

ENERGY EXPERT: ISSUES IN FOCUS

A quarterly review of disputes and complex issues in the hydrocarbon production and processing industries.

Baker & O'Brien, Inc.

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Catalyst Damage - Did the Operator Incur an “Extra” Turnaround Insurance Claim, Middle East

By Gary Devenish

Most refining and petrochemical processes require specialized catalysts that promote the chemical reactions needed to convert feedstocks into the desired products. Over time, these catalysts become fouled, usually by feedstock contaminants and deposits from side reactions, and gradually lose their efficacy (“activity”). Eventually, catalyst activity deteriorates to a point where it must be replaced, which typically requires a complete operating unit outage. Operators usually replace catalysts and perform other major maintenance activities that require outages; these planned outages are called “turnarounds.”



Operators forecast catalyst cycles and equipment repair requirements to develop long-term (5-years to 20-years) turnaround plans. However, the operating periods between turnarounds can be shortened or extended based on: (1) actual unit and catalyst performance; (2) overall market economics; or (3) the availability of contract maintenance and specialized technical personnel and equipment required during turnarounds. Hence, performing a turnaround a few months earlier than

planned may or may not constitute an “extra” turnaround.

A petrochemical complex experienced a sudden and extended complex-wide outage. After restarting operations, the catalyst in one processing unit showed significant activity loss and declining product yields. Following several months of deteriorating performance, the operator shut the complex down to replace the impaired catalyst and perform additional repairs and inspections. The operator filed an insurance claim that included economic damages stemming from the initial outage, impaired operating yields and throughput, and an “extra” turnaround for shutting the complex down early for catalyst replacement and equipment repairs.

Baker & O'Brien was engaged to review the followings aspects of the disputed claims: (1) unit production losses; (2) mitigating actions taken by the operators to offset the yield loss and keep other units at planned production levels; and (3) how the early shutdown impacted the long-term turnaround plan.

We submitted several technical memoranda and participated in discussions between the insurance market and operator. The two sides settled.

Terminal Operator Access to Crude Oil Pipeline – Connecting the Dots

Regulatory Body, North America

By Kevin Waguespack

Baker & O'Brien was engaged in a pipeline regulatory matter to prepare evidence addressing a terminal operator's application for permission to receive and deliver crude oil from and to the pipeline. Specifically, the pipeline operator sought permission from the regulatory agency to conduct blending operations, including blending a heavy oil component into the light sour crude oil shipped on the pipeline.

Baker & O'Brien focused on two major areas: 1) the impact to crude oil refiners and producers from the crude oil blending while still meeting the light crude oil specifications; and 2) regulatory involvement with pipeline blending.



We calculated the impact of blending on the crude oil's value to a refiner operating a cracking refinery. Concerning regulatory involvement in pipeline blending, Baker & O'Brien found that in similar pipeline systems, the various industry participants govern and manage the crude oil price equalization process without regulatory involvement.

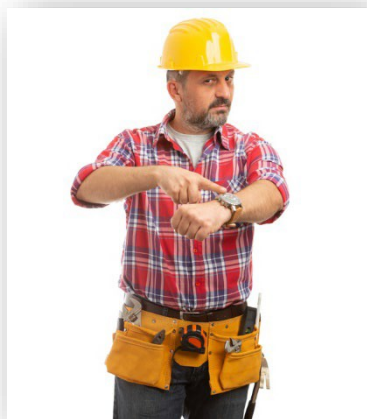
Baker & O'Brien's expert reports were submitted to the regulatory agency as evidence to assist with its decision.

Can't Keep a Good (Gas) Man Down – Lost Profits from Late Plant Completion

Litigation, North America

By Robert Beck

Rapid growth in the U.S. shale oil and gas production led to investments to gather and process large amounts of natural gas. Output from



many fields outgrew existing pipeline and gas processing infrastructure, limiting oil and gas production. In one area that was quickly approaching the capacity of its existing systems, several producers engaged a midstream company (Company) to build new gas gathering and processing (G&P) facilities. The Company hired an engineering, procurement and construction (EPC) contractor to design and construct the new facilities (the Project).

The Project experienced delays, which cost hundreds of millions of dollars. The Company filed suit against the EPC Contractor, claiming the Project delays resulted in lost profits. Baker & O'Brien was engaged to opine on the Company's different profit sources and quantify lost profits caused by the late completion of the Project. Our investigation encompassed several activities, including:

- Reviewing the G&P contracts between the Company and the producers;
- Evaluating the new G&P facilities fixed and variable operating costs;
- Analyzing producer gas production gathered and processed by competing midstream companies due to the late completion; and
- Determining whether the Company's profits were truly lost or just delayed.

We submitted expert and rebuttal reports and provided deposition testimony in the lawsuit. Following our testimony, the parties reached a settlement.

Consulting Support for Complex Commercial Disputes

When faced with complex commercial disputes in the energy-related industries, clients often turn to Baker & O'Brien for its independent and objective support. For over 25 years, the firm's consultants have employed their engineering knowledge, industry experiences, and commercial acumen to provide assistance on a wide range of matters. Our project experience includes disputes involving operational incidents, standards of care, asset valuation, commercial supply terms, product quality, large engineering and construction projects, and intellectual property.

Our clients include many of the world's largest law firms, insurance providers, and operating companies. Law firms rely upon Baker & O'Brien to evaluate

technical and commercial aspects of a case and provide expert testimony. Our analyses, conclusions, and expert testimony have been heard by judges, juries, and arbitration panels around the world. On insurance matters, clients rely upon Baker & O'Brien's assistance for investigation of industrial accidents and quantification of resultant property damage and business interruption losses. We are also called upon to assist insurers in subrogation actions by evaluating causation theories and claims for damages.

We welcome the opportunity to discuss our qualifications in more detail as they relate to your specific area of interest.

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