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(<http://www.oilspillnews.net/wp-content/uploads/2010/09/1285725617-99.jpg>) **By Ena Viteskic,**

Staff Member

Following the massive BP oil spill in mid-2010, uproar ensued among the political branches and communities throughout the United States. On one side, individuals were voicing their revulsion for BP while on the other side, individuals were angry at the government for insufficient regulation in the oil refinery business. Conservatives, who advocate the “hands off” approach to government, were contending that the government did not reasonably regulate the oil refineries. The question of what should be done dominated the American media and the hearts and minds of ordinary Americans. Oil companies in the past have raised several defenses as to why they should not clean up their own oil spills and messes. Some oil companies have even claimed that they are protected under bankruptcy law; therefore, negating their responsibility to perform any clean-ups.

On August 25, 2009, the United States Court of Appeals for the Seventh Circuit issued a decision that affected companies facing environmental clean-up responsibilities who file for bankruptcy protection. In *United States v. Apex Oil*, 579 F.3d 734 (7th Cir. 2009), the United States sought injunctive relief requiring Apex Oil Co. to stop a petroleum plume at an oil refinery owned by Apex. The main issue in this case was whether the government’s claim had been discharged in bankruptcy—the court answered in the negative. *United States v. Apex Oil Company: Bankruptcy Does Not Discharge RCRA Injunctive Claims*, Beveridge & Diamond, P.C., March 22, 2010, <http://bdlaw.com/news-833.html>. When the Apex disaster happened, over one million gallons of

gasoline and other petroleum products from a plume beneath Hartford, Illinois were floating on the groundwater table and enmeshed in sub-surface soils. This caused severe consequences to humans and buildings. The petroleum fumes and thereby caused hundreds of odor complaints, health complaints, and even some fires. *Id.*

More recently, On October 4, 2010, the Supreme Court of the United States refused to hear the appeal from Apex Oil. *Apex Oil Co. v. United States*, 2010 U.S. LEXIS 6286 (US 2010). Apex still argued that its duty to clean up the site was discharged with its other debts during the bankruptcy proceedings. *Court won't spare Apex from oil spill clean up*, WTOP Radio Network, October 4, 2010, <http://www.wtop.com/?nid=858&sid=2069538>. However, the Supreme Court simply did not side with Apex Oil Co.

The decision by the Supreme Court of the United States not to hear the appeal by Apex Oil Co. sends an important message to other oil companies—clean up your mess! Although it is only one small decision regarding a big problem, it is a step in the right direction. Regardless of what kind of defense or excuse an oil company may claim, it is clear that the Supreme Court will not tolerate any neglect or irresponsibility on behalf of these oil companies.

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