. We have been given the complete backing and support of the past and present Chairman and President of BP America, Inc., its General Counsel, the President of BPXA, and other senior officials.

The program has provided BP and its workforce with the ability to deal with employee concerns and problems on a real time basis. It has been particularly helpful in bringing management's attention to those safety concerns, often before they developed into major problems. The program was created to regain the trust of the workforce which, at the time of its creation, was seriously lacking. The program has worked well and has the potential to raise corporate governance and compliance to a new level for those in the corporate community facing problems similar to those faced by BP in 2006. This is particularly so where a company has lost touch with the members of its workforce who generally have the best perspective on risks to the company.

Here is a brief explanation of how the office operates. When we receive an employee concern, it is classified in a number of different ways: Does it present an imminent safety concern? What type of issue is it? Does it require immediate intervention? Is it appropriate to refer back to the Business Unit to address? Are there similar issues indicating a trend? These issues, and the facts known from the intake contact, are discussed in a triage fashion. Once the allegations are digested and a course of action is determined, the case either is referred back to the Business Unit and monitored to resolution, handled as an intervention in which we work with the Business Unit to resolve the issue, or designated for a full independent investigation. These decisions are made in conjunction with the Concerned Individual (CI), unless that person was anonymous.

For those cases that are addressed and resolved without a full Ombudsman Office investigation, we ensure that there is full understanding, if not agreement, with the actions taken by the Business Unit. In those cases that have required full investigations, we identify our findings and issue recommendations to the Chairman and President of BP America and the Business Unit. Although our process does not provide the Office with the authority to mandate corrective actions to the Business Units, by having a direct line to the Chairman and President of BP America, Inc. we have been able to achieve beneficial results in virtually all cases.

Specifically, since the Office's creation we have received 202 concerns, including 112 from BP Alaska. I have provided more detailed information about the Alaska cases below, but would like to briefly summarize the non-BP Alaska work that our office has considered.

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Our second biggest case load has come from Texas City employees, where we have recently been involved in resolving work environment issues and concerns in one of its important departments, and have intervened in other proposed operational decisions that employees were concerned about, to achieve satisfactory outcomes. Over the past several years we have had the opportunity to address concerns at two of the off-shore platforms, including a case that came in on Christmas Eve 2006 regarding potential safety issues in an operation planned for over the holiday. We intervened and, after involving senior safety professionals, BP took immediate and appropriate action to ensure BP oversight of the operation. In sum, our program has created a relationship of trust and confidence with the BP workforce. As a result its employees and contractors have utilized our offices to raise a variety of safety and other concerns. Most importantly we have been able to work with BP Business Unit officials to resolve many issues before they reached a serious, or indeed, a crisis level.

### *BP Exploration (Alaska) Employee Concerns*

The majority of the employee concerns that our office has received since its inception have come from BPXA. We have received 112 concerns from BPXA employees or contractors that work at or support BP's North Slope operations. Those concerns have been classified into the following categories:

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|---|----|
| Harassment, Intimidation, Retaliation and Discrimination (HIRD) | 35 |
| Personal Safety   | 25 |
| Process Safety Issues   | 20 |
| Human Resource Issues   | 11 |
| Material Condition  | 9  |
| Industrial Safety   | 5  |
| Leadership  | 4  |
| Environmental   | 3  |

Each concern was classified according to its significance level, with System Integrity or Safety Issues being classified as Level 1 concerns, issues with the potential for a safety impact being classified as Level 2, and Human Resource issues, including non-retaliation hostile work environment complaints, as Level 3. Since inception, we have received 35 Level 1, 39 Level 2, and 39 Level 3 concerns.<sup>1</sup>

In addition to responding to specific employee concerns, we have also conducted 10 Special Projects in response to BPXA related concerns raised directly to BP America or other inquiries regarding BPXA's operations raised by third-parties. This has included a

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<sup>1</sup> The number 113 is the result of one issue being referred to our office by the BP Open Talk program.

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comprehensive investigation into issues regarding the Corrosion Program, as well as concerns raised regarding the alleged improper use of a “scrap” valve, a full work environment assessment of a corrosion contractor company and the willingness of its employees to raise concerns, and the completion of several other investigations.

As noted above, not all of the concerns that our office receives require a full investigation. We have been able to refer many of the issues brought to us back to BPXA with the agreement of the Concerned Individual and monitored the handling of the issue to a satisfactory resolution, with varying degrees of direct involvement and oversight by our office. However, of the 112 concerns received from BPXA, we have conducted, or are in the process of conducting, 57 investigations. The vast majority of the completed investigations have resulted in actions taken by BPXA in response to our recommendations and accordingly have been satisfactorily closed by our office.

Our office also has been monitoring BPXA’s actions with respect to a number of significant areas of employee operational and safety concerns; including the staffing and overtime challenges faced on the North Slope, the 2010 budget process, the continuing Fire, Gas and Automation upgrade project, and concerns of employees regarding the safety of their facilities in case of explosion or fire. Where employees have brought these issues to our office and where the concern was found to be meritorious, we have intervened and worked with BPXA management to address the concerns.

By way of example, during the summer of 2008 our office received a Level 1 safety concern involving a high pressure gas line that runs across the field, including in close proximity to several North Slope housing camps and critical facilities. The Concerned Individual identified that the line, which had been scheduled for “smart” pigging, was not going to be pigged in 2008 as a result of deferred work necessary to enable the pigging operation. As a result of the Ombudsman’s intervention, and management support, BPXA undertook substantial compensatory actions through alternative testing to assure that those parts of the line that presented a potential safety risk to people or facilities were evaluated. Indeed, several areas of risk were identified and repaired during the operation, and other areas were more closely monitored. The level of effort undertaken throughout the winter season was extraordinary, and the line was successfully pigged in 2009, with additional repairs ongoing. This is an example of the value from our intervention activities.

The most pressing issue at this time involves the 2010 BPXA budget. We have received several concerns that come from BPXA employees and contractors pertaining to proposed budget cuts that the Concerned Individuals’ claim could lead to safety issues at the Alaskan facilities. We have requested, and have been provided with, a briefing on the budget process underway. Since it appeared to be driven by a “top down” process we inquired into the decision making procedure. We engaged in a robust discussion including reviewing the perceptions of some members of the workforce that budget cuts were being arbitrarily driven by a requirement for a percentage decrease regardless of potential safety impact, and the position of BPXA management that it needed to achieve better efficiencies, improve competitiveness and

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performance of its contractors, and that it could do so without compromising safe operations. Ultimately, BPXA decided to engage the workforce in a facility by facility review of the proposed budget and those projects impacted by the budget. This process has been very well received by both employees and managers and has resulted in an increase in additional project identification and funding to support it. We consider this strong evidence of success of the Ombudsman process working with management and the workforce for the benefit of all. While there has not been final resolution, much progress has been made. We have another briefing on this subject scheduled in the near future.

We also have been engaged in oversight of the overtime and staffing issues that continue to be raised by employees to the Ombudsman's office. As a result of these concerns, BPXA changed its overtime policies to limit the number of hours of overtime that can be worked continuously. In addition, it is taking a more comprehensive approach to hiring and training technicians and operators so that there is more availability of personnel and less need for overtime by the current workforce. These changes will take a while to implement. Accordingly we continue to actively monitor this area.

In response to complaints of retaliation, we have conducted a number of full investigations and substantiated several cases of inappropriate actions by managers towards workers, mainly among the contractor workforce. In general, BPXA has been responsive to our findings regarding complaints by its own employees. When the inappropriate conduct by contractors has been substantiated, BPXA has generally responded to our recommendations and insisted that the contractor take appropriate actions to address the situation. This is an evolving area where more needs to be done to monitor the contractor community to assure it abides by BP's respectful work environment and non-retaliation policies. Specifically, we are concerned that the contractor workforce has not received adequate assurances of non-retaliation for raising concerns about BP's operations. Additional work needs to be done by contractors on BP facilities to ensure that each company adopts and implements BP's policies that require a respectful work environment, without fear of retaliation.

Contractor retaliation complaints are the biggest single category of concerns that our office receives. We have made specific recommendations regarding the need to tackle this issue on a programmatic basis. We are now in discussions with BPXA and BP America, Inc. to address these issues.<sup>2</sup>

We have been accessible and have had an open presence in the BP Alaska operations since the program's inception. Initially we had a representative of the Ombudsman's Office in Alaska virtually full time, with an office established to assist and support the work that we were doing in identifying and responding to employee concerns, conducting investigations and interfacing with management to ensure that employee concerns were receiving the appropriate

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<sup>2</sup> We will also be reviewing with management certain instances where we received resistance from contractors in complying with requests for information.

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level of attention and action. Throughout 2008 and 2009 we have continued to have a regular presence with BPXA by my deputy Billie Garde. We also continue to monitor several long term concerns, such as the Fire, Gas and Automation upgrade activities, which will take focused attention for some time. As noted above, we are extremely pleased with the cooperation and support the top management of BPXA has provided the program.

One final point, over my many years in the workforce, both in the public and private sectors, the opportunity provided me by BP has been of the highest level and a most rewarding one. Being able to meet the many workplace challenges presented by one of the largest companies in the world and to obtain positive results through the efforts of a management willing to do what is right has been a truly gratifying experience.

We understand that BPXA will respond to your questions regarding the Legacy Issue Report prepared by the Office of the Ombudsman. If we can provide any additional information please do not hesitate to contact us.

Sincerely,



Stanley Sporokin