

HOMER TRIBUNE

Archer says it terminated its contract with Buccaneer

Archer lawsuit outlines more than \$6 million in debt and a breach of contract

By Naomi Klouda

Homer Tribune

Buccaneer Alaska announced it had terminated its contractor, Archer Drilling, for alleged nonperformance of work, but Archer officials on Wednesday said the situation was actually the other way around.

David Walker, the manager for international platform drilling and engineering at Archer, said a lawsuit is now filed claiming more than \$6 million in unpaid invoices are owed by Buccaneer. All local subcontractors hired by Archer have been paid by Archer, Walker said.

“We announced we were terminating the contract on Thursday (Dec. 13) and Buccaneer/KOV came out with their statement on Friday,” Walker said. “They responded by claiming they fired us. We feel that statement was done in retaliation and to save public embarrassment.”

The lawsuit, filed in Texas state court, states:

“The Endeavour is still at quayside in Homer, Alaska because Defendants refused to listen to their vendors, failed to accept a reasonable work scope for the refurbishment of the rig, and failed to secure enough money for the project. While drilling for oil and gas in the Cook Inlet is possible, Archer believes both the personnel involved and the equipment in use must be in excellent condition and ready for work.”

But the equipment wasn’t in excellent condition. The 30-year-old rig had been dry docked in many years of nonservice and suffered the corrosion and other degradations that go with it. One of the Archer employees, Douglas Weber, is a retired Coast Guardsman whose expertise in federal regulations made his insight invaluable. Weber would not make a direct statement to the media about conditions on the rig, but pointed to that paragraph in the lawsuit. It continued:

“After a year of experiencing delays in getting paid and witnessing shortages in scopes of work for the refurbishment of the Endeavour, Archer in its experience believes those conditions had not been met and cannot agree to crew and operate Endeavour in its current condition and under its current ownership and the companies expected to be in control.”

The 18-page lawsuit outlines how the Master Services Agreement signed by both KOV and Archer Drilling is valid, and therefore is an enforceable contract. Archer contends it held up its side of the contract but KOV breached it on their end. Among the allegations is the claim that KOV required of Archer to provide services and “incur millions in expenditures without reimbursement.”

It also alleges skilled workers were available for the refurbishment in Singapore, but not in Alaska and that is a crucial part of the problem that kept the rig on the Homer dock. This occurred because Homer does not have a shipyard and does not have access to the tradesmen of a shipyard, such as the one in Singapore.

“As a result, Defendants (KOV) had to use Archer drilling crews to do shipyard work,” the lawsuit said. “Defendants’ haste to transport the Endeavour to Alaska placed the entire project in a logistical quagmire: more work needed to be done on the rig but they no longer had the resources or manpower of a shipyard... Moreover, defendants lacked relationships with the local vendors to execute the outstanding work.”

Yet, in spite of these obstacles, KOV publicly claimed that the rig would only need two weeks of modifications before setting off north to gas and oil deposits. “This baseless posturing flew in the face of the facts on the ground,” the lawsuit said.

Needed experience

Archer Drilling is the largest rig management corporation in the world, including work in the North Seas of Norway and the United Kingdom and some of the harshest Arctic environments. “We know how to work in inhospitable environments under strict regulations. There are industry minimums,” Walker said. “But at Archer, we’re about exceeding minimums.”

With these standards in mind, conflict arose before the Endeavour jack up rig made its journey from Singapore to Homer. Archer Drilling told Buccaneer it was not yet ready for work in the icy Cook Inlet.

Buccaneer contracted Archer for this work soon after purchasing the rig, because they needed the most experienced in the industry since Buccaneer is a new player. Buccaneer Alaska Energy was formed in 2007 and had never drilled in Alaska waters, according to the lawsuit. But they disregarded the expertise in advice that the rig needed more work.

“From the start, the Defendants undermined and underfunded the project. By favoring wishful thinking over hard facts, the Defendants turned a blind eye to the amount of time, money and effort needed to bring such a rig up to operational levels.”

The company underfunded the refurbishment and then instructed it to be prematurely removed from the shipyard and transported to Alaska before refurbishment and recertification work had been completed. Even after four months in Homer, the work is not complete by Archer’s standards, Walker said.

In Homer, Archer Drilling hired from a local workforce and brought in certified oil rig workers from the Lower 48, a total of 70 workers. Doug Slone, the rig manager, is a 43-year Alaska resident and a long time oil rig veteran who did the hiring. He said he wanted the Endeavour outfitted properly for its work in the Inlet and knows what it takes to be safe for workers and the environment. “We need the energy and the fuel to offset natural gas shortages predicted for Southcentral Alaska,” he said. “We wanted this to work.”

At this point, Slone, Weber and Walker are working with a crew of six people to make a smooth “handover” of the services work to Spartan Offshore.

“That’s our emphasis now, making a smooth, safe transference that is safe for workers and safe for the environment,” Walker said.

Archer Drilling makes a policy to avoid going directly to the media, but company approval was granted earlier this week for Archer to talk to the City of Homer and to the local media to explain its side.

In an announcement made public Friday, Buccaneer spokesperson Jay Morakis had said the company stepped in after discovering Archer had not paid vendors and was racking up heavy local debt in Homer. The Master Services Agreement holds Archer responsible for contracting out work and overseeing the rig’s modifications. In reality, Archer says, only three invoices were paid by KOV this past year, and others were either disputed or went unpaid by KOV.

“We, Buccaneer, found out last week that there is an issue with Archer Drilling. The issue is that Archer hasn’t paid local vendors and we don’t know the reasons,” Morakis had said. “Buccaneer, operating with our partners as Kenai Offshore Ventures, has paid in full to Archer all bills with the exception of disputed amounts.”

Once expenses were paid, Archer was to be reimbursed by KOV, the partnership made up of Buccaneer, Ezion Holdings, Ltd and the Alaska Industrial Development Export Authority, though AIDEA invested only in purchasing the jack-up rig, \$24 million, and is not invested in operations.

Morakis, contacted Wednesday after the lawsuit claims were released, issued a press release stating the company believes this lawsuit is “without merit.”

“Kenai Offshore has been continually forced to undertake unanticipated work and to contribute unanticipated expenses. Archer Drilling’s failure to live up to its representations and contractual responsibilities under the MSA seriously undermined Buccaneer’s confidence in their ability to complete their work,” the release said. “In connection with Archer Drilling’s termination, Buccaneer, as Manager of Kenai Offshore, has contacted each of those contractors hired by Archer Drilling to perform services on the Endeavour with the understanding that Kenai Offshore will review each of their cases and will step in and make payments for legitimate expenses associated with work performed by those contractors on the Endeavour.”

KOV admits it is currently withholding payments to Archer Drilling for amounts that it has formally disputed. Dean Gallegos, Finance Director at Buccaneer Energy expressed disappointment. “We are disappointed to see it come to this, as initially we had hoped that Archer Drilling would be the Endeavour’s long-term operator. As the Manager of Kenai Offshore, and to act in the manner to protect the interests of our joint venture partners and shareholders, we were left with no choice other than to terminate Archer Drilling’s work on the Endeavour. Given the timing we did not make this decision lightly.”



The Endeavour Jack up rig is brightly lit at night, docked by the Homer Harbor

City of Homer payments

A separate arrangement is a contract between KOV and the City of Homer for leasing dock space. So far, the city has received payment for most of the dock lease though a balance remains of \$141,000. The amount paid since September is more than \$184,000.

City Manager Walt Wrede said at a meeting Friday with KOV officials, he was assured that all the contractors hired by Archer Drilling would be paid. “They are moving ahead, with some reorganization, but everyone is going to get paid and that’s something that was our big concern,” Wrede said. He had heard a few weeks ago about welders going without pay and wanted to step in.

“I wanted to make sure that at the end of the day, the workers weren’t stiffed,” Wrede said. “It’s clear that there are money issues involved through the whole system.”

Harbormaster Bryan Hawkins said the city is paid \$60,000 per month, or \$1,956 per day, for Endeavour dockage plus other dockage or moorage fees for the two or three tugs on stand by. As of Thursday, only one tug remained, with allegations that another tug was pulled out due to nonpayment, Hawkins said. Over the course of four months, the city received payments, though at times had to call and send reminders to KOV, Wrede said.

An agreement was reached on Friday for a replacement contractor, this one already drilling in Alaska, Spartan Offshore. That company is operating the other jack-up rig in Cook Inlet, the Spartan 151.

“We have entered into an LOI (Letter of Intent) with Kenai Offshore Ventures and expect definitive contracts to be signed in the next few days,” said Paul Butler, president and CEO of Spartan Offshore. “I think our experience operating the Spartan 151 in the Cook Inlet over the last 18 months makes us uniquely qualified to take on this challenge and we look forward to a very active 2013.”

All vendors and tradesmen who worked on the Endeavour are encouraged to call Spartan’s office at (504) 885-7449 or fax information to (504) 456-6560. More information is available at www.spartanoffshore.com.

City Manager Wrede said in the update from KOV Friday, he was told the Endeavour will likely be here a few more weeks, into January. Buccaneer has received Department of Environmental Conservation food and waste water permits and now is awaiting a Certificate of Compliance with the U.S. Coast Guard. That involves an inspection by a crew traveling to Homer from Morgan City, La., a process that could take a few weeks. The American Bureau of Shipping signed off in approval on Nov. 30.

The goal is to head to the Cosmopolitan Unit and remain there for the winter.

AIDEA was made aware of a situation regarding the operator of the Endeavour last week, said Karsten Rodvik, external affairs manager.

“As the preferred member of KOV, LLC, our first concern and main priority is for Alaska workers and businesses to be promptly paid,” Rodvik said in an email. “We are pleased that our partners are responding quickly and responsibly, and we are confident in their ability to resolve this matter as soon as possible.”

In the new light of the lawsuit, AIDEA has not yet responded to questions from the Homer Tribune.

Rodvik had said AIDEA will continue to monitor the situation during this transition process.

During a visit from Gov. Sean Parnell in Homer this fall, Wrede said they discussed the Endeavour at length. “The governor is very interested in that rig. I think that gives us some assurance that the company will meet its obligations,” he said.

Bob Shavelson, the director of advocacy at Cook Inletkeeper, sent a letter to Commissioners Larry Hartig at the Alaska Department of Conservation, and Dan Sullivan at DNR, urging them to immediately delay all ADEC and DNR permitting efforts until the State of Alaska conducts a review of Buccaneer’s fiscal and operational capacity to drill safely among the fisheries of Cook Inlet. He sent the letter Thursday afternoon, after reviewing Archer’s lawsuit against Buccaneer.

“Buccaneer has repeatedly made false representations to Alaskan officials, the general public and its investors about the condition of the rig Endeavour and its ability to operate it. AIDEA’s considerable investment in the Endeavor also counsels for heightened scrutiny,” he wrote.