

State says ConocoPhillips 'double-dipped' \$25M from state cleanup fund

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ConocoPhillips refinery.

Alex Brandon, Associated Press

Enlarge photo»^[3]

SALT LAKE CITY — A state lawsuit says petroleum giant ConocoPhillips used false insurance claims to take \$25 million from Utah over 14 years, allegedly misrepresenting it had no other insurance to pay for cleanup of leaky underground storage tanks.

In a complaint filed Monday in 3rd District Court, state assistant attorney general Paul

McConkie said the Houston-based multinational company filed at least 1,500 claims from 1995 to 2009 with the state's Petroleum Storage Tank Fund — even though it had its own private insurance to cover the costs.

According to the complaint, the fund reimbursed the company for action taken at 47 ConocoPhillips sites in Utah. Prior to the merger of the Conoco Inc. and Phillips Petroleum Co. in 2002, the stations operated under names or brands known as Husky, Phillips 66, Conoco, Tosco, Circle K, Flying J and Phillips.

The state established the fund in 1989 to help owners and operators of gas stations to cover costs when a tank had a release of petroleum. Members of the fund are assessed a surcharge on the petroleum products dispensed from their gas stations to help pay for the expenses of cleanup if a leak happens.

Brent Everett, director of the state Division of Environmental Response and Remediation, said gas station operators pay the first \$10,000 of the costs associated with cleanup, and then the fund will pay up to \$1 million or \$2 million in costs, depending on when the leak happened.

At the time a claim is submitted, the company is required to check a box on the paperwork indicating it lacks the type of insurance that would cover such a release, Everett said.

"Once a release is discovered, on each claim it would indicate whether or not they had insurance in addition to the fund," he said. "If they don't have insurance, they would be covered."

In the instance of ConocoPhillips, the state learned at the same time the company or its affiliates were making claims on the state fund for reimbursement on releases not covered under their private insurance, pollution claims were being made against their own insurance policies and reimbursement was received, according to the suit.

"ConocoPhillips initiated formal and informal legal proceedings to enforce its rights under hundreds of insurance policies for reimbursement of corrective action of leaking (underground storage tanks) at its current and former Utah service stations," the complaint reads.

The lawsuit states ConocoPhillips reached settlement agreements with some of its

insurers to settle claims and potential liability for more than \$268 million, all while it was never disclosing to Utah officials that it had that insurance and had made those settlements.

McConkie said the company allowed the fund to reimburse it \$25 million for cleanups of leaks and at the same time was reimbursed from many of its insurers to pay for the same action.

"ConocoPhillips secretly doubledipped," the suit reads, "... and was unjustly enriched."

Janet Grothe, a spokeswoman with ConocoPhillips, would not respond to questions and said as a matter of policy, the company does not comment on legal issues.

The suit asks for a jury trial, for the fund to be made whole with reimbursement from the company and for punitive damages, as well as attorney fees.

Everett said the fund reimbursed the company for its costs in good faith, although now any pending cleanup actions are being given a second look for the possibility of companies having additional carriers.

"Our goal is to minimize the impacts of the release and take care of it," he said. "And they opted onto the fund."

Allegations of petroleum companies double-dipping into state funds and making off with millions have cropped up in various parts of the country.

In 2011, the state of Montana sued British Petroleum and its American subsidiaries, alleging "hundreds of millions of dollars" had been collected from its last-resort petroleum fund while the companies simultaneously pulled money from private insurance plans to cover the costs. BP was involved in a similar suit in South Dakota in 2010.

Earlier this year, the state of Colorado's oil and gas board backed off of granting a \$137 million lease to ConocoPhillips after it learned another state division was suing the company for nearly \$71 million over double-dipping claims.

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