

Utah suing ConocoPhillips for fraud over cleanup funds

Lawsuit • Agency seeks \$25 million in damages and reimbursement.

BY JUDY FAHYS THE SALT LAKE TRIBUNE

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Utah's environmental cleanup office is suing Houston-based ConocoPhillips Co. for fraud over money from a state fund that the company used to clean up underground storage tank leaks at 35 service stations.

Although it should have gotten the cleanup money from its private insurers, ConocoPhillips dipped into the state's Underground Storage Tank Fund and then failed to reimburse the \$8.4 million it received, the state alleges.

And now the Utah Division of Environmental Response and Remediation (DERR), in its 3rd District Court lawsuit, wants \$25 million in punitive damages and reimbursement.

Janet Grothe, spokeswoman for Phillips 66, declined to discuss the case.

"As a matter of policy, we don't comment on legal issues," said Grothe, whose company split into two business units in May, with ConocoPhillips serving as the exploration arm and Phillips 66 functioning as the production arm.

Brent Everett, director of the DERR, the state agency that oversees the tank program, said the fund is the primary source of cleanup money for many small gas station owners and operators. Overall, about 75 percent of Utah's gas stations participate in the fund.

The idea, he said, is to deal with tanks that contaminate the soil with leaked petroleum products.

Owners and operators are required to chip in the first \$10,000 for cleanups. The fund then pays for costs up to \$2 million. Before 2010, when the Legislature boosted the coverage cap, the limit was \$1 million.

Some station operators, however, have used the tank program as a backup or supplemental source of funding when their own insurance companies fail to cover the full cost of a cleanup.

The ConocoPhillips case is Utah's first effort to address what it sees as double dipping, although other states have filed cases like this, Everett said. "It was something we heard could be happening, and we decided to look into it.

"We had some discussions [with ConocoPhillips]," Everett said, adding that the lawsuit is the last resort for the state to resolve the problem. "The fund needs to be reimbursed." —

Utah's fund — and those of other states

Petroleum companies that participate in Utah's Underground Storage Tank Fund chip in one-quarter cent for every gallon they dispense.

The fund's current cash balance is \$11.8 million, and another fund of about \$3 million covers cleanups at abandoned petroleum leak sites.

The Legislature limits the size of the fund to \$20 million.

So far, the trust fund has spent \$96 million on a total of 586 cleanups, including 170 that are incomplete.

Massachusetts already has settled a similar case against Sunoco, while South Dakota has filed suit against BP, and Ohio is investigating five gas-station companies for the same alleged offense. In Colorado, ConocoPhillips is embroiled in a similar controversy over \$70 million used from that state's underground tank fund.

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