



Shipowner agrees to pay USD 15.4 million to settle spill of molasses with the state of Hawaii

A significant settlement between Matson Navigation and the State of Hawaii following the discharge of molasses draws attention to pollution casualties resulting from sources other than persistent oil.

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One of the largest environmental settlements in Hawaiian history

Matson Navigation Company and Matson Terminals (Matson) have settled an environmental claim resulting from the discharge of 233,000 gallons (1,400 tons) of molasses into Honolulu Harbour during September 2013. Allegedly the pipeline used to transfer molasses between the terminal and ship was leaking for some time before the spill occurred. The USD 15.4 million is in addition to USD 600,000 already paid in restitution.

Matson allegedly aware of molasses leakage danger

It is reported that the pipeline carrying the molasses had been slowly leaking for some time before the casualty was reported. While plans existed for response to chemical and/or oil pollution, there were none in place to respond to a release of molasses. Clearly, it is prudent to be prepared for clean-up of any substance which poses a threat to the environment. In this case, it is alleged the molasses killed over 25,000 fish and other sea creatures. It also caused the permanent destruction of coral in the spill area.

But isn't molasses a food source?

Molasses is a thick, dark viscous liquid which can be made from sugarcane, grapes, sugar beets or other plants. There are several labour-intensive steps involved in processing molasses, including cutting the plants, boiling, straining and re-boiling. It has many uses, including a common ingredient in cooking; in the production of ethyl alcohol; and as an additive to livestock feed.

How does molasses affect the marine environment?

Molasses poses two threats to the marine environment:

- It physically sinks to the bottom, coating and smothering sea life such as plants and coral.
- As a nutrient-rich food source, it will cause an increase in algae growth which deprives the sea water of oxygen, thereby suffocating fish and introducing harmful bacteria can adversely other sea creatures.

Civil claims by the US Environmental Protection Agency (USEPA) still possible

The settlement resolved the claim of the Hawaii State but leaves open the possibility of further civil claims to be pursued by the USEPA. Matson had earlier pleaded guilty in the federal court in 2014 to two misdemeanor counts of discharging a pollutant without a permit. As a result of the guilty plea, Matson agreed to pay USD 600,000 in restitution to the Waikiki Aquarium and Sustainable Coastlines Hawaii (a local non-profit beach clean-up organization).

The settlement

The settlement with Hawaii consists of:

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• *USD 5.9 million to:*

- Regrow coral at a nursery in a location away from the spill site.
- Reimburse the state for clean-up, response and related costs.
- A contribution to the International Union of Conservation of Nature's World Conservation Congress during 2016 in Hawaii.

• *USD 9.5 million to:*

- Remove the tank farm and existing pier risers pipes.
- Dispose of remaining molasses.
- Convert the pipeline for uses other than conveyance of fluids.

The settlement has effectively ended Matson's trade of storage and transportation of molasses from Honolulu

What can be learned from this casualty?

• Under US law (
[OPA 90](#)
,
[CERCLA](#)
and
[The Clean Water Act](#)
) , there is an obligation to report
any
event which may result in a hazard to the environment.

- Based on the facts of this case, best practice suggests that clean-up response plans should be in place for all liquid and hazardous cargos carried aboard ship, not just those required by OPA 90.
- Non-petroleum spills can offer greater challenges with respect to the need for specialised equipment, experts and disposal of wastes. There is likely to be less response capability, for substances other than oil, in many locations.
- Failure to promptly report a known event leading to damage to the environment gives the authorities the ability to pursue larger fines and settlement amounts. It can also lead to possible criminal penalties and larger civil claims.

Summary

Although this incident was a spill/leakage from a pipeline, molasses is also carried on board ships. This interesting case highlights a number of points to be kept in mind by ship owners and operators trading molasses to/from the US. If any of the cargo was spilled from a ship, it could have a similar environmental impact, therefore the

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following should be kept in mind by ship owners and operators:

- The significant settlement sum illustrates that the size of fines, costs and expenses for pollution events continue to rise in the US. In addition to civil liabilities, fines and response costs can be assessed by both federal and state authorities.
- Pollution events are not limited to those outlined in OPA 90 and can include application of CERCLA, The Clean Water act and pertinent state laws
- Non-petroleum spills offer different clean-up challenges that can be more complicated and costly to resolve than an oil spill.
- Best practice is to immediately report a potential pollution event.
- Planning for response to spills of all types of cargo can be an effective tool in minimising pollutions losses.

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