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A New Intersection: Environmental Crimes and Victims' Rights

Submitted by

Judson W. Starr
Venable LLP
Washington, D.C.

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A New Intersection: Environmental Crimes and Victims’ Rights

Judson W. Starr, Brian L. Flack, and Allison D. Foley

At approximately 1:20 on the afternoon of March 23, 2005, an explosion occurred during the startup of an isomerization unit at the BP Texas City refinery, killing fifteen people and injuring one hundred and seventy others. In the aftermath of this tragic incident, thousands of civil lawsuits were filed against BP for both personal injuries and property damages. In addition to the civil suits, a federal criminal investigation commenced as a result of the explosion. After an extensive investigation conducted jointly by the U.S. Attorney’s Office in Houston and the U.S. Department of Justice’s Environmental Crimes Section, BP and the federal government reached a negotiated resolution on October 24, 2007. BP agreed to plead guilty to a felony violation of the Clean Air Act (CAA) and pay a $50 million criminal fine.

Typical of most corporate white collar plea agreements, the resulting settlement was achieved only after genuine and open discussions and meetings about the facts and circumstances of the case. Although both parties believed they reached an appropriate disposition—including the largest criminal fine ever assessed for a CAA violation—the crime victims concluded otherwise and argued that they were denied a seat at the table.

In October 2004, five months prior to the BP explosion, the president signed into law the Crime Victims’ Rights Act (CVRA). The CVRA was intended to empower crime victims and give them an expanded, and more clearly defined, role in the criminal justice system. The CVRA provides victims with substantive rights in criminal cases independently of pros-

The Crime Victims’ Rights Act

The CVRA codifies rights that already exist in the Federal Rules of Criminal Procedure. Under Rule 32, any victim of a crime of violence or sexual abuse who is present at sentenc-

The CVRA provides that a violation of a victim’s rights could have on prosecution of environmental crimes in the future. The BP case also highlighted how the crime victims, all of whom are also plaintiffs, used their rights under the CVRA to gain a tactical advantage in their civil lawsuits. Building on the BP decision, this article will explore the CVRA and its potential impact on the prosecution and settle-

Mr. Starr and Mr. Flack are partners and Ms. Foley is an associate in the environmental practice group in the Washington, D.C., office of Venable LLP. Mr. Starr was the first chief of the Environmental Crimes Section of the U.S. Department of Justice. They may be reached at justarr@venable.com, blflack@venable.com, and adefoley@venable.com.