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## BP has far to go following US settlement

By Ed Crooks, US energy editor

Any news that helps clarify the costs that BP faces as a result of the Deepwater Horizon disaster is a step forward in terms of reducing concerns faced by investors, but the settlement with US authorities announced on Thursday was nonetheless a disappointment.

The cost of the agreement was not the source of investor worries but rather the uncertainty that remains over future payments.

The \$4.5bn BP is paying to resolve all criminal and regulatory charges, including a record \$1.26bn fine, was at the lower end of informed estimates. Relative to the size of the spill, it is about the same as the \$125m that Exxon paid to settle criminal charges over the 1989 Exxon Valdez disaster. With the cost spread over five years, it is far from a crippling blow to BP, which is on course to make about \$18bn in post-tax profits this year.

The deal is disappointing, though, because it is only the latest in a series of partial settlements. The civil claims by federal, state and local governments for damages and penalties are still outstanding and are likely to add up to much larger numbers.

All along, BP's legal strategy has been to try to negotiate a single settlement of all the civil and criminal actions from governments and regulators. Accepting a deal on the criminal charges alone was an admission that on the civil side it had failed to reach an agreement.

The roots of that failure lie in the complexities of US politics. Unlike the Exxon Valdez, which affected only the state of Alaska, the Deepwater Horizon spill hit five states along the coast of the Gulf of Mexico.

All of those states, the region's local governments and the federal authorities have different interests, and different ideas over how large the settlement needs to be.

If the case goes to trial, penalties under the Clean Water Act could be as much as \$21bn if BP is

found to have acted with gross negligence, a point that Eric Holder, the US attorney-general, says he intends to prove.

On top of that, there would be damages reflecting the harm done to the coastline, which will run into the multiple billions of dollars.

In a settlement, some states would be prepared to accept relatively modest amounts. Others – particularly Louisiana, which suffered the worst impact from the spill – are pushing for the maximum possible payout.

It should be possible to reconcile these competing interests. The US government's negotiations with mortgage lenders over improper home seizures, which raised similar issues between state and federal authorities, were resolved successfully in February with a settlement worth up to \$40bn.

Both the federal government and the states of Louisiana and Alabama, however, are talking tough about being ready for trial. It may take the approach of that trial, scheduled to start on February 25, to bring all sides back to the table in earnest.

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