



## **BP: Beyond Petroleum or Beyond the Pale? BP's Recent Behavior in the U.S. and the Implications for the BTC Pipeline**

BP has worked assiduously to cultivate an image as a progressive oil company, or as its advertisements proclaim, a company that is “beyond petroleum”. BP proudly points out that it was the first oil company to take the position that global warming is a serious problem that requires concerted action, and it has touted its efforts to promote renewable energy.

BP is trying to use this image to garner support for its highly controversial Baku-Tbilisi-Ceyhan (BTC) oil pipeline project. This over 1,000 mile long pipeline will cross three countries and will pass through several environmentally sensitive protected areas home to globally threatened species. It will pass near seven areas of ethnic conflict, and traverse an economically valuable natural springs that is the source of a popular bottled mineral water as well as health spas. There are also serious concerns with corruption in the countries involved: Azerbaijan and Georgia rank 95th and 85th, respectively, out of 102 countries in Transparency International's 2002 Corruption Perceptions Index.

Friends of the Earth and our civil society partners in the region and around the world have serious concerns that the pipeline will exacerbate corruption and cause environmental degradation, social upheaval, and a deterioration of the human rights situation. Our concerns are partly based on the similar problems and experiences of extractive industries elsewhere in the developing world.

BP and its supporters, including the US government, reply that BP's sensitivity to its progressive “brand” and its stringent environmental, health, safety and corporate governance guidelines will ensure the project is done right. US government officials have said civil society groups should be grateful that BP is carrying out the project, and not leaving it to less responsible oil companies.

But is BP as clean, green, and responsible as its ad campaign suggests? Recent legal actions and investigations in the US would suggest not. If BP is behaving irresponsibly or deceptively in its US operations, where regulations are relatively stringent and monitoring agencies have better oversight and enforcement capacity, how will BP perform in countries like Azerbaijan, Georgia, and Turkey, where environmental agencies are understaffed, underresourced, and marginalized? Can the citizens of these countries trust BP to do the right thing?

### *Violating Environmental Laws and Lax Self-Monitoring*

In March 2003, the South Coast Air Quality Management District (an air pollution control agency in southern California) filed a civil lawsuit seeking \$319 million from BP for thousands of air pollution violations over an eight-year period at a BP refinery. This is the largest fine this particular district has ever sought.

In 1994, the district instituted a policy of company self-inspection of aboveground storage tanks for liquids such as gasoline and crude oil. District officials became suspicious of BP's self-inspections when reports from 1999-2002 showed no violations and few repairs. The complaint further states that air quality management district officials attempted to inspect BP's refinery but were refused entry on several occasions, prompting inspectors to acquire a search warrant and execute the inspection with the help of county sheriffs.

The inspection revealed that more than 80 percent of the tanks inspected violated district regulations because of leaks, gaps, torn seals and other defects. The lawsuit also contends that on numerous occasions BP failed to sample its flare gases and report to the air quality monitoring district. Furthermore, on two occasions noxious releases from the refinery caused the evacuation of a school.

The complaint alleges "in committing these violations, the defendants (BP) were negligent, or knew of the emissions and failed to take corrective action within a reasonable period of time," and that the defendants made false reports "with the intent to deceive."

This alleged deliberate intent to deceive could be particularly worrisome for countries involved in the BTC pipeline since the Host Government Agreements that they signed with the project consortium, and which lay out the legal regime that governs the project, prevent the states from seeking punitive liability against any environmental and other damages the pipeline participants may cause. If BP is intentionally deceiving or is negligent in other jurisdictions, how will Azerbaijan, Georgia, and Turkey ensure this doesn't occur in their countries, especially if the deterrent of punitive liability does not exist? The possibility that BP took advantage of the district's self-inspection regime casts doubt on whether BP can be trusted when no one is looking closely, as may clearly be the case in Azerbaijan, Georgia, and Turkey, where the governments have routinely discounted environmental and social concerns in favor of increased investment.

In addition to the serious allegations contained in the South Coast Air Quality Monitoring District case, BP's annual submission to the Securities and Exchange Commission notes that the company was fined about \$25 million in 2002 for underground storage tank allegations in the U.S.

### *Manipulating the Market*

BP Energy, the gas, power and renewables arm of BP Ltd., was one of the companies singled out in a recent Federal Energy Regulatory Commission (FERC) investigation of California's energy crisis of 2000/2001. The FERC investigation was initiated after revelations that several energy trading and power companies had engaged in market manipulations in order to drive up the short-term price of energy. These manipulations resulted in soaring energy prices and rolling blackouts throughout much of the state of California. The state of California contends that market manipulators owe it more than \$7.5 billion.

According to the report, traders from BP Energy and a competitor appeared to coordinate their efforts to manipulate electricity prices in California and the western United States. On three occasions a BP Energy trader contacted a trader at another firm and requested that he buy electricity from a BP Energy-placed offer on an electronic trading platform. The BP Energy trader would then buy back the electricity at the same price, in an effort to drive up the market price. The report adds, "when [FERC] staff asked BP for information and telephone transcripts of these events, BP simply stated it had no information regarding the activity of its trader."

While BP is not a main culprit of the California energy crisis, FERC investigators found BP's conduct sufficiently egregious that they recommended that FERC initiate proceedings to revoke BP's ability to sell power at market-based rates.

### *Seeking Subsidies*

As BP is seeking public money through the World Bank and export credit agencies to build BTC, it is also seeking a massive public subsidy from US taxpayers to build a 3,600-mile gas pipeline from Alaska to the US Midwest. This pipeline would ship gas contained in Alaska's North Slope. BP is seeking tax credits and loan guarantees from the US government, as well as a "safety net" subsidy through tax credits when gas prices fall below a predetermined floor. The cost of this subsidy is indeterminate since it depends on future gas prices, but could amount to as much as \$850 million per year. This request comes when BP is fighting a Regulatory Commission of Alaska order that requires BP to make refunds to shippers of crude oil over tariff disagreements. ExxonMobil, a partner in the gas pipeline, opposes subsidies for the project, saying it should be built only if it is financially viable on its own. Many independent oil and gas producers also oppose the subsidy, saying it gives BP a competitive advantage.

US taxpayers and Members of Congress may object to an open-ended subsidy for the company, but taxpayer money may also be used to subsidize BP's operations overseas. BP and its partners in the BTC pipeline are seeking financial backing for the project from the World Bank, the European Bank for Reconstruction and Development (EBRD), and export credit agencies, including the US Overseas Private Investment Corporation and the US Export-Import Bank. These agencies are all public institutions that are backed by US taxpayers. BP's pursuit of subsidies for this project raises similar questions as to whether

the project is financially viable on its own and whether taxpayers are backing a boondoggle.

*Implications for BTC Financing*

BP's record in the United States should give pause to those who believe that BP's green logo and "Beyond Petroleum" brand are enough to ensure that the BTC pipeline will beat the odds and break the historical legacy of failed extractive industry projects in the developing world.

The World Bank, EBRD and export credit agencies should take a serious look at whether this project will just become the same old failed oil project by the same old oil companies. In particular, the institutions should release economic assessments and financial analysis of the project, and they should explicitly assess whether the three countries have adequate regulatory environments and governance systems to sufficiently monitor the project and ensure it delivers real benefits to ordinary citizens.

For more information:

Carol Welch

[cwelch@foe.org](mailto:cwelch@foe.org)

(202) 783-7400 ext. 237