

THE BP OIL SPILL AND GULF COAST TOURISM: ASSESSING THE IMPACT

HEARING BEFORE THE SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED ELEVENTH CONGRESS SECOND SESSION

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THE BP OIL SPILL AND GULF COAST TOURISM: ASSESSING THE IMPACT

TUESDAY, JULY 27, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:03 a.m., in Room 2322 of the Rayburn House Office Building, Hon. Bobby L. Rush [Chairman of the Subcommittee] presiding.

Members present: Representatives Rush, Schakowsky, Sarbanes, Sutton, Green, Gonzalez, Butterfield, Barrow, Castor, DeGette, Waxman (ex officio), Melancon, Whitfield, Stearns, Terry, Gingrey, Scalise, Latta, Barton (ex officio), and Burgess.

Staff present: Michelle Ash, Chief Counsel; Tim Robinson, Counsel; Angelle Kwemo, Counsel; Anna Laitin, Counsel; Will Wallace, Special Assistant; Elizabeth Letter, Press Assistant; Jeremy Feigenbaum, Intern; Billie McGrane, Intern; David Cavicke, Chief of Staff; Amanda Mertens Campbell, General Counsel; Katie Wheelbarger, Deputy Chief of Staff; Brian McCullough, Senior Professional Staff; Kevin Kohl, Professional Staff; Aaron Cutler, Counsel; and Sam Costello, Legislative Analyst.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. The Subcommittee on Commerce, Trade, and Consumer Protection will come to order. I thank those who have gathered here for this hearing, and the Chair recognizes himself for 2 minutes for an opening statement.

The Chair wanted to remind the members that anyone other than the Full Committee Chair or the Full Committee Ranking Member or the Chairman Emeritus will be encouraged to limit their opening remarks to 2 minutes because of the time consideration for some of our witnesses.

April 20 was a tragic day for the people of the Gulf Coast region of the United States. Eleven workers died following an explosion on the Deep Water Horizon oil drilling rig located 40 miles offshore in the Gulf of Mexico. Since that tragic day an estimated 50 to 150 million gallons of oil have leaked into the Gulf, severely damaging our environment, destroying people's way of life, and severely damaging the entire region's economy.

Tourism is the Gulf Region's second largest industry. It generates more than \$39 billion in state revenue. Tourism represents

46 percent of the region's economy. Tourism employs over one million people. Various setting indicate that this oil spill has put 300,000 jobs at risk, representing 15 percent of the total job base in the region.

The saddest part of this story is that some of the businesses that are impacted today were still recovering from the aftermath of Hurricane Katrina, which occurred over 5 years ago. Now then BP has created a \$20 billion claim pool to compensate victims who have been impacted by the oil spill.

The purpose of this hearing is to make sure that the travel and tourism industry will not be left behind, that they will be included. One might ask why. Well, I am glad you asked.

Because of the intricacy of that particular industry, the complexity of the methodology that needs to be employed to determine the level of damages and grant compensation and because of the tourism's vast economic impact on the entire Gulf Coast Region.

Furthermore, we have learned from the massive media coverage of the oil spill and by various studies by the tourism industry itself that it is losing business not only because of the beaches may not be safe but also because travelers perceive that it is not safe to travel to the Gulf Coast Region of the U.S.

You have also heard the concerns of the industry about the claims process, its timeframe for compensation and eligibility.

Finally, we have to consider what needs to be done to bring back the industry to the stature it had before the oil spill. These are difficult issues we have to examine here today. The complexity of the matter may require more than one hearing.

I want to thank all the witnesses for appearing before this subcommittee. We have concerns about the tourism industry and how it will be compensated and how it will be revitalized, and I hope our discussion today be a very fruitful and productive one.

[The prepared statement of Mr. Rush follows:]

Statement by the Honorable Bobby L. Rush, Chairman
Energy and Commerce Committee
Subcommittee on Commerce, Trade, and Consumer Protection
for the
Hearing: “The BP Oil Spill and the Gulf Coast Tourism: Assessing the
Impact”

Tuesday, July 27, 2010
10 am at 2123 Rayburn House Office building

“The subcommittee will come to order.

“April 20, 2010 was a tragic day for the people of the Gulf
Coast region of the United States.

“Eleven workers died following an explosion on the
Deep Water Horizon oil rig located 40 miles, offshore, in the
Gulf of Mexico. Since that day, an estimated 50 to ***150 million
gallons of oil*** have leaked into the gulf, severely damaging our
environment, destroying people’s way of life and severely
damaging the entire region’s economy.

“Tourism is the gulf region’s second largest industry, generating more than *\$39 billion* in state revenue. Tourism represents 46 percent of the region’s economy and employs over one million people. Various studies indicate that the oil spill has put 300,000 jobs at risk, representing 15 percent of the total job base in that region.

“The saddest part of this story is that some of the businesses that are impacted, today, were still recovering from the aftermath of the Hurricane Katrina tragedy five years ago.

“Now that BP has created a \$20 billion dollar claims pool to compensate victims who’ve been impacted by the oil spill, the purpose of this hearing is to make sure that the travel and tourism industry will not be left behind.

“Why? Because of the intricacy of that particular industry, the complexity of the methodology that needs to be employed to determine the level of damages, and fair compensation, and because of the tourism industry’s vast economic impact on the entire Gulf Coast region.

“We have learned from the massive media coverage of the BP oil spill, and by various studies by the tourism industry, itself, that the region is losing business not only because the beaches may not be safe but, also, because travelers **THINK** it is not safe to travel to the Gulf Coast region of the United States!

“We have also heard the concerns of the industry about the claims process, its time frame for compensation and eligibility.

“Finally, we also have to consider what needs to be done to bring back the industry to the stature it had **BEFORE** the oil spill.

“These are difficult issues we will have to examine, here, today. The complexity of the matter may require more than one hearing.

“Nevertheless, I respectfully request that Members of the subcommittee shorten their opening remarks, as I have done, so that we may have more time to hear from the witnesses and allow them to respond to as many questions as possible, this morning. I also understand some witness have time constraints.

“I want to thank the witnesses for appearing before this subcommittee. We all have concerns about the tourism industry and how it will be compensated and revitalized. I hope our discussion is productive.

“With that, I yield back the balance of my time.”

#

Mr. RUSH. With that I yield back the balance of my time. Now I recognize the Ranking Member for 2 minutes.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. Mr. Chairman, thank you and I want to welcome all the witnesses today. We appreciate Mr. Feinberg being with us, as well as representatives of the tourism industry.

We know that since the explosion of the Deepwater Horizon oil rig on April 20 the Gulf Coast economy has faced many difficult challenges. We also know that this is the summer peak months for tourism and that many people have been adversely impacted by this incident.

It is my understanding that BP prior to the Gulf Coast claims funding set-up gave Florida \$25 million to promote tourism, Mississippi, Louisiana, and Alabama, \$15 million each to counter the publicity and the impact, the perception that it would not be open for tourism.

BP has been paying claims to businesses affected by the spill. They had paid out, it is my understanding over \$200 million thus far in claims. It is not surprising that some businesses are having difficulty at getting their claims processed quickly because really BP is not an insurance company.

The administration of the claims process is being handled by Mr. Feinberg. He certainly has experience in this arena, having disbursed funds as a result of the 9/11 incident. It is my understanding that he is going to be taking control of 36 BP offices and 1,500 employees established to pay claims to qualified businesses.

Mr. Feinberg is charged with administering the entire \$20 billion Gulf Coast claims account and paying legitimate claims to affected parties. It is an admirable and certainly a difficult position because we know that paying claims in this kind of a situation is certainly an inexact science. Will it be restricted to the beach resorts only, or will downstream suppliers to the tourism industry qualify for compensation? There are a lot of unanswered questions. We do want to see that people are reimbursed who have legitimate claims. We know that there will be some people filing claims that are not legitimate, but that is one of the challenges that Mr. Feinberg faces.

And then one other question that I think is going to have to be answered as we go along is the drilling moratorium imposed by the Administration is certainly going to have an impact on the economy up and above the impact on the tourism as a result of the spill. And there is going to have to be some questions asked about who should pay for the cost of those—of that moratorium. Should it be the government, should it be BP? So there are a lot of unanswered questions, and I know that this committee is totally committed to making sure that everyone receives compensation that deserves it. We look forward to your expertise, your thoughts on this important subject and certainly look forward to all of your testimony.

Thank you.

[The prepared statement of Mr. Whitfield follows:]

Statement of the Honorable Ed Whitfield

Ranking Member, Subcommittee on Commerce, Trade, and Consumer Protection

Hearing on Tourism and the Gulf Coast Claims Facility

July 29, 2010

- Since the explosion of the Deepwater Horizon oil rig on April 20th, the gulf coast economy has faced major challenges. We know many businesses directly related to the seafood industry cannot operate, but there is also a substantial impact on the tourism industry.
- Typically, the summer is the peak travel and tourist season for gulf coast communities. Although the majority of these gulf coast beaches and towns are still open for business, the perception of being damaged by the oil spill still exists.
- Unfortunately many businesses which rely on tourism – particularly hotels, shops, restaurants, and their suppliers - have been adversely affected by cancellations as tourists have chosen to avoid the gulf coast area, even when many of the beaches have not been affected.
- BP has given Florida \$25 million dollars to help counteract negative news coverage and publicity about the spill with positive educational advertisements about Florida's tourist destinations.
- BP has been paying claims to businesses affected by the spill.
 - BP has paid out over \$200 million thus far in claims. It is not surprising that some businesses are having difficulty getting their claims processed quickly because BP is not an insurance company.

- The administration of the claims process will be handled by Mr. Ken Feinberg of the newly established independent **Gulf Coast Claims Facility**.
 - Mr. Feinberg will take control of the 36 BP offices and 1,500 employees established to pay claims to qualified businesses.
 - Mr. Feinberg is charged with administering the \$20 billion Gulf Coast Claims account and paying legitimate claims to affected parties. It is an admirable but difficult position. Paying claims is certain to be an inexact science.
 - Will it be restricted to the beach resorts only? Will downstream suppliers to the tourism industry qualify for compensation?
- My interest is seeing where Congress can help ensure the efficient implementation of the Gulf Coast Claims Fund so that legitimate claimants can receive payments quickly and efficiently. There will obviously be challenges to the processing and verification of claims, but I believe Congress has a responsibility to assist where we can.
- The \$20 billion will undoubtedly attract many scam artists and thieves. My concern is that such scam artists will encumber the claims system and delay the payment of legitimate claims.
- I question if existing criminal statutes are a sufficient deterrent to fraud or whether Congress needs to specifically address criminal penalties for those who attempt to scam the Gulf Cost Claims Fund.
 - Because of the unique nature of this fund, how will fraudulent claims be treated? Are they considered insurance fraud?
- Mr. Feinberg has great experience having administered the 9-11 Victims Compensation Fund, which is the closest entity we have to the current Gulf Coast Claims Facility. There are obvious differences, but his experience

dealing with these complex and difficult decisions will be an asset to the efficient administration of the fund.

- Based on analysis of the funding sources after 9-11, many larger businesses received payments for insurance claims for both actual property damage losses and business income losses, while most small businesses did not receive such payments.
 - Can Gulf Coast businesses that have received insurance payments for lost business qualify for payment from the Claims Facility too? Is that considered double dipping?
- Finally, the drilling moratorium will continue to have an impact on the local economies. While it will be much smaller than the tourism losses directly related to the spill, some loss of economic activity is likely to bleed into the tourism industry and exacerbate their losses. Should the government pay for that loss or should BP?
- I look forward to the witness testimony and answers to some of the questions I have.

Mr. RUSH. The Chair recognizes the Chairman of the Full Committee, Mr. Waxman, for 5 minutes.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you very much, Mr. Chairman.

The BP spill on the Gulf of Mexico is the worst environmental disaster this country has ever seen, and while we have every hope that the cap will hold and the flow of oil into the Gulf has truly stopped, we know that the devastation is enormous, and its affects will continue for years.

In the 3 months since the Deepwater Horizon explosion and blowout, the Committee on Energy and Commerce has held eight hearings examining the causes of the explosion, efforts to mitigate the damage, and the impacts on the environment and the local community.

I would like to thank Chairman Rush for holding our ninth hearing which will focus on the impacts of the spill on tourism and the tourism economy in the Gulf area. The economies of Louisiana, Mississippi, Alabama, and Florida are heavily dependent on the travelers who come to the Gulf Coast beaches each summer for swimming, fishing, and other activities across each of these four States. Some beaches are closed, and significant fishing grounds are still off limits. Hotels, restaurants, charter boats, and resorts are facing cancellations. Tourists are shying away from the areas of the Gulf even where no oil has come ashore. Diners and grocery shoppers across America are asking about whether the seafood is from the Gulf and whether it is safe to eat.

Today we will hear from tourism officials and businesses from each of the four States dealing with this catastrophe. We will also hear from Kenneth Feinberg, the independent administrator in charge of handling all claims for damage and loss of the oil spill. He is responsible for determining the proper level of compensation for each business, worker, and family impacted by the spill.

This hearing will give the committee a better understanding of the impacts of the spill on an essential part of the Gulf Coast economy and help us understand what we can do further to help the region recover. I thank all the witnesses for being here today, and I look forward to their testimony.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Waxman follows:]

**Statement of Rep. Henry A. Waxman
Chairman, Committee on Energy and Commerce
“The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”
Subcommittee on Commerce, Trade, and Consumer Protection
July 27, 2010**

The BP oil spill in the Gulf of Mexico is the worst environmental disaster this country has seen. While we have every hope that the cap will hold and the flow of oil into the Gulf has truly stopped, we know that the devastation is enormous and its effects will continue for years.

In the three months since the Deepwater Horizon explosion and blowout, the Committee on Energy and Commerce has held eight hearings examining the causes of the explosion, efforts to mitigate the damage, and the impacts on the environment and the local community.

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Today, we will hear from tourism officials and businesses from each of the four states dealing with this catastrophe. We will also hear from Kenneth Feinberg, the independent administrator in charge of handling all claims for damage and loss from the oil spill. He is responsible for determining the proper level of compensation for each business, worker, and family impacted by the spill.

This hearing will give the Committee a better understanding of the impacts of the spill on an essential part of the Gulf Coast economy, and also help us understand what we can do further to help the region recover. I thank all the witnesses for joining us today and look forward to their testimony.

Mr. RUSH. The Chair now recognizes the gentleman from Florida, Mr. Stearns, for 2 minutes. For 1 minute. I am sorry.

Oh, I am sorry. I didn't see the Ranking Member down there.

Mr. BARTON. I am willing to let Mr. Stearns go.

Mr. RUSH. He is to my left. You are not normally on my left.

The Chair now recognizes the Ranking Member of the Full Committee, Mr. Barton, my friend from Texas, for 5 minutes.

**OPENING STATEMENT OF HON. JOE BARTON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. BARTON. I thank the distinguished gentleman from the windy city of Chicago, home of the Cubs and the White Sox. I appreciate that.

I want to thank Chairman Rush and Chairman Waxman for convening this hearing today, and appreciate Ranking Member Whitfield, whose leadership on this issue. I want to thank each of you witnesses for appearing before us today. I know it is a busy time for all of you.

Since the Deepwater Horizon exploded and sank 3 months ago, this committee in my opinion has conducted a fair and rigorous investigation of the accident and developed what I consider to be a measured Congressional response. Our Oversight and Investigations Subcommittee, Energy and Environment Subcommittee, Health Subcommittee, and now the Commerce, Trade, and Consumer Protection Subcommittee are each doing their best to review and discuss all of the issues surrounding the oil spill.

As a result of these investigations and the bipartisan engendered by them, the Full Committee recently voted 48 to zero to report out a Blowout Prevention Bill that, again, in my opinion is a balanced response to the tragedy.

I want to welcome all of you witnesses today to consider our investigation, continue the investigation. I especially want to welcome Mr. Ken Feinberg. Mr. Feinberg has competently administered the 9/11 Victims Compensation Fund. That was a very tough job, and I expect him to competently and transparently administer the current BP Spill Escrow Account.

The people of the Gulf Coast who have lost their jobs or had their livelihoods diminished by the oil spill should be compensated, should be compensated fairly, and should be compensated quickly. We are going to hear from some of the people who have been affected when we get to the other witnesses on this panel today.

Tourism, fishing, and energy development are vital to the Gulf Coast where they employ hundreds of thousands of people. The tourism industry, which is the focus of today's hearing, by itself generates over \$30 billion a year.

The oil spill reveals much about the Gulf Coast community. Many of us on this committee have come to know the strength of that community following the vast swath of destruction that was left by Hurricane Katrina nearly 5 years ago. Gulf Coast people are nothing if not resilient, but with this latest manmade disaster some of those folks must be wondering what on earth is going to hit them next.

The Gulf Coast economy is tied to earth and ocean resources. The industries along the Gulf are so intertwined that the losses in one

sector ripple throughout the entire regional economy. That is why if you are going to understand the magnitude of the tragedy, we must listen closely to those who are being directly affected by the Administration's decisions, especially the one currently to ban energy exploration.

I have said this before, but the Administration should reconsider its second moratorium decision. I think that is the wrong decision that they made. Enforcing a blanket policy in exploration is not unlike sending a new oil spill or a big storm to further threaten the jobs of the Gulf Coast. The Administration has shown some tendency towards panic in this regards lately. This should not be a time for panic but instead a moment, a time for careful, thoughtful consideration.

I hope the Administration will choose not to forget about the fishermen, shrimpers, rig workers who share the same uncertainty as those who work on the beaches and the hotels and along the retail establishments of the main streets of the Gulf Coast.

This is an important hearing. Again, I want to thank the witnesses. I look forward to your testimony, and again, Mr. Chairman, and Chairman and Ranking Member Whitfield, thank you for arranging this hearing.

With that I yield back, Mr. Chairman.

[The prepared statement of Mr. Barton follows:]

Opening Statement

Honorable Ranking Member Joe Barton

The Subcommittee on Commerce, Trade, and Consumer Protection

“The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”

Tuesday, July 27, 2010

I would like to thank the Chairman for convening this hearing. I'd also like to thank the witnesses for taking time to be with us here today on this important issue.

Since the Deepwater Horizon exploded and sank three months ago, this committee has conducted a fair and rigorous investigation of the accident and developed a measured Congressional response. Our Energy and Environment, Health and now CTCP subcommittees have each done their best to review and discuss all the issues surrounding the spill.

The full committee recently reported out a blow-out prevention bill, 48 to 0, that is, in my opinion, a balanced response to this tragedy.

I would like to welcome Ken Feinberg to the Committee. Mr. Feinberg administered the 9/11 Victims Compensation Fund, and I expect him to honestly and transparently administer the BP Spill Escrow Account. The people of the Gulf Coast who have lost their jobs or had their livelihoods diminished by the oil spill should be compensated fairly and quickly. We are going to hear from some of those people today.

Tourism is vital along the Gulf coast, where it employs hundreds of thousands of people to serve the visitors who spend over \$30 billion dollars per year.

The spill reveals much about the Gulf community. Many on this committee came to know the strength of this community following the vast swath of destruction left by Hurricane Katrina nearly five years ago. Gulf Coast people are nothing if not resilient. But the BP spill delivered an economic body blow that rivals a hurricane, and people there must wonder what on earth is next.

The Gulf States' economy is tied to earth and its resources. And the industries are so intertwined that losses in any one ripple through the entire regional economy.

That's why if we want to understand the magnitude of this tragedy, I hope we also listen closely to those who are being directly affected by the administration's decision to ban energy exploration. I have said this before, but the administration should reconsider its second moratorium decision. I think it's the wrong decision. Enforcing a blanket pause in energy exploration is not unlike sending a new spill or a big storm to further threaten the jobs of Gulf Coast working people.

The administration has shown some tendency toward panic lately, but this a moment for more careful, more thoughtful consideration. I hope the administration will not choose to forget about the fishermen, shrimpers, or rig workers who share much the same uncertainty as those who work on the beaches, in the hotels, and along the main streets of the Gulf Coast.

This is an important hearing, I would like to thank the witnesses again, and I look forward to hearing their views and ideas.

Thank you, Chairman Rush. I yield back.

Mr. RUSH. The Chair recognizes the gentlelady from Florida, Ms. Castor, for 1 minute.

OPENING STATEMENT OF HON. KATHY CASTOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. CASTOR. Thank you, Chairman Rush and Chairman Waxman and Mr. Whitfield, for organizing this important hearing.

You know, since April and the BP Deepwater Horizon blowout Floridians have been living their worst nightmare. The environmental damage, the economic damage is taking a terrible toll on our small business owners, our hotels, our fishermen. You know, we were just coming out of the recession, so BP's disaster is wreaking havoc again on our hard-working folks in Florida.

And what is particularly frustrating in the Tampa Bay area where I represent, we have got the most beautiful beaches in the world, from Pinellas County, Manatee, Sarasota, all the way down to Sanibel Island. There is no oil there. The oil is hundreds and hundreds of miles away, and yet the word has gone out all across the globe, especially to Europe and South America, where we rely on all those tourists, that the Florida beaches are damaged, that the Gulf Coast is toxic.

We have got to turn that perception around. The efforts of BP to date have been inadequate to say the least. What is particularly maddening is we watch these incessant ads, full-page ads by BP, that are polishing their corporate image at a time where they should be devoting a good portion of those monies to helping small business owners, our hotels get back on their feet and explain to folks around the globe that our beaches are pristine, and we want you to come to Florida rather than how many millions and millions and millions of dollars have they spent on polishing their own corporate image.

So that is the frustration I wanted to share today. So I am really looking forward to hearing from our expert witnesses. A special thank you to Keith Overton from the Tradewinds from St. Pete Beach who is the head of Florida's Restaurant and Lodging Association. We have a lot to learn from all of you, and I am glad you are here.

Thank you.

Mr. RUSH. The Chair now recognizes the gentleman from Florida, Mr. Stearns for 1 minute.

OPENING STATEMENT OF HON. CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. STEARNS. Thank you, Mr. Chairman, and let me also compliment you and Mr. Whitfield for your leadership on this hearing and welcome Kenneth Feinberg, the Gulf Coast Claims Administrator here. He is going to have a tough job.

I saw in the paper recently he said, "I have a concern that BP is stalling claims. Yes, BP is stalling. I doubt they are stalling for money. It is not that. I just don't think they know the answer to the questions by the claimants." That is going to be true whether you decide a claim because of geographic distance or whether you decide a claim because of ownership. Are you going to ask for tax returns? I mean, how are you possibly going to figure out what par-

ticular claim is valid or not. So we all pray and hope that he will have the wisdom of Solomon to do this.

I noticed in a report as of July 24 in Florida 41,818 claims were made, and money that was handed out was \$45,320,000. So obviously some claims have been paid, and a lot of people across many, many counties and including counties that are not even affected by the Gulf Coast, have been paid. Florida has the most densely-populated coastline of the United States, and so this spill threatens our beaches, and as a former restaurant, hotel owner I deeply sympathize and empathize with these businesses and hope obviously that they are not hurt badly and that we can come back.

But in the end I think the hard questions for the Administrator, Mr. Feinberg, is how to solve the questions of who gets the money and gets served with the extra support.

So, Mr. Chairman, I think this is a very important hearing to hear from Mr. Feinberg and as well as the members of the tourist industry, what they think should be done. So thank you.

Mr. RUSH. Mr. Green from Texas.

**OPENING STATEMENT OF HON. GENE GREEN, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. GREEN. Thank you, Mr. Chairman, and like my colleagues I want to welcome our panel, particularly Mr. Feinberg, but on a personal note I would like to welcome Mr. Brennan here. You have reopened the Houston Restaurant after a terrible fire, and we appreciate it in Houston. And, Mr. Chairman, I want to thank you for raising the issues of the effects of the oil spill on tourism in the Gulf of Mexico.

Having watched Jimmy Buffett's concert a few weeks ago from Gulf Shores, it is almost like we need that every week to get the word out along a number of different places on the Gulf Coast because that was a good turnout, people saw the clean beaches, and were enjoying the music. So we need to do more of that.

Along the Alabama to Texas Gulf Coast oil and gas exploration, fishing, and tourism are the largest industries for employment in an economic progress. The oil spill is a profound impact on all three and during one of our worst economic times in the last 70 years.

I represent a district in Houston where thousands has lost or furloughed their jobs as a result of the drilling moratorium. Other areas have been hit even harder, and some Gulf Coast towns oil and gas, fishing and tourism are all they have, and now they don't have any of those three. I am afraid this spill is going to have a lasting negative impact on communities beyond the environmental implications for years to come with so much money being removed from the system. The economy is already hard hit. We will struggle to bounce back.

It will be important for us to help those communities. One way this can be accomplished is by fixing misconceptions that lead the potential tourists to believe that the entire Gulf Coast has been marred and cannot be visited again. I see it all the time on the news. There are white beaches, and the water is clean, so hopefully people who are watching this will know they can spend their vacation along the Gulf Coast.

I am pleased that our expert panel has given time today to be here, and I look forward to the hearing. Again, Mr. Chairman, thank you for calling this hearing.

I yield back my time.

Mr. RUSH. Mr. Latta is recognized for 1 minute.

**OPENING STATEMENT OF HON. ROBERT E. LATTA, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. LATTA. Well, thank you, Mr. Chairman, Ranking Member Whitfield. I believe this is a very important hearing today as we examine the devastating impacts that the Deepwater Horizon oil disaster has had on the Gulf Coast tourism.

I recently toured the area around Grand Isle, Louisiana, and saw firsthand the devastation of the region and its economic impact on the people who work and live there. This area of the country is one that relies heavily on its fishing and tourism industries, and I am looking forward to hearing from today's witnesses and their perspective on the disaster.

I especially look forward to Mr. Feinberg's testimony and questions he may answer as to the Administration's platform for the handling and distribution of the \$20 billion escrow account to compensate victims of the oil spill.

As disaster cleanup continues, we need to make sure funds are handled properly and in a timely manner, and it gets to the appropriate individuals that need that assistance.

And with that, Mr. Chairman, I yield back.

Mr. RUSH. Ms. Sutton is recognized for 1 minute.

**OPENING STATEMENT OF HON. BETTY SUTTON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Ms. SUTTON. I thank the distinguished Chairman for holding this hearing.

Over the last few months we have heard from BP and other companies involved in the Deepwater Horizon disaster and Administration officials about how this tragedy occurred and how we can prevent it from happening again, and at one of those early hearings I asked Lamar McKay, the President and Chairman of BP America, if BP would consider the loss of profits for fishing and tourism as a legitimate claim, and Mr. McKay replied, yes, and that was a good development after BP's reckless actions. Their culture of carelessness caused the devastation of our waters and coasts and wildlife and injured countless businessmen and the tourism industry.

And the losses to these businesses, of course, have had ripple affects throughout our economy, and we have heard some of that detailed here today where people from places beyond the Coast are feeling the effects of loss of tourism. I am interested in hearing the testimony today from the witnesses about how the Gulf Coast Claims Facility has been processing the claims coming in and if this process can be improved.

Thank you, and I yield back.

Mr. RUSH. Dr. Gingrey is recognized for 1 minute.

OPENING STATEMENT OF HON. PHIL GINGREY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. GINGREY. Chairman Rush, thank you for calling today's hearing on the impact that the Deepwater Horizon explosion has had on tourism in the Gulf Region. As a member of the Subcommittee on Oversight and Investigation, I have had the opportunity to hear testimony on a range of matters relating to Deepwater Horizon. I look forward to hearing from today's panel of witnesses.

Due to the importance that tourism has for the economy in the Gulf, it is critically important that we use today's hearing to assess the devastating impact that the oil spill will have on approximately 46 percent of the region's economy at a time when unemployment across the country is 9.5 percent, further impact the tourism industry in the region, will only exacerbate those economic woes.

Mr. Chairman, this downturn will not only affect the areas directly hit by the oil spill, but it will also affect areas where the coastline and water are still pristine. Therefore, we must strike a balance within the funds being handled by the Gulf Coast Claims Facility under Mr. Feinberg's administration.

In particular, based on his earlier testimony at the Small Business Committee, I look forward to hearing from Mr. Feinberg in particular on the challenges facing the Gulf Coast tourism in the aftermath of Deepwater Horizon, and I thank all of you gentlemen who are actively involved in tourism industry. You know of what you speak. We look forward to hearing from you today.

And, Mr. Chairman, I yield back. Thank you.

Mr. RUSH. Mr. Barrow of Georgia is recognized for 1 minute.

Mr. BARROW. I waive opening.

Mr. RUSH. Thank you. The Chair now recognizes Mr. Scalise of Louisiana for 1 minute.

OPENING STATEMENT OF HON. STEVE SCALISE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. SCALISE. Thank you, Mr. Chairman and Ranking Member Whitfield, for having this important hearing on the oil spill's affect on tourism in the Gulf Coast. I want to start by welcoming a dear friend and a respected business leader from New Orleans, Ralph Brennan. Not only respected in Louisiana but as former head of the National Restaurant Association, an authority on restaurants, tourism, and business, and I appreciate him coming and look forward to hearing his comments.

And as my colleagues have pointed out, the tourism industry, including restaurants like Mr. Brennan's, is suffering from the effects of the oil spill. An industry that employs over one million people along the Gulf Coast and brings in approximately \$39 billion in annual tax receipts is now facing double-digit declines due to this disaster. A national survey done in May by the Louisiana Office of Tourism found that 26 percent of those who had plans to visit Louisiana had postponed or canceled their trip, while a June survey focused on nearby visitors along the Gulf Coast States found similar results.

That is why it is so critical that the recovery fund being run by Mr. Feinberg is administered in a way that helps all of those that are being affected and will be affected by this disaster.

And finally, Mr. Chairman, it is critical that the Federal Government does not add to the problems that we are facing along the Gulf Coast, and it is critical that the President end this irresponsible moratorium on offshore drilling. As people in Louisiana continue to fight the oil each day, President Obama and his Administration are taking what is already a human and environmental tragedy and turning it into an economic tragedy by continuing to pursue this reckless moratorium.

Mr. Chairman, the economy in my State and others along the Gulf Coast are already suffering. The Federal Government's role is to help and not hurt our recovery. I look forward to hearing from our panelists.

Thank you, and I yield back.

Mr. RUSH. Mr. Gonzalez from Texas is recognized for 1 minute.

Mr. GONZALEZ. Waive opening.

Mr. RUSH. The Chair thanks the gentleman. Is there any other member? The Chair don't see any—does not see any other members seeking recognition.

Now, the Chair has a unanimous consent request before the committee. Mr. Melancon and Mr. Burgess can sit on the panel and ask questions. I don't see either of them here. If, in fact, they do appear, then hearing no objection if and when they do appear, they will be allowed to sit on the panel and ask questions of the witnesses.

The Chair also asks for unanimous consent to insert into the record a statement from the Northwest Florida Tourist Development Council. Hearing no objections, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. RUSH. Now it is my pleasure and my privilege to recognize and introduce the witnesses that will appear before us today, and beginning on my left, a name that is not unfamiliar with those who are here in this Congress, Mr. Ken Feinberg. He is the Administrator for the Gulf Coast Claims Facility. He is on my far left.

Seated next to him is Mr. Roger Dow, who is the President and CEO of the U.S. Travel Association. Seated next to Mr. Dow is Mr. Rip Daniels. He is the CEO and Manager of WJZD-FM. He is also the Vice-President of the Mississippi Gulf Coast Tourism Commission.

Next to Mr. Daniels is Mr. Herb Malone. He is the President and CEO of the Alabama Gulf Coast Convention and Business Bureau. Seated next to Mr. Malone is Mr. Keith Overton, and Mr. Overton is the Senior Vice-President and Chief Operating Officer of Tradewinds—of the Tradewinds Resort. He is also the Chairman of the Florida Restaurant and Lodging Association. And then we have Mr. Brennan, Mr. Ralph O. Brennan, who is the President of the Ralph Brennan Restaurant Group, LLC.

Again, I want to thank the witnesses for appearing in response to our request and our invitation. It is the practice of this subcommittee to swear in witnesses, so I will ask if you will stand and raise your right hand.

[Witnesses sworn.]

Mr. RUSH. Please let the record reflect that the witnesses have all in their entirety answered in the affirmative. And now we will recognize Mr. Feinberg for 5 minutes for opening statement.

TESTIMONY OF KENNETH FEINBERG, ADMINISTRATOR, GULF COAST CLAIMS FACILITY; ROGER DOW, PRESIDENT AND CEO, U.S. TRAVEL ASSOCIATION; RIP DANIELS, CEO/MANAGER, WJZD-FM, VICE PRESIDENT, MISSISSIPPI GULF COAST TOURISM COMMISSION; HERB MALONE, PRESIDENT AND CEO, ALABAMA GULF COAST CONVENTION AND VISITORS BUREAU; KEITH OVERTON, SENIOR VICE PRESIDENT AND CHIEF OPERATING OFFICER, TRADEWINDS RESORT, AND CHAIRMAN, FLORIDA RESTAURANT AND LODGING ASSOCIATION; AND RALPH O. BRENNAN, PRESIDENT, RALPH BRENNAN RESTAURANT GROUP, LLC

TESTIMONY OF KENNETH FEINBERG

Mr. FEINBERG. Thank you, Mr. Chairman. I thank the subcommittee for the opportunity to testify. It is the fourth time I have testified in the last 2 weeks in the Congress, three times on the House side and once on the Senate side, and I am here again to answer any questions that the members may have.

I am the independent administrator of this new Gulf Coast Claims Facility set up by agreement between the Administration and BP. I do not work for the Administration. I do not work for BP. I have been delegated the authority to design, implement, and administer this purely private facility funded by BP in a \$20 billion escrow account.

I have been assured by both the Administration and BP that this facility that I am administering will, in fact, be totally independent. I answer to the people in the Gulf, not to the Administration nor to BP. BP has—is setting aside \$20 billion in an escrow fund to pay all eligible claims that are submitted to the facility. Hopefully the \$20 billion will be enough. If not, BP has agreed that it will honor any additional financial obligations that it may have over and above the \$20 billion.

I am now in the process, as you know, of establishing this facility. It is not yet up and running. It will be up and running next month, in a few weeks, and we will assume all responsibility from BP for processing private claims of individuals and businesses. I do not have any jurisdiction over government claims, state, local, or federal. None. I also have no jurisdiction over the moratorium claims for the rig workers, the \$100 million set aside by BP for moratorium rig workers that is not part of the \$20 billion and is being administered, as I understand it, separately.

I want to give BP some credit. It has already paid over \$230 million worth of claims, not out of the \$20 billion but as part of its petty cash. It has paid out \$230 billion in individual and some business claims. When I said—somebody—Congressman Stearns, I think, reminded me about stalling. BP has not been paying certain problematic claims for the reasons really expressed by Congressman Stearns.

I mean, what constitutes an eligible claim is a major question here, and it is going to be a major question today when it comes

to tourism. It is easy to compensate a motel or a restaurant on the beach where there is oil. You don't need the wisdom of Solomon for that claim. You really don't. You don't need the wisdom of Solomon for a claim involving a motel on the beach where the beach is pristine but you can't fish. That is an easy claim.

Proximity is going to be the problem here. Proximity. How far from the beach does a steakhouse that has lost 30 percent of its business because of a downswing in tourism is precisely the question posed by Congressman Stearns. What constitutes and eligible tourist claim?

Now, I have got some great help on that from Mr. Malone from Alabama, who I have met with on a couple of occasions, who is thinking this problem through from the perspective of tourism in Alabama. Governor Crist in Florida has reminded me about the Pan Handle and the influence of this disaster on a—on the Florida coast, but what I am going to have to decide, you see, as part of this Gulf Coast Claims Facility is what constitutes a direct claim, a direct claim, that is immediately payable, and how far attenuated may a claim be from the spill. The overall impact of the spill undoubtedly impacts tourism throughout a particular state. I am sure of that.

The question is what constitutes an eligible claim, and what is required to be proven in advancing that calculation in order to get money from this facility. I am as interested as the members are in hearing from the—my fellow witnesses today. Maybe I will come up with some additional ideas that Mr. Malone has already advanced for my consideration in terms of trying to come up with a fair, equitable, just way to determine eligibility and to determine what the appropriate compensation should be.

I look forward to the testimony of my other fellow witnesses. I look forward to working with this committee. There are some members here who I have already been working with over the past few weeks, and I look forward to continuing to work with Congresswoman Castor and others, Congressman from Louisiana also. I have been meeting with them. I return to Florida tomorrow. I will be in Mississippi and Alabama on Friday and will be returning to Florida again—and Louisiana in the next 2 weeks.

So you can't do this from Washington. You have to spend a lot of time down there, hearing what people have to say, the uncertainty, the concern, and I really look forward to working with this committee in the months and weeks ahead.

Thank you.

[The prepared statement of Mr. Feinberg follows:]

Testimony of Kenneth R. Feinberg
Administrator, Gulf Coast Claims Facility

United States House of Representatives
Committee on Energy and Commerce
Subcommittee on Commerce, Trade, and Consumer Protection

July 27, 2010

Mr. Chairman:

I thank this Subcommittee for the opportunity to testify concerning the design, implementation and administration of the new Gulf Coast Claims Facility, with a mandate to compensate all eligible claims arising out of the oil discharges from the Deepwater Horizon spill on April 20, 2010. I have been asked by both the Administration and BP to administer a totally independent Claims Facility, which will evaluate, process and decide any and all claims from individuals and businesses impacted by the spill. I have been assured by both the Department of Justice and BP that the Facility will be, in fact, totally independent.

As you know, \$20 billion has been set aside by BP in an escrow fund to pay all eligible claims that are submitted to the Claims Facility. Hopefully, this \$20 billion will be sufficient to pay such claims. If it is not, it is my understanding that BP has agreed to pay additional eligible claims as needed to assure full and fair compensation to all individuals and businesses that are found to be eligible for payment. The entire cost of the Gulf Coast Claims Facility will be borne by BP, without any cost to the taxpayers or the citizens of the Gulf region.

I am now in the process of establishing the Claims Facility and hope to complete this initial phase of my work within the next few weeks. In the meantime, credit is due BP for its initial efforts in establishing an emergency claims process that has already paid over \$200 million in emergency payments to the victims of the spill living in Alabama, Florida, Louisiana,

Mississippi and Texas. My job will be made much easier because of these preliminary efforts by BP. There are already in place 36 regional claims offices to handle claims, and over 1,500 individuals currently working to process such claims. I believe the claims process can be accelerated and made more efficient and transparent; but BP has provided an important beginning on which to build a more effective Claims Facility.

I anticipate a diverse number of claims: removal and clean up costs by individuals or businesses; claims for damages due to physical injury to real or personal property; lost profits and lost earning capacity; loss of subsistence use of natural resources; and claims for physical injury/death. All of these claims will be considered on their individual merits and decisions concerning both eligibility and the calculation of awards will be made promptly, with maximum efficiency. It should be noted, however, that I am not presently authorized to consider and resolve any government claims, whether they be filed by federal, state or local governments or government agencies. These claims currently remain outside the scope of the Gulf Coast Claims Facility and continue to remain within the province of BP itself.

I have already been coordinating with the staff of this Subcommittee on a variety of issues: eligibility, calculation of damages, proving the submitted claim and the transparency of claims data. I have benefited from this staff input and look forward to working with this Subcommittee as I move forward in administering the claims process.

This written testimony is merely a summary of the work in which I am currently engaged. I will be pleased and honored to answer any questions from the members of this distinguished Subcommittee.

Mr. RUSH. Mr. Dow, you are recognized for 5 minutes.

TESTIMONY OF ROGER DOW

Mr. Dow. Thank you, Mr. Chairman, and thank you, Ranking Member Whitfield, and the members of the committee that are present. It is an honor to be here today, and I have already submitted and will submit my testimony for the record, but I would like to be brief.

To give you an idea, the U.S. Travel Association I represent is basically—represents the whole \$704 billion travel industry or one of nine Americans employed. Our 2,000 members represent all the airlines, hotels, lodging companies, attractions, et cetera, and our mission is real simple, and that is to promote travel and increase travel to and within the United States that creates American jobs.

During the current environmental crisis that mission couldn't be more important. In my testimony I am going to highlight several things. One, the significance of the impact of travel and tourism which you have already heard from distinguished members of the panel, and you will hear from the panel and also from the committee state but also the potential long term of the oil spill, the damages and what BP and the Federal Government can do.

It is mentioned that four States are impacted to the tune of \$94 billion of their travel economy and a million employees in their travel economy, but you also have Texas, which perception has not been hit as hard but perception can cause people not to go to parts of Texas, and that is even a bigger place.

When you look at tourism, it has a much larger portion in the Gulf Region than many—any other region in the country. Fifteen percent of private employees are in this industry in the Gulf Region versus other areas. When you really look at how many people, the question is who is harmed, as Mr. Feinberg said well, and how long I think are very important questions.

We commissioned Oxford Economics, one of the most respected economics firms in the globe, to take a look because we have got to deal with facts as Mr. Feinberg so rightly says, not hearsay, and we commissioned them to look at 25 national disasters around the world; hurricanes, tsunamis, earthquakes, oil spills, pandemics, and take a look at what would happen and the facts of data of how long it took them to recover.

Well, as you have already heard stated, Katrina 5 years later, New Orleans hadn't recovered from pre-Katrina numbers. Oxford Economics estimates that the damage is going to be probably \$22.7 billion. That is just to the travel and tourism industry, over 3 years.

What I want to talk about today is that cost can be reduced significantly by up to a third or \$7.6 billion. We have submitted the Oxford Economic study, and we have also submitted a roadmap to recovery with concrete ideas how to mitigate the damages so we can lessen them for the taxpayers and lessen them for BP. Using travel to stimulate the economy and speed the recovery.

And it is three parts. One is to inform the perception, and we all know how important perception is. Second, create an incentive for people to travel back to this area. Third, to make businesses and

people whole, and this must be funded by BP to help reduce the long-term implications.

A key lever that is available to BP and the Federal Government is the opportunity to create marketing to bring people back. We are asking that it be considered a \$500 million fund, which would be a 15 to one return or \$7.5 billion to bring people back. Mr. Feinberg has the challenge of assessing real damages, but the challenge is, if left untouched these damages will mount and will grow. We have an opportunity to shrink them, and we need to address that. And so with no guidance for recovery, we don't know how to submit the claim. So that is going to be important.

We believe that the Gulf Coast Claims Facility is the right and only area to take \$500 million and properly allocate it to the people that can make a difference. There have been many requests by states, and they have received as you have already said \$70 million. The unfortunate problem is of that \$70 million very little actually got to marketing.

We would like to remove the politics. We would like to remove special interests. We would like to get a transparent process where we can mitigate and pull this down. The damage has already occurred. Everyone is talking about capping the damages and capping the well. Well, we also need to cap the damages long term, and we can do that.

The 400,000 people that work in this industry know how to do things in this industry. They probably don't know how to file a claim. So we need to get them back more quickly. A \$500 million marketing effort will do that. We have seen that over and over. We saw that with SARS in Canada. We have watched for 98 days on television the problems. We can turn this around, we can mitigate it. Nothing is more important than getting a fund to do this, put it in place, and I believe that will help the communities, the families, and the taxpayers, and in the long term reduce the liability for BP.

Thank you very much.

[The prepared statement of Mr. Dow follows:]



Testimony of

Mr. Roger Dow
President and CEO
U.S. Travel Association

**For the House Energy and Commerce Subcommittee on Commerce, Trade,
and Consumer Protection**

Hearing on:

“The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”

July 27, 2010

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Chairman Rush, Ranking Member Whitfield, and Members of the Subcommittee on Commerce, Trade, and Consumer protection, thank you for giving me the opportunity to testify at this important hearing.

I am here today on behalf of the U.S. Travel Association, which is a national, non-profit organization representing all components of the \$704 billion dollar travel industry. We represent over 2,000 members ranging from travel service providers, airlines and state tourism boards, to hotels, destinations, and local convention and visitors bureaus. Our mission is to promote travel to and within the United States in order to sustain and create American jobs. During the current environmental and economic crisis caused by the BP oil spill, this mission could not be more important for both our members and the residents of the Gulf Coast States.

In today's testimony, I will highlight the significant role that travel and tourism play in the economies of the Gulf Coast region. With the power of travel as a backdrop, I will discuss the potential long-term economic impacts of the BP oil spill and – most importantly – what BP and the federal government can do to prevent these grave projections from becoming a reality.

In the four states of Louisiana, Mississippi, Alabama, and Florida, the travel industry generates \$94 billion in revenue and accounts for over 1 million jobs. In fact, tourism comprises a larger portion of the Gulf Coast economies when compared to any other region of the country. Leisure and hospitality employment represent 15 percent of the total private employment for counties along the Gulf shore, compared with 12 percent for the entire country. In Mississippi, 22 percent of private employment on the coast is in the leisure and hospitality sector.

But now, this large and vital sector of the Gulf Coast economy is in jeopardy. When the crisis began, there was some question as to whether or not the travel industry would be impacted by the BP oil spill. However, as the weeks and months of this crisis dragged on, the question quickly turned from, "Will the travel industry be hurt?" to: "How much can we expect to lose and how long will it take before travelers come back to the region?"

To answer this question, the U.S. Travel Association commissioned Oxford Economics to conduct independent research on the potential long-term impacts of the BP oil spill. Upon analyzing 25

previous disasters – including oil spills, hurricanes, and terrorist attacks – the study found that the potential impact of the oil spill in the Gulf of Mexico could adversely affect tourism arrivals in coastal communities for up to three years at a cost of \$22.7 billion dollars in lost revenues. In the absolute best case scenario, which includes a comprehensive campaign to attract visitors to the region,, the study estimates that Gulf region travel will be impacted for 15 months at a cost of \$7.6 billion in unrealized revenues.

Although both projections are dire – the study finds that the economic damage will likely trend towards \$22 billion dollars. To put this in perspective, the projected damage over the next three years is \$2.7 billion dollars higher than the escrow account established by BP to pay for damage claims. And this economic loss is just in the area of travel and tourism.

In response to these findings, the U.S. Travel Association authored a white paper of policy recommendations, entitled “A Roadmap to Recovery”, which outlines a set of concrete ideas for mitigating the projected damage in the Gulf and in future disasters. The Roadmap lays out a plan that utilizes travel to stimulate local economies and speed recovery by focusing in three areas:

- **First: Inform Public Perceptions.** Travel is a perception business where, in the wake of a disaster, facts often take a backseat to fears and rumors. Informing public perceptions is the single most important thing that government can do in the wake of a crisis situation
- **Second: Incentivizing Travel.** The federal government can spur economic recovery and send a clear message that an impacted region is safe and open by providing individuals and businesses with incentives to travel to and do business in a disaster-affected region.
- **Third: Making Businesses Whole.** Unfortunately, disasters will inevitably cause a certain amount of economic and physical damage. In order to help businesses and families survive a major crisis, the federal government will need to provide increased access to capital, low interest loans and tax incentives.

The key recommendation of the Roadmap calls for a dedicated recovery fund of \$500 million dollars – funded by BP – as a means of reducing the medium and longer term impacts of the oil spill. This

is the key lever available to BP – and the federal government – to stop the economic damage that could ensue over the next three years.

The effectiveness of employing information-based marketing campaigns to jumpstart the economic recovery process and mitigate long-term damage cannot be overstated. In fact, Oxford Economics determined the ROI for a range of tourism marketing campaigns that were carried out after a crisis, including the campaigns used in Canada after SARS and for Alaska after the Exxon Valdez spill. The analysis found that tourism marketing campaigns yield a return of between \$5 dollars and \$64 dollars in visitor spending for every dollar spent on marketing.

Specific to the BP oil spill, the Oxford study found that with an average ROI of 15 to 1, the \$500 million dollars in marketing would generate \$7.5 billion dollars in tourism spending in the regions affected by the oil spill. It is important to point out that this is conservative estimate in light of a documented ROI of 20 to 1 for post-SARS campaigns in 2004. In other words, \$500 million in marketing spending could effectively cut the total impact on the travel and tourism economy by one third.

When examining current travel indicators in the United States, it becomes increasingly clear that the Gulf Coast is in dire need of this marketing assistance. Available research affirms that travel intentions are down significantly for the Gulf due to misperceptions regarding which areas are affected and because travelers believe the impacts of oil spill disaster will be felt for a long time.

TNS, which is a leading market research firm, conducted a survey in June to measure changes in travel intentions of U.S. households following the BP oil spill. The survey found that 10 percent of those already intending to travel to the Gulf region had changed their plans due to the oil spill. Another 22 percent had decided not to go for unspecified reasons, leaving only 68 percent of would-be travelers to the region holding onto their plans. What's striking about this survey is that it represents the average for the entire Gulf shore region – even though large parts have been untouched by oil. Sadly, this survey only includes a small category of the lost travelers to the region.

Data collected by TripAdvisor – a consumer travel website which receives 47 million monthly visitors – provides startling insights into the perceptions of millions of additional travelers.

According to TripAdvisor, page views of Gulf Coast destinations have dropped significantly since the oil spill began. The data shows that in July, inquiries for travel to Gulf Shores, Alabama, where a small amount of oil has washed ashore, declined by **65 percent** when compared to the previous year. But similar declines have been seen in areas where no oil has washed ashore. During the same time period, inquiries for Fort Myers Beach, Florida, declined by over 25 percent and those for Clearwater, Florida, declined by over 15 percent when compared to previous years. To date, both destinations have not experienced any direct oil damage to their coastlines.

The research findings from TNS and TripAdvisor highlight two very important points. Economic loss cannot simply be measured by hotel occupancy rates or bookings because traveler spending takes place at restaurants, retail stores, and a host of other service providers. Second, the decline in travel is happening throughout the Gulf – independent of whether or not there is oil related damage in any given place. Although media attention has concentrated on areas where oil has come ashore, visitors have shifted away from the entire region in significant numbers because of the high profile nature of this event and uncertainty with respect to where the oil will wash ashore in the future. Clearly, the BP oil spill is responsible for economic losses in the Gulf in places where oil has washed ashore and in areas where the oil has not.

Despite these indicators, we must remember that it is not too late to prevent future damages from becoming a reality. The simplest and most effective way to accomplish this goal is to direct BP to invest \$500 million dollars over the next three years in comprehensive information based marketing campaign designed to bring travelers back to the Gulf Coast.

BP has taken some steps in the right direction by providing a \$70 million dollar marketing grant to the four states: Louisiana, Alabama, Mississippi, and Florida. However, it's clear much more is needed but no new funds have been allocated. In fact, BP recently denied the State of Florida its request for another marketing grant and instead informed the Governor's office that individual counties and cities should submit claims directly to BP. Guidance on the type of documentation needed to file a marketing claim or the criteria that will be used to evaluate these claims has not been presented to any potential claimants. Furthermore, by asking that marketing requests from Florida come specifically from individual counties and cities, BP is diminishing the effectiveness of any

marketing effort that might take place. In addition, requests from the city of New Orleans and an umbrella tourism group, Gulf Coast USA, have to date gone unanswered.

In order to avoid the current uncertainties and inequities in the distribution of marketing dollars, a \$500 million dollar recovery fund should be administered by the Independent Claims Facility. As we heard today, Mr. Fienberg is a capable and effective manager with a rare wealth of experience. If recovery grants are allocated to bring travelers back to the Gulf, the funds should be distributed through an independent, transparent, and objective process – away from politics and any party that would have an interest in limiting or taking advantage of such payments. Eligible claimants for the recovery fund should include State tourism offices, Convention and Visitors Bureaus, Destination Marketing Organizations and any other entity that has the expertise and ability to effectively manage broad marketing campaigns.

At this time, the Independent Claims Facility is the only type of entity that can effectively manage and administer this process. Unfortunately, the facility and the \$20 billion dollar escrow account have been established only to pay for damages that have already occurred, rather than also being used to prevent further economic damages from happening. This leaves the travel industry in a frustrating predicament with a grim outlook.

A lack of process to receive marketing dollars from BP can no longer stand. A recovery strategy based solely on compensating for damages that have already occurred must be changed. Therefore, the \$500 million dollars for a marketing effort must come from either the \$20 billion dollar escrow account or be added to the account by BP.

Again, travel is a perception business where, in the wake of a disaster, facts often take a backseat to fears and rumors. If a region experiences prolonged declines in travel resulting from consumer misperceptions, economic hardship and job loss can ripple throughout a local economy. Based upon the results of dozens of previous disasters, the long-term impact of the BP oil spill could last for three years and cost the Gulf Coast economies \$22.7 billion dollars in economic losses. We are calling on the federal government to secure \$500 million dollars from BP for information-sharing efforts that research shows can prevent \$7.5 billion dollars in further economic losses.

It is not too late to prevent further damage to the Gulf Coast tourism industry.

I thank the Subcommittee for holding this important hearing and giving me the opportunity to comment. I look forward to answering your questions.

Mr. RUSH. The Chair recognizes now Mr. Daniels for 5 minutes.

TESTIMONY OF RIP DANIELS

Mr. DANIELS. Thank you, Chairman Rush, Ranking Member Whitfield, and other subcommittee members. I am representing myself today.

Mr. RUSH. Would you turn the mike on and pull it closer to you? Thank you.

Mr. DANIELS. I apologize for that. I am representing myself as a private citizen and not the Harrison County Tourism Commission primarily because I wanted to represent small business as well as it applies to tourism.

I have been in tourism since 1978, starting as a tavern owner, radio broadcaster, real estate broker, tourism commissioner, and the primary investor in the Coast's newest African-American hotel, the Almanett. I have seen firsthand the adverse effects of a range of disasters from Hurricane Camille's destruction on the seafood industry's processing in 1969, to the economic recession of the '80s which resulted in the closing of the Hilton and Sheraton hotels, the complete destruction of the Coast tourism destination by Hurricane Katrina.

However, I have also been a part of the recovery and renewal of the Coast after each calamity, and the resilience of the Gulf Coastians in the face of insurmountable destruction is a testament to their faith in God and in each other.

On the eve of the 5-year anniversary of Hurricane Katrina, the Coast was poised to have a banner year for tourism. On April 20, the Deepwater Horizon sunk and so did our hopes to finally reestablish the Mississippi Gulf Coast as a tourist destination as opposed to a hurricane-ravished resort.

The impact of the BP oil disaster on tourism has been and will be a disaster. The devastation is difficult to measure because both the actual damage and the perception of the damage cannot be readily measured. Was the Gulf Coast spared because there was a limited amount of oil to reach the shoreline, or was the shoreline spared because most of the oil is still at the bottom of the Gulf or dispersed in plumes? Is the perception of clean beaches better than the perception of clean seafood? And in the words of my grandson, "Is it safe to go in the water? And if not, is it safe to eat the fish?"

One can glean that the Mississippi Gulf Coast billion dollar tourism industry is undoubtedly tied to seafood. According to recent Harrison County surveys the number one reason for visiting the Mississippi Gulf Coast was the food, the seafood. Ladies and Gentlemen, the Coastal view is still gorgeous. The beaches are clean, the sound and the bayous are open for fishing, but the seafood; is it safe? How does the Coast remove the perception that it is not?

Surprisingly, according to the hotel/motel association and the casino association, hotel stays over the last 90 days have been up, and casino revenues have been up, but of course, that is compared to last year when the tourism economy was at an all-time low. Yet, maybe the fact that the Harrison County Tourism Commission under my guidance investing \$650 billion in advertising did help at least with drive-in markets.

Hotel/motel association stats have shown that many of the room nights are as a result of extended stay, BP employees, government agencies, media, petroleum-clean-up-related businesses, and the like. Although there is a perception at times that the Gulf Coast revenue is up, is it the result of tourism, or is it a result of oil recovery? And if so, does that not suggest that the recovery is not over until tourism is back to the ratio that existed prior to the explosion?

The most serious adverse effect over the last—over the lack of tourism, not recovery workers, is that many of the Mom and Pop shops, the restaurants, off boats, seafood merchants, water sports vendors, and golf courses and the like have suffered. They are not getting tourist dollars which were far greater.

And then even more importantly, we have notice that inquiries about future visits to the Coast as it applies to tourism is off 40 to 50 percent. What happens when all the recovery money is gone, and all the workers have gone?

Ironically, just as the Deepwater Horizon was an exploratory mission, Mississippi Gulf Coast now finds itself challenged with the exploration of what to do in the coming years to fight the perception. There are too many unknowns right now. Considering the fact that we just had Bonnie, one has to wonder just what will happen when there is another Katrina or another hurricane and just how many tar balls will be washed up.

Ladies and gentlemen, on the Mississippi Gulf Coast as it applies to tourism, we are not enthusiastic about trading a \$1 billion seafood industry for a \$1 million well. So we would hope and in my testimony you will see some recommendations and hopefully some cures for this ill.

Thank you.

[The prepared statement of Mr. Daniels follows:]

July 27, 2010

Bobby L. Rush
Chairman
Subcommittee on Commerce, Trade, and Consumer Protection

The Honorable Ed Whitfield
Ranking Member

The Honorable Henry A. Waxman
Chairman

The Honorable Joe Barton
Ranking Member

And all subcommittee members

It is indeed an honor to be invited to testify before the Congressional Subcommittee on Commerce, Trade, and Consumer Protection.

Although my testimony would be only as a private citizen of the Mississippi Gulf Coast, my experiences as a lifelong resident, entrepreneur, and community representative, affords me the ability to offer a broad view of the BP oil spill's impact on Mississippi Gulf Coast tourism.

I've been in tourism related businesses since 1978, starting as a tavern owner, broadcaster, real estate broker, tourism commissioner, and now the primary investor of Gulfport's newest African-American owned hotel (The Almanett). I've seen firsthand the adverse effects of a range of disasters from Hurricane Camille's destruction of the seafood industry in 1969, the economic recession of the 80's which resulted in the shut down of the Hilton and Sheraton Hotels, and the complete destruction of the Coast as a

tourism destination by Hurricane Katrina. However, I've also been a part of the recovery and/or renewal of the Coast after each calamity, and the resilience of the Gulf Coastians in the face of insurmountable destruction is a testament to the faith that we have in our God and the faith we have in each other.

On the eve of the five-year anniversary of Hurricane Katrina, the Coast was poised to have a banner year for tourism. On April 20, the Deepwater Horizon sunk and so did our hopes to finally reestablish the Mississippi Gulf Coast as a tourist destination as opposed to a hurricane ravaged resort. The impact of the BP oil disaster on tourism has been and will be devastating.

The devastation is difficult to measure because both the actual damage and the perception of the damage cannot be readily measured. Was the Gulf Coast spared because there was a limited amount of oil to reach the shoreline? Or, was the shoreline spared because most of the oil is still at the bottom of the gulf or dispersed in large plumes? Is the perception of clean beaches better than the perception of clean seafood? In my grandson's words "Is it safe to go in the water and if not, is it safe to eat the fish?" One can gleam that the Mississippi Gulf Coast billion dollar tourism industry is indelibly tied to seafood. According to recent Harrison County surveys, the number one reason for visits to the Gulf Coast is seafood.

Ladies and Gentlemen, the coastal view is still gorgeous, the beaches are clean, the sound and the bayous are open for fishing, but is the seafood safe, and if it is safe, how does the Coast remove the perception that it is not?

Surprisingly, according to the Hotel/Motel Association and Casino Association, hotel stays over the last 90 days have been up, and casino revenues have also been up, but of course that is compared to last year when the tourism economy was at an all time low. Yet, maybe the fact that the Harrison County Tourism Commission, under my guidance as chairman of the Advertisement Committee, did well to invest \$650,000 in advertising within 30 days after the oil rig explosion. By doing so, we temporarily off set the perception, at least in the drive-in markets, that oil goo was on the Mississippi beaches.

Hotel/Motel Association stats have shown that many of the room nights are as a result of extended-stay BP employees, government agencies, media and other petroleum clean up related businesses. They also show that the average room rate is down significantly, possibly as a result of extended stay discounts. But, ladies and gentlemen, are these tourists?

Although there is a perception at times that the Gulf Coast revenue is up, is it a result of tourism or is it a result of oil recovery and if it is a result of recovery, then the Coast will not be made whole until recovery results in tourism renewal at the ratio of improvement prior to the explosion. The most serious adverse effect over the lack of tourists, not recovery workers, is that many Mom and Pop restaurants, off the boat seafood merchants, water sport venders, golf courses, charter boat sport fishermen, retail merchants, personal care businesses (hair dresser, masseuses, etc.) have all seen a decline in usual tourism related sales. Now, one can argue that if revenues are up today, then there are no losses. But tourism sales are based on future visits, and inquires and commitments are off 40-50%. Just like after Katrina, some municipalities showed increases in their sales taxes,

but that was as a result of vast amounts of FEMA recovery money. BP is also injecting vast amounts of money into the economy, which gives the perception that all is well economically, but since the well capping there's already been significant reduction in work force revenue. Is the recovery revenue sustainable? No. Was/Is it more profitable than tourism before the explosion? No.

What happens if the well is permanently capped, the oil is cleaned off the beaches, and the marshes are no longer deluged with oil? Is the seafood safe to eat? And who can determine that it is safe to eat? And how can we here on the Coast convince the rest of the world that their perception of tainted Coast seafood is wrong? Although there has been an increase in commercial real estate rentals, there has been a decline in tourism resort property sales. As a result of a lack of tourists, equity in tourism related businesses and real estate has declined, all damaged by the lack of tourist and the perception that there will be fewer tourists.

Ironically, just as Deepwater Horizon was on an exploratory mission, the Mississippi Gulf Coast now finds itself challenged with the exploration of what it will take to recapture lost tourism gains and compete in a predatory tourism market. Just as the rig ventured into the great unknown three miles deep, the Coast could very well be three decades removed from rejuvenation.

There are too many unknowns. Consider the following:

- Can the government or any oil company guarantee that such an ecologically sensitive marine environment be safe from the potential of another accidental spill?

- Can this well or any other deep water well be capped permanently?
- How much of the oil is still in the Gulf waters?
- How much of the oil has settled to the Gulf floor and what is and will be the effect on marine life?
- What are the long-term effects of the dispersant on marine life and the long-term effect on humans after ingesting seafood, which has absorbed petroleum and dispersant molecules?
- Where are the plumes?
- Will another hurricane stir up undersea oil years from now and force it onto the mainland?
- Will the oyster beds recover?
- What effect will all of this have on marine life reproduction?
- And how many tourists will bring their children to a beach where toxic tar balls can wash up without notice?

What the Mississippi Gulf Coast tourism industry needs now is reassurance and the federal government can do that by providing the following:

- The ecological impact must be the first consideration when considering where to drill.
- The pre-existing economical impact should also be considered first, i.e., the multibillion dollar seafood and tourist industry should not be jeopardized for the sake of the multimillion dollar oil rig.
- The federal government must reassure Coastians and the world that the seafood is safe by providing an army of scientists to monitor deep water and shallow water marine life continuously.
- There must be a long-term commitment to provide HAZMAT training and support so that local coastal municipalities can respond in mass if necessary.
- Fresh water and the water table must be monitored with greater frequencies. As we speak, collected toxic oil residues and debris is being placed in landfills in Harrison County. What effects will that have on the water table?

- Air quality must be monitored with greater frequency.

Finally, all of the above is necessary because tourists must be reassured that the destination they're visiting is safe or they won't come. For tourism the perception of a safe environment is just as important as the reality.

In conclusion, just as petroleum products take a long time to biodegrade, we Coastians understand that our tourism industry may take just as long to improve, but we must know that there is a long term commitment to assist in that recovery in both real damage and perceived damage.

Mr. RUSH. The Chair recognizes Mr. Malone for 5 minutes.

TESTIMONY OF HERB MALONE

Mr. MALONE. Good morning, Mr. Chairman, and thank you and thank the members of the subcommittee for inviting us here today. It is a tremendous honor to represent our area. It is an honor to represent the some 2,000—

Mr. RUSH. Move the mic to you. Thank you.

Mr. MALONE. OK. It is an honor to represent some 2,000 business owners and some 40,000 employees that they employ whose livelihoods all are at risk as we sit here today.

Our area began receiving oil on our beach in mid May. We have continued to receive it, have some sheen offshore, coming ashore today as we speak. This is our high season. With the oil impacts we have had it is—I cannot describe it verbally as well it should be. Many of us have had problems with the media and the way that the media has overstated things, which sometimes they tend to do, but I will tell you honestly when the media in the second week of June reported that the beaches of Alabama were slathered with oil, we were slathered with oil, and it was not a false report. They failed to report how much is being cleaned up. Our beaches do look good today, and there is a clean-up process. It took awhile to get it working, but it is working.

What has this done to our tourism economy is destroyed it. We are devastated. We should be at 90, 85 to 90 percent occupancy today in mid-July and late July. We are running less than 30 percent, and when occupancy goes down, the rates go down even greater. So our revenue to our lodging, to our restaurants, to everyone in town, I don't know of a single business, and I conveyed this to Mr. Feinberg in a recent meeting, I don't know of a single business in our town that has not been directly affected by this oil. It has created a sense of despair that I have never seen.

Like Mr. Daniels, I have grown up on the Gulf Coast. I have been through hurricanes. We have been through hurricanes. I have been in this position for 22 years. I look at the eyes of my friends and colleagues around the community, and I see despair I have never seen before.

We mentioned and remembered 11 victims of the explosion of the rig. We have got a 12th victim. We have got a charter boat captain, Captain Alan Cruise, who in the sense of despair, beyond hope, took his own life. We hope that is the last one. We have measures in place to try to prevent that from happening again. We hope we are successful with those.

We are the smallest beach, laterally we are the smallest beach on the Gulf Coast. We have the least amount of coastline of any of the five States, but we generate \$2.3 billion annually from our tourism product. We the decline that we see in this high season, we fully expect our loss to be at or near \$1 billion just this year, not counting what happens in the summer, I mean, in the future years. And that is the direct spending by the consumer, not counting the ripple affect as it would ripple through our economy.

So it is devastating to us. It is about survival. The BP claims process has been mentioned in the numbers that they seem to tout quite often of what they have paid. The bigger number is what they

have not paid. Last night I received an e-mail from one of our local CPA firms that I know has been very actively engaged in the claims process. They have filed over—gave me a detailed list of over 70 claims they have filed on behalf of businesses. These 70 claims total over \$27 million. This is just for May and June. July claims are just now starting to be filed. Of that \$27 million less than \$5 million has been paid yet to owners. Of that \$5 million, \$3.5 million went to two claims.

So as you see there is a tremendous void in what has been filed and what has been requested and what has been documented, and this CPA firm is highly reputable. They have been actively engaged from the very beginning, and they like the rest of us, are being frustrated why money is not coming into the hands of our business community. Without that they can't support the jobs, they can't make payroll next week, they can't pay the notes that are due.

Our industry is much like farmers. We prepare in the spring, we market, we spruce up the place, we paint the boat, we remodel during the winter, we are ready for the coming season. Just like the farmer who has lost his crop, we have lost our yield. So is it—not only is it a terrible time in regards to the recession and the previous hurricanes, it is a terrible time of year for us.

So our request to you today is this committee, subcommittee and members of Congress is to do, please, whatever you can to get money in the hands of Mr. Feinberg and his program and get it up and going as fast as possible. We have had two meetings with Mr. Feinberg. We have found him to be very fair and open-minded. Our first meeting he scared us with his eligibility requirements, but in our second meeting he listened to our side of the case, and he said we closed the gap tremendously with him. We still have some work to do, Mr. Feinberg, but we are feeling better about it, and we look forward to working with him.

But our problem is I have businesses who have bank notes due last week. Every day that goes by is critical. Every week that goes by there will be another foreclosure. So when Mr. Feinberg says he is taking over mid next month, I wish for us he would take over tomorrow, and if there is any way that members of this committee or any other members of Congress can help facilitate getting this into the control of Mr. Feinberg and out of the control of BP, it would be a tremendous benefit to us.

With that I would like to close over than to say, again, thank you for your interest in this issue. Thank you to the gentleman who recognized our Jimmy Buffett concert. Thank you to the lady from Florida who discussed the beautiful beaches. We share the same beautiful beaches with Florida. At least we did before the oil. We look forward to the day those beaches are beautiful once again.

[The prepared statement of Mr. Malone follows:]

Mr. Herbert J. Malone, Jr., President
 Alabama Gulf Coast Convention and Visitors Bureau
 July 27, 2010
 Subcommittee on Commerce, Trade, and Consumer Protection
 "The BP Oil Spill and Gulf Coast Tourism"

Good morning and thank you Mr. Chairman and members of the committee for this opportunity to appear before you and to share our story. Before I begin, please allow me to extend my condolences to the families of the eleven crew members who lost their lives during the explosion of the Deep Water Horizon Rig. I also ask that you join me in extending condolences to the families of the twelfth victim, Orange Beach Charter Boat Captain Alan Kruse, who tragically took his own life amidst the anxiety and despair at the loss of his way of life.

OVERVIEW OF OUR DESTINATION

My name is Herbert Malone and for the past 22 years I have enjoyed the privilege of leading the tourism industry of Alabama's Gulf Coast. Our destination consists of two small cities of Gulf Shores (pop. 7,760) and Orange Beach (pop. 6,359). We have 32 miles of beach front in Baldwin County (pop. 177,000), one of Alabama's two coastal counties. The inland city of Foley (pop. 11,393) is also considered by our tourists as integral to our destination because of its status as the retail center of the small region.

We share many of the same features as our neighboring Florida panhandle destinations: sugar white beaches, emerald green waters, world class fishing, championship golf and a variety of family friendly attractions, shops and restaurants.

*Visitor research confirms that our beaches are the dominant reason people visit Gulf Shores and Orange Beach, especially those who visit during the summer months. Specifically, when asked by researchers to list the most influential factors in making the choice to vacation in Gulf Shores/Orange Beach, 90% of the guests consistently listed "White sandy beaches" at the top of the list. Other beach related factors listed in the top ten are: "Sunning on the beach" and "Safe beaches for children." "Clean, unspoiled environment" is also listed as one of the top factors.

When asked what activities you enjoyed during your visits, nearly 98% of our visitors listed "Beaches" as number one. Nearly 20% of our visitors enjoy fishing in our waters while boating also ranks high as an influential factor.

Alabama's Gulf Coast has approximately 16,000 resort accommodations, mostly along or very near the beach front. We have a dozen championship golf courses and approximately 100 charter fishing boats that ply our waters daily.

THE ECONOMIC IMPACT OF THE OIL SPILL

**Research by the Alabama Department of Tourism concludes that in 2009, 4.6 million guests visited Baldwin County and accounted for \$2.3 billion in “direct” spending. This supported over 40,000 jobs with a combined payroll of \$915 million. Extrapolating from this report, I have estimated that nearly \$1.7 billion of this occurs during our high season – Memorial Day weekend to Labor Day weekend. During this high season, our destination accounts for over 47% of Alabama’s total tourism spending.

The above numbers described what the oil spill has put at economic risk. News of the oil spilling into the Gulf was widely reported early in the last week of April. From the first days of these reports, Alabama’s coastline was under severe threats as indicated by the NOAA projections charting the movement of the oil slick. Cancellations began to occur immediately.

Our first sporadic landing of tar balls were reported on May 11, 2010 and cancellations increased. Then, two weeks of favorable winds and aggressive marketing allowed us to salvage a decent Memorial Day weekend crowd. But the following Friday, June 4, 2010 we were inundated with tar balls, tar patties, and eventually tar mats. Cancellations then began en masse. The second weekend of June we were “slathered in oil” as reported by one news outlet.

So what has this cost us? We expect to lose at least 50% of the aforementioned \$1.7 billion of visitors’ spending. \$850 million to \$1 billion loss is in my professional opinion, a reasonable expectation. And this is only at the front line “direct spending” level. As these lost dollars fail to move through the economy, the impact will be multiplied many times.

As the retail level, lodging, eating and shopping establishments dropped sales, they have also dropped their business to business purchases of wholesale goods and services and staff reduction measures have been implemented. Those employees have likewise reduced their spending on goods and services. I am not aware of a single business in our community that has not suffered financial decline as a result of this oil spill.

BUSINESS SURVIVAL

With the aid of a \$15 million tourism marketing grant to the State of Alabama, our entire business community has pulled together in an attempt to overcome these declines. Aggressive non-conventional marketing programs, creative value added discounting and new special events have combined to provide a base of customers that has allowed us to at least survive through the summer. But the end of high season is near and along with this many business owners have told me they are struggling to find ways to pay debt service and to make weekly payrolls. The last two years of recession has eroded most reserves of both businesses and local governments, including our school system. Unlike the hurricanes we have survived, this disaster occurred on the eve of the high season, not the end of it. Without immediate relief in some form, many of our small businesses will not survive through the off season.

THE BP CLAIMS PROCESS

Many of our local businesses have prior experience dealing with adjusters on “loss of revenue” insurance and all of the trials and tribulations of that process. As a result, several groups banded together and attempted to develop a productive approach with BP early on. Despite these efforts, the claims process has been erratic, somewhat convoluted, and at times dysfunctional.

I have personally spoken with a large number of business owners who have yet to see a single payment, in spite of filing claims since the end of May. These claims varied from a few hundred thousand to a million dollars or more. So this lack of payment is devastating. Small claims of under \$5,000 have been readily processed and paid, but larger claims are subjected to vast amounts of documentation (one reported filing over 2,200 pages) and onerous scrutiny by forensic accountants before claims are processed and even partial payments are made.

Latest claims reports contained on BP’s website (as of 7/22/2010) reflect that to date there have been \$36,827,074 commercial “loss of profit” claims paid to 16,965 factors. This calculates to \$2,171 per factor. Hardly enough for a business to sustain itself.

While a few of our larger businesses who have sizeable accounting staffs and IT departments seem to be having improved experiences, the vast majority are having their claims stymied for unknown reasons.

Currently, the largest fear regarding claims is the transition from the BP claims process to Mr. Feinberg’s program. From the beginning, BP has stated publicly that they “will pay all legitimate claims,” but no definition or eligibility standards have ever been disclosed. In public forums, questions raised to BP officials present were frequently answered with, “We plan to make you whole” again with a lack of definition. This has led many people and business owners throughout the region to feel protected, but apparently this was unfounded trust.

At the time of this writing, I have had the opportunity to participate in one 45 minute meeting with Mr. Feinberg. Our group came to this meeting to present him information on the problems experienced with the BP claims process. However, we were quite surprised to learn that his perspective on “eligibility” was much narrower than any of us had ever dreamed. Obviously, this caused us grave concern and we expressed this to him. He indicated a willingness for further discussion.

Another concern to us was the process for payments that he described. The good news was that he offered to consider claims for the projected losses over the next 6 months so he can pay a business in advance rather than BP’s practice of paying in arrears. But his plan to offer a one time, final settlement raises many questions. How the future impacts which could last for many years are projected and calculated? Why is a claimant being asked to sign away their legal

rights forever with so much debate and uncertainty of such things as subsurface damage to the environment, long term health risks, etc.?

Our understanding that day was that a business owner could either accept the offer or proceed to litigation and that the ongoing claims payment process will cease at the time the offer is rejected. By almost all accounts in the legal community, the anticipated litigation will certainly last many years and possibly, a few decades. A law professor from the University of Alabama stated at a recent forum that the attorneys who will try these cases have probably not been born yet.

The bottom line is that a business owner, in order to survive will have no logical choice but to accept Mr. Feinberg's offer. Is this fair?

During our meeting with Mr. Feinberg, I personally found him to be open for reasonable discussion and debate regarding his view point. We all agreed to have a follow-up meeting to further discuss our concerns. At the time of this writing, that follow-up meeting has yet to occur.

IMMEDIATE NEEDS AND LONG TERM OUTLOOK

Our destination consists primarily of family owned businesses, many of whom are multi-generational. They have no diversification in other markets so they are extremely vulnerable. Most are categorized as small businesses. As previously stated, this oil spill has occurred at the worst possible time. They need immediate relief within the next few weeks.

First of all they need an expedited claims resolution process to put cash in their hands right away. The process BP claims adjusters are using is akin to the IRS deciding to audit every tax return prior to sending the taxpayer his refund. This is unconscionable. Secondly, the majority of our businesses are carrying debt of various types and sizes. A commonly used practice is a seasonal line of credit much like farmers use. They draw on their credit line in the early spring as they prepare their businesses and their markets for the coming season. These credit lines frequently come due at the end of the high season. But today there is no money for payment because this year's crop of tourists failed to appear.

The recent turmoil within the banking industry has caused both bank policy makers and regulators to reduce or remove much of the flexibility they have previously exhibited. Informal discussions with regional bank leaders and regulators have shown some willingness to find ways to help, but at this time I am not aware of any action in that regards.

As suggested by several business leaders at a recent Chamber of Commerce board meeting, there is an urgent and immediate need for flexible banking policies in the form of such things as loan modifications, forbearance agreements, payment extensions, etc. As one man said, "It is time to quit talking and demand some action NOW!"

As for the long term, the lack of the ability to understand the future ramifications of this monster appears to be the top contributor to the high degree of anxiety and stress that is rampant in our community. I see desperation in faces where I have never seen it before. Our destination attracts predominantly families due to the fact that we are family owned and operated businesses. If we lose these business owners, we lose the entire culture of our destination.

How long will it take to restore our environment to pre-oil spill conditions? How long will it take to attract our tourists back? Will there be adequate financial assistance for businesses and employees? These are all real and difficult questions. But we are survivors. Our community has a proven record of working together both in good times and in bad. We never have and never will ask for a handout. All we ask is that you, BP and Mr. Feinberg help us help ourselves.

Thank you for your time.

Mr. RUSH. Thank you. Mr. Overton, you are recognized for 5 minutes.

TESTIMONY OF KEITH OVERTON

Mr. OVERTON. Thank you, Mr. Chairman, and distinguished subcommittee members. For the record we, too, are a little frightened of Mr. Feinberg so far, but I think we are going to get through it OK as we have more discussion.

Florida is the vacation capital of the country, and it has been for generations. When visitors think of Florida, they envision warm sunshine, blue waters, sugary white sand beaches, fresh seafood, and the natural environment like no other. All of these wonderful characteristics have been damaged as a result of the perceptions that Florida's beaches are covered in oil.

Tourism is big business. It is our number one industry. We hosted over 80 million visitors in 2009. We captured nearly 17 vacations from Floridians—17 million vacations from Floridians. Collectively our visitors spent over \$60 billion on travel last year, generating nearly \$4 billion in sales tax collections.

What that means is more than one-fifth of Florida's sales tax dollars are paid by visitors, and it also means jobs. Nearly 1 million Floridians are directly employed in travel and tourism.

To give you an example of the economic impact the BP oil spill is having on hotels, let me give you some statistics from my hotel, the Tradewinds. For purposes of geographic reference, we are the largest resort on the West Coast of Florida, just west of Tampa Bay, located in Pinellas County. Call volume is down by as much as 25 percent. We have 800 of the county's approximate 35,000 hotel rooms. So when you take an average of the last 3 years, which is what BP is asking us for, of our revenues shortfalls and you compare that to the revenue that we have achieved since the oil spill, we are down approximately \$1.7 million.

Now, if you extrapolate that out and you assume the balance of Pinellas County's 35,000 rooms have had a similar impact, that is a \$70 million economic loss just in hotel room revenue, and that doesn't include restaurants or secondary businesses related to tourism.

And then if you think about the Pan Handle, which has 76,000 hotel rooms in its entirety and the effects clearly have been more devastating to them than they have in Pinellas County, it is easy to see that the losses to Florida's tourism are in the billions. It is a substantial number, and it is something that we want to make on the record today that we need help with that.

What is most concerning to me is that all of these losses have occurred to our resorts without a drop of oil being on any beach in Pinellas County. It is amazing to me how the perceptions of the media have gotten us to this point. Nonetheless, we are there.

I also want to share with you that the Y-Partnership conducted a survey on June 18, and it was asked at the time of the participants which States do you believe will most directly be impacted by oil. Ninety-five percent of them put Florida at the top of the list. Florida is clearly the least affected State, at least physically, from the oil that is impacting the shorelines.

So clearly, again, I want to restate this is a perception problem, and I certainly think we can all agree that perceptions have worsened since June 18.

Prior to appearing on Neil Cavuto show a couple of weeks ago, I was viewing a monitor, and it had the President who was appearing at Pensacola Beach, and at the time there were a few tar balls there, but it hadn't been materially affected. And the tickertape along the bottom, I couldn't hear what was being said, but it read, "Oil finally reaches Florida's beaches." Plural. And when they transitioned to the next shot, the television station, and I can't recall which one it was, superimposed the oil running down the screen behind the President over the beautiful Gulf waters that were behind him. And I said to myself, you know, \$25 million, \$50 million, \$100 million, there is no amount of money that is going to combat that kind of imagery, and it is a challenge that we are faced with, and it is going to be there for many, many years to come I believe. Much like what happened in the hurricanes of 2004. We are still suffering from that and cannot gain occupancies in August and September that we used to achieve.

I have five requests of the committee in closing if you would acknowledge them, and I would ask you to at least address them in your comments and your questions. One is the media must be held accountable to accurate and fair reporting of the facts regarding this oil spill. They have a legal and an ethical responsibility to do so, yet many of them continue to put ratings ahead of accuracy.

I urge you to charge some agency, maybe it is this governing body, I am not sure, within the Federal Government to review news reports weekly and hold them accountable for the sensationalism and the accuracies that are there. We need somebody to support us in that regard, or it will just continue on even with the next crisis beyond this one.

Number two. We are optimistic that the oil leak has been capped, however, there is still going to be years of cleanup and recovery efforts remaining. We all fear that the claims are going to cease being paid prior to the end of the actual losses. I think that is an accepted concept today.

Additionally, Mr. Feinberg's recent comments with regards to what is a compensable or legitimate claim based on whether or not oil is on its beaches and the proximity to that oil is also very concerning to all of our members and all of the tourist-based businesses within Florida, and we implore Mr. Feinberg and any branch of the government that can influence the claim process to look very carefully at this and not allow it to be a black and white issue. We want to make sure each business owner has an opportunity to be heard for their legitimacy of their claims and not just ruled out because of geographics.

Third, I would like to make you aware that the CVBs in all of the Gulf Coast counties rely on bed tax dollars, and those bed tax dollars are related to hotel room revenues. When they fall, revenues fall, then the bed tax dollars fall. We need that marketing money. We need to be made whole. I know that is not Mr. Feinberg's responsibility, but those CVBs need to be made whole on the dollars that have been lost for their marketing purposes.

The fishing and seafood industry and our wildlife are critical to tourism and Florida's economy. I am not going to go into the details, but I have included in your packet some recommendations from very legitimate ocean conservancy, other agencies that will help you in some of your studies as it relates to our wildlife.

And lastly, we have to continue to spend money on marketing efforts both domestically and internationally. We have not yet gotten more money past the \$25 million originally that BP has given to us. Fifty million dollars was requested by our governor, and it has been turned down. We really need that money. It is very important. This is going to go on for a long period of time as I said earlier, and those dollars are vital to our recovery.

I thank you very much for allowing me to speak today and giving you our testimony.

[The prepared statement of Mr. Overton follows:]



Testimony to the House Subcommittee on Commerce, Trade, and Consumer Protection

RE: "The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact"

Hearing: Tuesday, July 27, 2010 - 10:00 a.m.
Room 2123 of the Rayburn House Office Building

Good Afternoon Chairman Waxman and Distinguished Committee Members:

My name is Keith Overton and I am the Chief Operating Officer for TradeWinds Island Resorts located on St. Pete Beach, Florida. TradeWinds is the largest beachfront resort on the west coast of Florida.

As Chairman of the Board for the Florida Restaurant and Lodging Association, I have been speaking throughout Florida and here in Washington DC in recent months making sure our State's tourism industry has a seat at the table when it comes to the recovery efforts regarding the BP oil spill, both from an environmental and economic perspective. I also serve on Visit Florida's Board of Directors. Visit Florida is our state's advertising and marketing agency. I will share some concerning data within a survey conducted by Y-Partnership, which I think you'll find helpful in gaining a full understanding of the impacts Florida is facing.

Florida is the vacation capital of the country and has been for generations. When visitors think of "Florida", they envision warm sunshine, blue waters, sugary white sand beaches, fresh seafood and a natural environment like no other.

All of these wonderful characteristics have been damaged as a result of "perceptions" that Florida's beaches are covered in oil.

Tourism in Florida is big business. It's our #1 industry:

- We hosted over 80 million visitors in 2009;
- We captured nearly 17 million vacations taken by Floridians;
- Collectively our visitors spent over \$60 billion on travel last year;
- Generating nearly \$4 billion in sales tax collections;
- What that means is more than 1/5 of Florida's sales tax dollars are paid by our visitors;
- And it also means jobs;
- Nearly a million Floridians are directly employed in travel and tourism.

To give you an example of the economic impact the BP oil spill is having on our hotels, let me quote some statistics from my company, TradeWinds:

- Call volume from potential visitors is down by as much as 25%;

- If you consider our resorts as a benchmark, the losses are staggering and there seems to be no slowing them down in the near-term;
- TradeWinds has 800 of the county's approximate 35,000 hotel rooms;
- When you take the average of our last three years using the same dates which have passed since the oil spill (April 21st through June), our two resorts are down by over approximately \$1.7 million dollars in revenue. If you assume the hotels that represent the rest of the 35,000 rooms have experienced similar revenue losses per room, that's over \$70 million dollars in revenues lost in just Pinellas County;
- When you consider the impacts in the Pan Handle and the losses occurring to their inventory of 76,000 hotel rooms, it's easy to see that Florida's tourism industry stands to lose billions;
- Keep in mind these losses don't even consider restaurants, suppliers, retail stores, attractions or other secondary businesses which rely on visitors staying in hotels.

What's most concerning is that all of these losses have occurred to our resorts with not a drop of oil on any of our Pinellas County beaches! The physical impacts on the Pan Handle are almost exclusively isolated to the Pensacola area with modest amounts of oil reaching the balance of the beaches in Florida's Pan Handle.

An excerpt from the Y-Partnership survey conducted on June 18th reflects that when participants were asked which states would end up with oil on their beaches before the crisis was over, Florida rose to the top of the list (95%), followed by Louisiana (89%), Mississippi (83%) and Alabama (82%). The complete survey has been submitted to this committee's staff and is available for your review.

I think we can all agree that perceptions since then have gotten worse and that many potential visitors now believe that all of Florida's beaches have been affected.

Prior to speaking on the Neil Cavuto show a couple weeks ago, I was viewing a monitor which was tuned to another news broadcast. Coverage of one of President Obama's visits to Pensacola was being discussed. At that time very moderate amounts of tar balls had actually washed up on Pensacola beaches, but the ticker trailing below the President read, "oil finally reaches Florida's beaches". Behind the President you could see the Gulf waters and then suddenly the television network superimposed oil running down the monitor behind President Obama. This subliminal depiction of our beaches being covered in oil is what the world is seeing at a glance on a regular basis.

I urge this committee to consider and address the following five concerns:

1. The media must be held accountable to accurate and fair reporting of the facts regarding the BP oil spill. They have an ethical and legal responsibility to do so, yet many continue to put ratings ahead of accuracy. I urge you to charge some agency within the Federal Government to review news reporting weekly and address all inaccurate or sensationalized reporting with swift action and appropriate penalties.
2. We all hope the oil leak will remain capped. However, there could still be years of clean-up and recovery efforts remaining. We all fear that claims will cease to be paid prior to the end of our actual losses. Additionally, Kenneth Feinberg's recent comments regarding claims

with BP potentially not being compensable or "legitimate" for our tourism-based businesses, just because actual oil was not on their county's beaches has everyone very worried. As I stated earlier, only a very small portion of Florida's Pan Handle has been physically impacted by oil but our state's losses are in the billions.

We implore Mr. Feinberg and any branch of Government with influence in the claims process to not permit any such approach!

3. I'd also like to make you aware that all of our tourism-based businesses rely on "bed tax" dollars collected on hotel sales by our counties for marketing and advertising. Without these dollars it is impossible to compete with other states and other destinations. Our revenue losses extrapolate to significantly reduced bed tax collections and we must make each county whole based on their respective losses. This is critical to our recovery process!
4. The fishing & seafood industries and our wildlife are critical to tourism and Florida's economy. Attached is a detailed outline of our concerns in this regard. I urge this committee to influence or obtain appropriate funding to conduct this research and document the immediate impacts of the spill, which is needed to begin to assess the long-term impacts to the Gulf of Mexico fisheries and its wildlife.
5. Lastly, we must continue to spend money on marketing efforts both domestically and internationally. While we are very appreciative of the \$25 million BP provided to Florida for advertising, they also recently turned down Governor Crist's request for an additional \$50 million. As long as there is media coverage on the oil spill, we must continue to advertise the facts and let people know that virtually all of Florida has been unaffected by oil on its beaches thus far.

Thank you very much for the opportunity to speak with you.



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Support Data for Testimony to the House Subcommittee on Commerce, Trade, and Consumer Protection

RE: "The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact"

Oil's Impacts on Fish and Fish Populations

Make no mistake. Oil takes a serious toll on fish and wildlife. We can point to the Exxon Valdez spill to get a sense of the devastating ecological and economic impacts of oil on fish, fish populations and fisheries.

In the aftermath of the Exxon Valdez, scientists documented profound physiological impacts in fish. These included reproductive failure, genetic damage, curved spines, lowered growth and body weights, altered feeding habits, reduced egg volume, liver damage, eye tumors and debilitating brain lesions.

Many reef fish species in the Gulf are spawning now or in the coming months and will produce larvae and juveniles that will spend the early part of their lives in coastal, estuarine and/or open water environments. All of these habitats, and the young and adult fish inhabiting them, will be affected by the oil spill.

Fish eggs and larvae are especially sensitive to hydrocarbons and other oil-based contaminants in the water.

Newly settled larvae inhabiting the coastal environment are already vulnerable to high natural mortality at this stage of their life cycle and scientists have documented even higher mortality as the result of oil spills and contamination.

Eggs or larvae, the building blocks of fish populations, killed by oil's smothering or toxic effects could dramatically impact fish populations in the Gulf for years to come.

Oil's Effects on Fisheries and Fisheries-dependent Economies

We are already seeing the impacts of the oil spill spread to fishermen and fishing communities and businesses along the Gulf.

NOAA Fisheries, the government agency responsible for managing fish stocks offshore, has closed all recreational and commercial fishing in the areas affected by the spill, totaling nearly 5% of federal waters in the Gulf.

Charter boat operators are receiving calls from clients canceling trips. Local fish buyers and dealers are faced with the growing but false perception that all seafood from the Gulf is unsafe to eat.

Commercial fishermen in the Gulf could lose hundreds of millions of dollars in dockside earnings if their fisheries are closed, the fish species they catch are contaminated or stocks crash because of high mortality from oil contamination.

1. The commercial fishery species/groups that are economically most important in the northern Gulf (LA, MS, AL) and eastern Gulf (FL) are the following (2006 ex-vessel value in millions of dollars):

a. Shrimp	180 (all)	37 (FL)
b. Oysters	40 (LA & AL)	5 (FL)
c. Menhaden	40 (LA & MS)	n/a (FL)
d. Blue crab	32 (LA)	7 (FL)
e. Gag & Red	n/a	18 (FL)
f. Tunas	7 (LA)	
g. Red snapper	4 (LA)	2 (FL)

2. Recreationally the most important species are as follows:

- a. By far, the number one group (several species) is the drums, with nearly 24M retained;
- b. Beyond that, mullets, porgies and Spanish mackerel accounted for between 1 and 2M retained;
- c. Gray snapper, red snapper, king mackerel and gag were next with between .3 and .7M retained.

The Gulf of Mexico Shrimp Fishery: What's at Stake?

The looming oil spill in the Gulf of Mexico is a serious threat to the region's shrimp fishery, fishermen and related businesses. Gulf fishermen land roughly \$365 million in wild shrimp, which would be affected directly by oil contamination and through loss of essential near shore and offshore habitat. Brown, white and pink shrimp, the commercial cornerstone of the Gulf shrimp industry, are especially vulnerable to the oil slick right now. These species are likely to cross the path of the slick as they actively move between their inshore nurseries and coastal or offshore habitat in the spring and summer, resulting in high mortality. In addition, the coastal wetlands themselves could be damaged or destroyed by oil or the methods used to remove oil. Without sufficient, healthy marsh and sea grass habitat, shrimp cannot carry out the critical juvenile and sub-adult phases of their life cycle, potentially triggering a crash in shrimp populations and crippling local economies dependent on wild shrimp.

Florida Wildlife

Coastal wildlife will be vulnerable to impacts from oil reaching beaches. Shorebirds and seabirds are in the middle of their nesting season, making them extremely vulnerable to disturbance. Nesting season for sea turtles is just beginning. Pre-impact wildlife assessments are currently being conducted and critical habitats are being identified for protection with booms and barriers by state agencies.

The brown pelican, recently removed from the endangered species list, is of particular concern since they are currently nesting and raising their young along Gulf coastal waterways. An oiled bird may be unable to fly, remain afloat or stay warm. In 2005, roughly 700 brown pelicans died after a smaller oil spill when a storm-damaged drilling platform fouled their nesting grounds at Breton Wilderness Area.

Marine mammals and sea turtles in the Gulf, in brief:

Oil in the water can pose a myriad of problems for sea turtles and marine mammals. The chemical dispersants being used to break up the oil can also be hazardous to ocean wildlife. Both sea turtles and marine mammals must come to the surface to breathe. While marine mammals may be more apt to avoid oil-laden surface waters than sea turtles, large spills, such as the Deepwater Horizon spill, present a significant hazard to both species groups.

The level of harm that oil or chemical dispersants can cause to wildlife depends on what type and how much of the oil or chemical dispersant the animal has been exposed to and for how long it has been exposed to these hazardous materials. Exposure methods include breathing in oil-laden air, ingestion of contaminated water or food and absorption through the skin.

Here is a short list of species typically found in the Gulf of Mexico that could be affected:

- Sea Turtles – there are 4 species of sea turtles found year-round in the Gulf of Mexico
 1. Kemp's Ridley
 2. Green
 3. Loggerhead
 4. Hawksbill
- Marine Mammals – There are 22 marine mammal species found in the Gulf of Mexico. Most are pelagic (deep water) species, found in waters greater than 100m (300 ft). Coastal bottlenose dolphins, spotted dolphins and manatees are found closer to shore, in waters less than 100m.
 1. Bottlenose Dolphin (Coastal and Offshore Stocks)
 2. Manatee
 3. Sperm Whale
 4. Bryde's Whale
 5. Cuvier's Beaked Whale
 6. Blainville's Beaked Whale
 7. Gervais' Beaked Whale
 8. Atlantic Spotted Dolphin

9. Pantropical Spotted Dolphin
10. Striped Dolphin
11. Spinner Dolphin
12. Rough-Toothed Dolphin
13. Clymene Dolphin
14. Fraser's Dolphin
15. Killer Whale
16. False Killer Whale
17. Pygmy Killer Whale
18. Dwarf Sperm Whale
19. Pygmy Sperm Whale
20. Melon-Headed Whale
21. Risso's Dolphin
22. Short-Finned Pilot Whale

(The following is from an EPA Office of Emergency and Remedial Response document)

Sensitivity of Birds and Mammals

Where an organism spends most of its time, in open water, near coastal areas or on the shoreline, will determine the effects an oil spill is likely to have on that organism. Aquatic animals such as turtles, seals and dolphins, risk contamination by oil that washes onto beaches or by consuming oil-contaminated prey.

An oil spill can harm birds and mammals in several ways: *direct physical contact, toxic contamination, destruction of food sources and habitats and reproductive problems.*

- *Physical contact* – When fur or feathers come into contact with oil, they get matted down. This matting causes fur and feathers to lose their insulating properties, placing animals at risk of freezing to death. For birds, the risk of drowning increases, as the complex structure of their feathers that allows them to float or to fly becomes damaged.
- *Toxic contamination* – Some species are susceptible to the toxic effects of inhaled oil vapors. Oil vapors can cause damage to the animal's central nervous system, liver and lungs. Animals are also at risk from ingesting oil, which can reduce the animal's ability to eat or digest its food by damaging cells in the intestinal tract.
- *Destruction of food resources and habitats* – Even species which are not directly in contact with oil can be harmed by a spill. Predators that consume contaminated prey can be exposed to oil through ingestion. Because oil contamination gives fish and other animals unpleasant tastes and smells, predators will sometimes refuse to eat their prey and will begin to starve. Sometimes a local population of prey organisms is destroyed, leaving no food resources for predators. Depending on the environmental conditions, the spilled oil may linger in the environment for long periods of time, adding to the detrimental effects. In calm water conditions, oil that interacts with rocks or sediments can remain in the environment indefinitely.
- *Reproductive problems* – Oil can be transferred from birds' plumage to the eggs they are hatching. Oil can smother eggs by sealing pores in the eggs and preventing gas exchange.

Scientists have also observed developmental effects in bird embryos that were exposed to oil. Also, the number of breeding animals and nesting habitats can be reduced by the spill. Long-term reproductive problems have also been shown in some studies in animals that have been exposed to oil.

Sensitivity of Aquatic Habitats

Spilled oil and cleanup operations can threaten different types of aquatic habitats, with different results.

- *Coral reefs* are important nurseries for shrimp, fish and other animals as well as recreational attractions for divers. Coral reefs and the aquatic organisms that live within and around them are at risk from exposure to the toxic substances within oil as well as smothering.
- *Exposed sandy, gravel or cobble beaches* are usually cleaned by manual techniques. Although oil can soak into sand and gravel, few organisms live full-time in this habitat, so the risk to animal life or the food chain is less than in other habitats, such as tidal flats.
- *Sheltered beaches* have very little wave action to encourage natural dispersion. If timely cleanup efforts are not begun, oil may remain stranded on these beaches for years.
- *Tidal flats* are broad, low-tide zones, usually containing rich plant, animal and bird communities. Deposited oil may seep into the muddy bottoms of these flats, creating potentially harmful effects on the ecology of the area.
- *Salt marshes* are found in sheltered waters in cold and temperate areas. They host a variety of plant, bird and mammal life. Marsh vegetation, especially root systems, is easily damaged by fresh light oils.
- *Mangrove forests* are located in tropical regions and are home to a diversity of plant and animal life. Mangrove trees have long roots, called *prop roots*, which stick out well above the water level and help to hold the mangrove tree in place. A coating of oil on these prop roots can be fatal to the mangrove tree. Because they grow so slowly, replacing a mangrove tree can take decades.
- *Marshes and swamps* with little water movement are likely to incur more severe impacts than flowing water. In calm water conditions, the affected habitat may take years to restore.
- *Other standing water bodies*, such as inland lakes and ponds, are home to a variety of birds, mammals and fish. The human food chain can be affected by spills in these environments.
- *River habitats* may be less severely affected by spills than standing water bodies because of water movement. However, spills in these water bodies can affect plants, grasses and mosses that grow in the environment. When rivers are used as drinking water sources, oil spills on rivers can pose direct threats to human health.

Damage Assessment of the Tampa Bay Oil Spill: Travel Cost Method

(A summary of Chapter 6 in Florida Coastal Environmental Resources: A Guide to Valuation and Impact Analysis)

It may seem difficult to place value upon the many implications that the oil spill may have for Florida's beaches. As we have seen in the past, during the Gulf of Mexico spill when two vessels collided bringing 328,440 gallons of oil to a 13-mile stretch of Pinellas County, there happens to be more than one way to give value to the loss of those marine habitats and recreationally used beaches that are impacted. During an oil spill crisis, not only are the beaches damaged and bunged while being restored, a number of natural resources, species and habitats are damaged as well. In Pinellas County, and in all counties aligning the shore, shore birds are at risk of being overcome by oil, as well as sea turtles, mangrove habitats, submerged sea grass beds, oyster reefs and areas of salt marsh. The implications of the loss of these habitats can have a value placed upon them through an economists view point. Under CERCLA, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, all natural resources have a value placed upon them and many methods in determining those values. In the 1993 oil spill in Pinellas County, the Environmental Protection Agency along with the Federal Government used the random utility model to determine the recreational value of the Treasure Island beach that was closed. By using the travel cost analysis, they were able to sue the vessels responsible for the spill once they determined the personal utility cost of being unable to use those beaches, which was \$2.5 million. Potentially, as a result of this 1993 Gulf of Mexico oil spill, Florida will be able to calculate the value for the loss of our tourism as well as the environmental value of sea grass beds to water quality and the oyster beds to the filtration of the Gulf. One outcome of this past spill is that there are now opportunities to place value on the resources that are inherently invaluable.

Top-line talking points on data collection and monitoring:

- Now is a critical time to act and make certain natural resource managers have sufficient resources to establish the necessary ecological baselines and to track the immediate impacts of the oil spill on both the near shore environment and the extensive fisheries resources in the Gulf of Mexico. In addition, we need to ensure that BP is held responsible for their actions and impacts on our coastal resources and that fishermen and fishing communities are made whole.
- We need fishermen to help collect information now to establish the environmental baselines and then their long term assistance for monitoring projects on water and sediment quality, marine habitats and fish populations.
- Unfortunately, the problem will not stop when the oil does and in addition to funding to assess the immediate impacts of the spill, funding is needed to begin to assess the long term impacts of the spill.
- Managers will need the most comprehensive and timely data available to better understand the impacts of the spill on the fisheries and to be able to respond quickly to new data. In addition to timeliness, long term and consistent data is needed to determine chronic impacts from the spill on fisheries and coastal resources. This includes:

- Expanded stock assessments of both state and federally managed species
- Fisheries dependant data collection - this offers opportunities to engage and employ fishermen to collect critical information on the health of the fish
- Fisheries independent data collection to assess population wide impacts
- Improved and modernized data collection systems for recreational fisheries

Mr. RUSH. Mr. Brennan, you are recognized for 5 minutes.

TESTIMONY OF RALPH O. BRENNAN

Mr. BRENNAN. Thank you very much, Mr. Chairman, and thank you for this opportunity to testify on behalf of the National Restaurant Association and the restaurant industry. As you said in my introduction, I am from the Ralph Brennan Restaurant Group, and I have been involved in the restaurant industry in New Orleans for almost 30 years, and my family has been in the restaurant business for more than 60 years, and as a group we operate 12 restaurants, nine of those in New Orleans. And Gulf seafood is an important ingredient in all of our menus.

I want to thank you for holding this hearing and for your continuous focus on the oil spill's impact on the economy of the Gulf Region and the Nation, and I appreciate the opportunity to tell the restaurant industry's part of the story.

Ours is an industry that employs an estimated 2.3 million employees in the Gulf Coast Region. Restaurants in the Gulf Coast area generate about \$77 billion in annual sales.

Since April 20 when oil began flowing into the Gulf of Mexico, our coastline, our sea life, our culture and our tourism economy are again in great jeopardy. After Hurricane Katrina roared ashore on August the 29th, 2005, Gulf Coast residents and businesses essentially knew what to do to return to normal or as we call it today the new normal. The water came into New Orleans, the water went out, and we began to rebuild and move on. But this is not the case today.

The key message that I want to share with you is one of long-term uncertainty impacting both the ecosystem of the Gulf and the economy of the Gulf Coast area and potentially devastating tourism in the Gulf States.

Across the affected areas restaurants report a range of experiences. Those located in seaside or in beach communities are decimated as tourism shrivels. Tourists are not coming because there is either oil on the beach or in the water, or people have the perception that there is oil there, and visitor perception is key to decisions about where to vacation. The overall numbers of tourists are down, restaurant guests and sales are decreasing, product costs are increasing, and jobs are in jeopardy as already thin margins precariously slip away.

In New Orleans one of the driving forces of our economy is culinary tourism and Gulf seafood is at the heart of our culinary tourism. Like we saw after Hurricane Katrina, convention groups and leisure travelers are now calling to express concern about upcoming business and whether to book future business. Many are asking if oil is on the doorsteps in New Orleans, and New Orleans is miles inland. Today almost 5 years after Hurricane Katrina convention bookings have not returned to pre-Katrina levels because of the damage to the New Orleans brand, and the oil spill risks surrendering the ground that we have gained over the last few years along with future increases.

While the focus of my testimony is not primarily on the BP claims process, I have heard from some of our restaurant association executives along the Gulf that there is a willingness to set up

a claims center and that would be solely focused on the restaurant and hotel industries, and I want to voice my strong support for that idea.

Regarding my three New Orleans restaurants specifically, sales are down, counts are down, costs are up, and margins are down, and this is not a sustainable business model and as the oil looms offshore with an impact that could last for many years to come.

With regard to perceptions and misconceptions, I would like to begin applauding our state and federal officials for the stringent safety testing of Gulf seafood that has allowed truthful reporting around the potential toxicity of the seafood. We are fortunate that 100 percent of the reports to date have shown that Gulf seafood is to be safe to consume from areas that are approved. Ongoing testing is crucial for a safe and informed public.

Despite the testing concerns about safety and supply, one of the recent national polls indicated that 54 percent of the respondents said they would only eat seafood that they know does not come from the Gulf. Our staff has received many calls and comments, all centered around safety and supply. And to combat concerns we have aggressively trained our staff to knowledgeably share precise locations of where our seafood comes from.

To demonstrate support for the fishermen and the safety of the product, my restaurants have added seafood offerings. As I told the "New York Times," the way to help is to eat Gulf seafood. If high-profile individuals, including celebrities, celebrity chefs, and even members of Congress could be seen eating a Gulf shrimp po boy it would go a long way to alleviating consumer fear. The Obama family's visit to Florida beaches next month is a welcome opportunity, again, for positive reinforcement, and I know the National Restaurant Association is looking to plan some of its meetings in the Gulf Coast Region, and I would hope that trade associations and even government agencies would do the same.

Despite a curb in the demand for Gulf seafood, prices across the board have increased. On average in my restaurants we are paying 18 to 30 percent more for the seafood that we serve.

Finally, I would like to comment on the long-term impact of a misinformed public. In the years after Hurricane Katrina potential visitors from around the country thought that the city of New Orleans was still under water, that the drinking water was unsafe, and there were no hospitals or other city services. These misperceptions were largely created and reinforced by the media because of the regular replaying of images from days after the storm.

Many in New Orleans feel it was only after the New Orleans Saints and the city of New Orleans hosted two playoff games back in January, and the Saints went on to win the Super Bowl that those misperceptions were finally ceased.

Misperceptions are happening again now. Just about every day a story is reported live from New Orleans on the spill. The perception shaped by the media, even if unintentional, is that oil is on the doorsteps of New Orleans. That is sensationalistic and untrue, yet if reporting from these locales continues, the public will continue to draw its own conclusions and perceive New Orleans and many of the cities and resorts across the Gulf as damaged destinations.

Marketing dollars will be needed to counter these misperceptions. The long-term consequences and impact on tourism of the damaged brand are severe.

Thank you, Mr. Chairman and member of the subcommittee, for this opportunity to be here today.

[The prepared statement of Mr. Brennan follows:]

**Written Testimony of
Ralph Brennan
President, Ralph Brennan Restaurant Group
New Orleans, Louisiana
Before the Subcommittee on Commerce, Trade, and Consumer Protection
House Committee on Energy and Commerce
Tuesday, July 27, 2010**

Chairman Rush, Ranking member Whitfield, members of the House Subcommittee on Commerce, Trade, and Consumer Protection; thank you for the opportunity to testify before you today on behalf of the National Restaurant Association and the restaurant industry.

My name is Ralph Brennan of Ralph Brennan Restaurant Group of New Orleans, and I have been involved in the restaurant industry in New Orleans for almost thirty years. My family has been in the restaurant business for more than 60 years. We as a group operate 12 restaurants - nine in New Orleans, one in Houston, one in Destin, Florida, and one in Southern California. Gulf seafood is an important ingredient in all of our menus.

In addition to having served as chairman of the Louisiana Restaurant Association and the National Restaurant Association, I've also served as chairman of the New Orleans Convention Center, the New Orleans Business Council, and as past President of the New Orleans Convention and Visitors Bureau, so I have a strong appreciation of the city's tourism and business climate even beyond the restaurant side of the equation.

Thank you for holding this hearing and for your continuing focus on the oil spill's impact on the economy of the Gulf region, and the nation. I appreciate the opportunity to tell the restaurant industry's part of the story. Ours is an industry that employs more than 13 million people nationwide, with an estimated 2.3 million employees in the Gulf Coast region. Restaurants in the Gulf Coast area generate about \$77 billion in annual sales.

Once again the Gulf Coast region, in general, and New Orleans, in particular, respectfully sits before you facing a monumental challenge.

Since April 20, when oil began flowing into the Gulf of Mexico, our coastline, our sea life, our culture and our tourism economy are again in great jeopardy.

After Katrina roared ashore on August 29, 2005, Gulf Coast residents and businesses essentially knew what to do to return to 'normal' - or, as we call it, 'the new normal.' Water came in. Water went out. We rebuilt and moved on. That is not the case today.

Today the oil looming offshore is an economic disaster of epic proportion to the Gulf Coast region, dwarfing even the horrific conditions post-Katrina.

The key message I wish to share with you is one of long-term uncertainty - and the potential devastating impact this uncertainty has on the tourism economies of the Gulf states. Millions of gallons of oil have been spilled. Some has come ashore in the coastal marshes of Louisiana and the pristine beaches of Mississippi, Alabama and Florida. Many millions of gallons continue to float aimlessly but perilously in our waters. Despite hope and prayers, we expect oil will continue to find its way to shore. The environmental, economic, and societal impact cannot be underestimated, minimized or abandoned.

I'd like to spend my brief time before you today sharing three key concerns of the restaurant and tourism industries.

- (1) The overarching impact of the spill on the restaurant industry and tourism.
- (2) The current impact of the spill on my business, and others in the region.
- (3) The misperceptions and uncertainty surrounding the spill.

The nation's restaurant industry depends on travel and tourism for a significant portion of its sales. According to National Restaurant Association research, fullservice restaurants derive roughly one-third of their annual sales from travelers and visitors. The trend is even more prevalent among operators of fine dining establishments, with approximately 40 percent of revenues coming from travelers and visitors. The percentages are certainly even higher for this region of the country.

Across the affected areas, restaurants report a range of experiences and concerns. Those located seaside or in beach communities are decimated as tourism shrivels to nothing. Tourists are not coming because either there is oil on the beach or in the water – or people have the perception that there's oil there. Visitor perception is key to decisions about where to vacation. Many of these restaurants are seasonal. They face losing their entire year's worth of sales and income even though there is no oil on their stretch of coastline. Further inland, restaurants such as those in New Orleans are affected as well. The overall numbers of tourists are down, restaurant guests and sales are decreasing; product cost is increasing; and jobs are in jeopardy as already-thin margins precariously slip away. Product availability, other than oysters and Gulf shrimp, is meeting current demand but faces an uncertain future.

In New Orleans, one of the driving forces of our economy is culinary tourism. Gulf seafood is at the heart of culinary tourism. The known damage to the oyster crop and potential damage to other forms of seafood will have a devastating long-term effect on the attractiveness and viability of New Orleans and other Gulf cities as tourist destinations.

Like we saw after Hurricane Katrina, convention groups and leisure travelers are calling to express concern about upcoming business or whether to book future business. Many are asking if oil is on the doorsteps in New Orleans. New Orleans is miles inland. Today, almost five years after Katrina, convention bookings have not returned to pre-Katrina levels because of the damage to the New Orleans brand. The oil spill risks surrendering the ground we've gained, along with future increases. Total tourist visits in 2008, the last year for which we have data, stood at 75 percent of pre-Katrina levels.

According to the New Orleans Metropolitan Convention and Visitors Bureau, one in six people in New Orleans works in the tourism industry. One in every 12 people in Louisiana is employed in tourism. The ripple effect of a damaged brand – whether it's our city or the Gulf Coast region - will have undeniable long-term consequences.

While the focus of my testimony today is not primarily on the BP claims process, I have heard from some of our state restaurant association executives that there is a willingness to set up a claims center that would be solely focused on the restaurant and hotel industries. I want to voice my strong support for that idea. The restaurant and hotel industry is such a large industry, and different from others which have been so impacted by this spill. Claims can be better managed with a center focused on the industry.

Regarding my three New Orleans restaurants specifically, sales are down, counts are down, costs are up and margins are down. This is not a sustainable business model.

In the five years since Katrina, the combined sales in my restaurants have been down 14 percent. Recovery in my restaurants had been on a year-over-year upward curve year with the exception of 2009 when the national economy turned down. From October 2009 to April 2010, we experienced an 11.2 percent increase in sales. This summer, sales have dipped 5.2 percent compared to their levels this time last year. More notably, sales at our seafood restaurant on Bourbon Streets are down the most, at 9.7 percent below last year's levels. This restaurant is the one most susceptible to fluctuations in tourism or a negative perception of seafood.

The financial effect on our business from the spill is largely unknown. This time last year we were in the depths of the recession. Our business rebounded in October 2009 and remained strong through Memorial Day. What I can see is that earlier this year we were trending up. Now we are down. And the oil looms offshore with an impact that could last for years to come.

Speaking for the Gulf Coast beyond Louisiana, my colleagues in Florida tell me that bookings at many hotels in the Panhandle remain down over 30 percent. This has had a devastating impact on restaurants in the region. Hundreds of hospitality employees have been laid off. Also, restaurants cannot get the seafood they traditionally sell – particularly oysters and Gulf shrimp. My colleagues in Mississippi estimate that restaurant sales along their coastal region are down 15 to 20 percent, and other Mississippi restaurants are seeing sales down approximately 10 percent.

And in Alabama, I'll cite one specific example of the business downturn. The Wintzell's Oyster House chain based in Mobile has 11 locations throughout the state. Wintzell's has seen an average decrease of 30 percent in sales since the oil spill while seafood costs have doubled. Sales at company's location in Orange Beach are down 40 percent.

With regard to perceptions and misperceptions, I'd like to begin by applauding state and federal officials for the stringent safety testing of Gulf seafood that has allowed truthful reporting around potential toxicity. We are fortunate that 100 percent of reports have shown Gulf seafood to be safe to consume from approved waters. Ongoing testing is crucial for a safe and informed public.

Despite the testing, concerns about safety and supply abound. One recent national poll shows an increased concern over the safety of seafood from the Gulf of Mexico. When asked how the Gulf oil spill will affect their seafood consumption, 54 percent of respondents said it will have some impact. Forty-four percent of that group said they would only eat seafood they know does not come from the Gulf of Mexico. Another 31 percent said they will eat less seafood regardless of where it is caught.

Our staff has also received a large volume of calls and has heard many anecdotal comments, all centering around concerns about seafood safety and supply. To combat concerns, we have aggressively trained our staff to knowledgeably share precise locations of where our seafood comes from, whether it's the coastline, lake or another area. To demonstrate our support for the fishermen and the safety of their product, my restaurants have added seafood offerings. As I told the New York Times, "the way to help is to eat Gulf seafood." If high-profile individuals -- including celebrities, celebrity chefs or members of Congress -- could be seen eating a Gulf Shrimp po-boy, it goes a long way to alleviating fear. The Obama family's visit to Florida beaches next month is a welcome opportunity for positive reinforcement. I know the National Restaurant Association is looking to plan some of its meetings in the Gulf Coast region. I would hope that trade associations and even government agencies, where appropriate, would also look to schedule meetings in the Gulf Coast to help support the region's hospitality industry.

Gulf seafood remains readily available with the notable exception of oysters, and 86 percent of Louisiana waters are open to recreational fishing. Cooking oysters continue to be harvested from the Gulf, but the taste has been compromised due to fresh water diversion, which alters salinity and flavor. The raw oysters we serve come from waters adjacent to Galveston, Texas. I emphasize neither is a substitute for the biting, salty perfection of a Louisiana oyster.

Despite a curb in demand for Gulf seafood, prices across the board have increased. On average we are paying 30.5 percent more for Gulf shrimp, 21 percent more for Gulf fish, 18 percent more for oysters, and 17.6 percent more for crabmeat. Should demand rebound, it is questionable whether prices would decrease. Supplies would diminish and the cost of transporting seafood from more distant Gulf waters to meet demand would further cut suppliers' margins.

Finally, I'd like to comment on the long-term impact of a misinformed public. In the years after Hurricane Katrina, potential visitors from around the country thought the city was still underwater; or the drinking water was unsafe; or there were no hospitals or other city services. These misperceptions were largely created and reinforced in media because of the regular replaying of images from the days after the storm. These were published online, in magazines and newspapers, and on television. Truly, many feel that it was only after the New Orleans Saints and the city of New Orleans hosted two high-profile NFL playoff games in January 2010 and went on to win the Super Bowl that many in New Orleans believe that the inquiries and misperceptions finally ceased.

That is happening again now. Just about every day a story is reported live from New Orleans on the spill. The perception shaped by the media, even if unintentional, is that oil is on the doorsteps of New Orleans. That is sensationalistic and untrue. Yet if reporting from these locales

continues, the public will continue to draw its own conclusions and perceive New Orleans as a damaged destination.

The long-term consequences and impact on tourism of a damaged brand are severe. Decreased visits lead to job loss, decreased tax revenue, and more. There are intangible effects, too – including the number of people who will choose not to live and work in our city.

As I said, the oil looming offshore is an economic disaster of epic proportion to the Gulf Coast region. It could dwarf the impact of Katrina. I implore you to continue to help make sure the public is well informed about the reality in the region. For many on the coast, the economic impact is devastating, but for others inland, it does not have to be. We have the ability to ensure that the public reaction to the oil spill does not supersede Hurricane Katrina as the event that will live on in infamy for Gulf Coast residents and future generations.

Again, thank you Mr. Chairman and members of the Subcommittee for the opportunity to testify before you today.

Mr. RUSH. The Chair thanks all the witnesses for their testimony, and the Chair recognizes himself now for 5 minutes of—for the purposes of questioning the witnesses.

Mr. Feinberg, I am going to begin with you. At this moment BP is still processing claims I understand filed by businesses and workers in the Gulf Coast Region. According to your testimony BP has already paid \$200 million in emergency payments. Despite these numbers we have been told that there are many complaints about the claim spots that BP is utilizing.

Mr. Malone describes the process as erratic, somewhat convoluted, and at times dysfunctional. And also in your testimony you stated how complicated it is to determine whether the oil spill is true or the approximate cause for the damages that businesses are suffering, even when there is no evidence of oil in sight. Many of these businesses are on life support, and they wait on a determination of their eligibility to submit a claim against the \$20 billion escrow, a fund that BP has established.

Mr. Feinberg, I just have to ask you because I am drawn to the infamous and traditional Gulf Coast fisherman, Forest Gump, saying life is a box of chocolates. You don't know what you are going to get.

Now, my question to you is when will the people of the Gulf Coast, the business people, the workers, when will they get definite answers? Mr. Dow talked about a roadmap to recovery. When will they get such a specific from you or someone else about who is eligible, why they are eligible, when they are going to get paid, how much they are going to get paid? These are just some basic questions. The guesswork needs to be in—it needs to come to us, the guesswork.

And so your process that you are going through I understand you got to go through this process in terms of getting to a point of answering some of these very, very valid and important questions, but when is the process going to be over? When are you going to be able to give some clarity and eliminate the guesswork?

Mr. FEINBERG. I will answer that very obviously critically important question with three answers.

First, I believe that the blueprint that I have established for emergency payments to be paid as quickly as possible should be finished and available this week. That is first. That is my goal.

Secondly, I have no authority to fund the \$20 billion escrow account. That is an agreement between the Administration and BP. My understanding is that they are working overtime to try and finalize the terms and conditions of that escrow account which will make the \$20 billion available. I can't give you a time except to say I think it is probably within a matter of weeks, but I don't know. I am not privy to that escrow negotiation.

Third, I suspect that I will be able to accept transition from BP, BP will get out of the claims business completely, the private claims business, and I should be up and running with the Gulf Coast Claims Facility the middle of next month. The middle of next month. A couple of weeks. And then I will assume all authority to process emergency claims. Emergency claims. In which the fishermen, the small business, the restaurant will not waive any rights they may have. They will simply decide if they are eligible, they

will decide whether they want to participate in the program, and we will receive, if eligible and if they document their loss, up to 6 months of emergency payments to help get them over this immediate emergency.

Now, that—Mr. Chairman, if I may just add, I understand from all of these witnesses and from the members of this committee time is of the essence. This is a huge undertaking, and I am working as fast as I can, as diligently as I can, full time to get the Gulf Coast Claims Facility up and running, to get it funded so that these emergency claims can be made as soon as possible.

Mr. RUSH. Are you considering the workers also in terms of—will they—the same guidelines apply to them also?

Mr. FEINBERG. The same. I think BP frankly has done a much better job of this \$230 million they have paid out, I think they have done a much better job of paying out worker claims, shrimpmen, fishermen, oyster harvesters than they have paying out small business and large business claims. I think that is clear from the testimony I have heard today and from the CPA in Alabama, and I think that is absolutely true. That is one reason why I have got to get up and running with this facility as soon as I can.

Mr. RUSH. The Chair now recognizes the Ranking Member, Mr. Whitfield, for 5 minutes.

Mr. WHITFIELD. Well, thank you again for your testimony, and Mr. Feinberg, I think all of us are delighted that you will truly be independent, you are not reporting to anyone. I think that is probably good for all of us to get a fair and equitable help on this problem.

I notice that Mr. Daniels, Mr. Overton, and Mr. Brennan in their testimony placed a great deal of emphasis on damages caused by perception as opposed to damages caused by actual damage, and I have heard many people also blame the media for assisting in this misperception of the American public. And I don't think any of us are surprised by that because the media is focused on being sensational and obtaining more viewers and more readers and frequently without any regard to the real impact it has on people.

But my question to you would be since you are going to be up and running within a month hopefully, when you start processing claims from your perspective it won't make any difference if the damage is caused by perception or by actual damage. Is that correct?

Mr. FEINBERG. That is correct. Under the law of the Federal Pollution Control Act, which is a very important aspect of this whole process, actual physical damage to property is not required. So the issue for me—you are absolutely right on, Congressman. The issue for me is not whether perception that has an impact on tourism is compensable. The question really is going to be how far removed is a claim to be eligible. It is one thing if the perception harms a motel on the beach, even if there is no damage. It is another thing if the perception harms a motel 70 miles inland.

Mr. WHITFIELD. Right.

Mr. FEINBERG. And I am going to decide, I take no advanced position on this, but that is where—I think that is what Congressman Stearns was getting at a little bit.

Mr. WHITFIELD. Uh-huh.

Mr. FEINBERG. Where you draw that line on eligibility.

Mr. WHITFIELD. And that is going to be one of the obviously key points that you are going to have to decide on. It kind of reminds you of the old Pause Graff case in law school.

Mr. FEINBERG. You remember. That is right.

Mr. WHITFIELD. But on the—Mr. Dow, you talked about a \$500 million fund to assist. Now, would this money—is it your idea that this money for emergency marketing would also come from BP?

Mr. DOW. Yes, I definitely believe it should come from BP, and the question whether it can come from this fund or additional amount but as I stated, my hope clearly is that this can mitigate the damages phenomenally to the tune of 7 to \$8 billion. Just as all the money was spent to cap that well, we ought to cap the damages now. No one would say let the oil run forever and let us just pay the people afterwards for their damages. They said, stop it, and we have to do the same thing.

So I believe it should come from BP. Mr. Feinberg is—may be between a rock and a hard place, can that money come from the fund. I don't know.

Mr. WHITFIELD. Do you have authority to pay out money for marketing?

Mr. FEINBERG. I don't think. Again, I am not privy to that negotiation involving the escrow account, but I don't think under the terms of that escrow account \$500 million for marketing could come out of that \$20 billion. Now, that doesn't mean there aren't other sources for it, but I don't think, I am not an expert on this, but I don't think it could come out of it.

Mr. WHITFIELD. If I come in for emergency payment from you and you give me emergency funds, will I be required to sign a release for legal liability issues?

Mr. FEINBERG. No.

Mr. WHITFIELD. Will I ever be required to sign a legal release?

Mr. FEINBERG. You will be required to sign a release down the road only if you come back to the Facility and seek a final payment for all of your then damage and projected future damage. Only then would you have to sign a release. Not as part of these emergency funds.

Mr. WHITFIELD. Thank you.

Mr. RUSH. Ms. Castor is recognized.

Ms. CASTOR. Thank you, Mr. Chairman.

Mr. Dow, since the April BP blowout in the Gulf, have you seen these TV ads that BP has been running, polishing their corporate image?

Mr. DOW. If you own a television set, you cannot not see them. I have seen them, and I have seen them, and it just points out to me the very clarity that BP truly understands that changing perception and getting the word out is critical. I think the same thing has to be done for the citizens, for the businesses of the Gulf Coast. It is critical, and it can stem the damages phenomenally.

Ms. CASTOR. I think you said it well. If you own a TV, you have seen these incessant ads by BP. Oftentimes not very informative, just—they remind me of political campaign ads, frankly, and you can't pick up a newspaper.

Mr. Malone, I am sure you seeing in Alabama what we see in Florida. Is there a day you pick up the newspaper you don't see these full-page ads?

Mr. MALONE. That is true, and I can tell you that we have met with some of the BP officials that you see in those ads, particularly the gentleman that represents he is in charge of claims for BP. We met as early as May the 11th in my office with our mayors and other leading people, some of our CPAs, in a proactive approach to try to establish an expedited claims process. Lots of promises were made that day on May the 11th, and I don't mean to be flippant, but in our community BP has come to stand for broken promise.

Ms. CASTOR. Uh-huh.

Mr. MALONE. And that is what we have seen one after another after another. In fact, they issued a press release around the middle of June where they said they had adopted an expedited claims process for business claims. I read you the figures awhile ago. It has not come true.

Now, Mr. Feinberg is right. The individual employee can walk in a claims office and walk out with a check for 2,500 or \$5,000 if he has got his W-9s from last year or whatever—minimum documentation. But when you ask a business to submit 2,200 pages of documentation before your claim would even be considered, that is onerous. And that same business submitted their claim in May, mid-May, they have yet to receive less—more than 10 percent—

Ms. CASTOR. Uh-huh.

Mr. MALONE [continuing]. Of the claims they have presented since May to this date. These claims, they are referred to as large claims. They differ on whether that is over 20,000, over 50,000, depending on who you talk to. They are sent to a forensic account for examination before they ever get in consideration. That takes weeks and weeks to do. And as I said in my recent comments, to me is the analogy of everyone submitting their income tax returns, and if you do a refund, you can't get your refund until a full audit is completed. They are doing a full audit before they are writing a single check to our businesses, and I am not always talking about the million dollars businesses. They guy who rents beach umbrellas on the beach.

Ms. CASTOR. Uh-huh.

Mr. MALONE. Submits \$60,000 claims. That is his whole year, that is—

Ms. CASTOR. Don't you think it is making folks mad because they understand how much this media campaign is costing BP? I mean, do you see the same thing in Mississippi, Mr. Daniels? Do you see all these ads on the TVs and TV commercials?

Mr. DANIELS. Yes, without a doubt we do, and actually as a broadcaster we sell advertisement to BP. That is the paradox here.

Ms. CASTOR. Uh-huh.

Mr. DANIELS. From a broadcasting standpoint it is not necessarily the ads. It is the reassurance.

Ms. CASTOR. Uh-huh.

Mr. DANIELS. And if the Federal Government would do one thing that is reassure by way of Mr. Feinberg's claims but especially when it comes down to saying that the seafood is safe. What the rest of the world needs to hear and especially the Nation needs to

hear is that it is oK to go in the water and that it is safe and that it is being monitored.

Ms. CASTOR. Right.

Mr. DANIELS. I—

Ms. CASTOR. The—we—I know someone had made an inquiry of BP about how much money they have spent on these ads, and they refused to provide that information, so, Mr. Chairman, I would like to ask unanimous consent that this committee seek from BP the amount of money that they have spent on their corporate image-polishing campaign since the BP blowout.

Mr. RUSH. The Chairman will consent to the gentlelady's request to direct staff to address a letter to BP specifically with that question in mind.

Ms. CASTOR. Thank you, Mr. Chairman, very much, and quickly in my remaining time, Mr. Feinberg, this—we have got to be able to bring our local government and CVB industry state claims as part of your \$20 billion escrow. How do we do this? Do we need to lobby the Administration and BP to have that included in this escrow agreement that is going to be coming out in the next week or two?

Mr. FEINBERG. First of all, the government claims are included in the \$20 billion escrow. They are just not part of my watch.

Ms. CASTOR. Uh-huh.

Mr. FEINBERG. Out of that 20 billion will come not only the claims that I pay but all government claims will come out of that \$20 billion, but the way the understanding is reached between the Administration and BP government claims are the direct responsibility of BP, even though they are coming out of the \$20 billion.

Ms. CASTOR. So what is your opinion? Don't you agree that you and your experts will—are competent, in fact, expert enough to sort through those very difficult and detailed claims?

Mr. FEINBERG. If it is the will of the parties to the agreement, the Administration and BP, I am glad to take—

Ms. CASTOR. So it is up to them?

Mr. FEINBERG [continuing]. On that—as if I don't have enough problems, but I would be glad to take on that assignment, but, again, not only watch at the current time. Nor the moratorium claims either.

Ms. CASTOR. Thank you.

Mr. RUSH. The Chair recognizes Mr. Barton for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman. Most of my questions are going to be towards Mr. Feinberg simply because he has got a huge undertaking, and we don't get him before our committee too often, but I want to tell you other gentlemen, I listened to your testimony in my office. I clearly understand the issues that you are dealing with and clearly support that you should be compensated, and I am especially pleased to know that there is still a Brennan involved with Brennan's. That is comforting to know since I am a frequent visitor to your restaurants when I am in New Orleans.

My first question to you, Mr. Feinberg, oh, and let me say, I do support that there be a compensation fund. I do support that BP pays most, if not all, of the money that goes into that fund, and I do support that it be, as I said, fairly, quickly, and transparently paid out to the people that have the claims.

My first question to you, Mr. Feinberg, is who do you report to? Do you report to the President, do you report to the Secretary of the Treasury, the Chairman of the Federal Reserve? Who exactly is your boss?

Mr. FEINBERG. I don't have a boss on this assignment. I think the fair answer, Congressman, would be that I report to the people in the Gulf. Both the Administration and BP frankly don't want to get near me once this program is up and running, and they want to—they are going to reinforce—I am totally independent.

Mr. BARTON. You did an excellent job in the other fund that you administered, but that was different. That fund was approved by the Congress, there were clear reporting standards. This is in a unique fund.

Mr. FEINBERG. It really is.

Mr. BARTON. There apparently is no precedent for it. Doesn't mean, again, that we don't need it, but if my understanding is correct, now that you have been either asked to serve or appointed by the President, he does not have the power to remove you. Is that correct?

Mr. FEINBERG. I think that clearly is correct. Clearly he doesn't have the power.

Mr. BARTON. All right. Do you have to personally approve each claim to be paid?

Mr. FEINBERG. As a theoretical matter, the answer is yes. Now, of course, there is going to thousands of claims, and I am going to have a process in place, an infrastructure where problematic claims will come to me. Hopefully we will consistently apply the formulas and there won't be a necessity for me to look at each and every claim.

Mr. BARTON. When a claim is paid, will your signature be on the check?

Mr. FEINBERG. You know, I don't know the answer to that question.

Mr. BARTON. All right.

Mr. FEINBERG. That is a good question.

Mr. BARTON. Where will the funds be deposited that you allocate? Will they deposit in the U.S. Treasury in Washington, in a branch office of the Federal Reserve, in a private financial institution or institutions?

Mr. FEINBERG. One, I don't know the answer to that question because I am not privy to the escrow negotiations between the Administration and BP. Two, I have urged both of the escrow negotiators to deposit at least some of the money in local, regional institutions in the Gulf that have expressed a real desire to benefit financially from this.

Mr. BARTON. Who makes the decision where—what depository institution is to be used?

Mr. FEINBERG. Again, that would be between the Administration and the fellow—and the Administration that I have been consulting with is Tom Perrelli, the Associate Attorney General, and at BP—

Mr. BARTON. But you have no definitive role in making that decision?

Mr. FEINBERG. None.

Mr. BARTON. You are purely—make the decision what the protocol is for claims, the claims process, and the decision making protocol for making decisions on the claims and then being sure that there is adequate follow up and documentation. Is that a fair statement?

Mr. FEINBERG. That is correct, and I want to make sure the checks don't bounce, but that is absolutely accurate.

Mr. BARTON. OK. What reporting requirement, if any, does the fund that you are going to oversee have to report to the Congress on dispersion and operation of the fund?

Mr. FEINBERG. It will be expressed reporting requirements that all interested parties, starting with the Congress, will have information, whether it is monthly or biannually, frequent reporting as to how the claims are being processed, what the statistics show, our claim rate, et cetera.

Mr. BARTON. What transparency will there be for the public, i.e., will there be a public Web site that shows claims paid and who received the money and perhaps even pending claims and the decision process by which a decision is made on a claim?

Mr. FEINBERG. Yes. Now, we have got to be careful as we were with the 9/11 fund that we don't disclose under the umbrella of transparency individual names or private information, proprietary business information, but I am completely in agreement with you, Congressman, in your question that we have got to have a transparent database from which people can review how we are doing and what our strengths and weaknesses have been.

Mr. BARTON. I have one more, Chairman, one more question, Mr. Chairman. I know that my time has expired.

You in answer to the gentlelady from Florida's question, you indicated that other decision makers will have decision making authority over this \$20 billion fund and that your authority is going to be restricted to certain disbursements. Do you make decisions on compensation for oil and gas workers who have lost their jobs?

Mr. FEINBERG. Yes. Not the moratorium rig workers, though.

Mr. BARTON. I understand that. For fishermen—

Mr. FEINBERG. Yes.

Mr. BARTON [continuing]. And, you know, seafood—

Mr. FEINBERG. All individuals, all private businesses, no government claims.

Mr. BARTON. OK. So you are—the government claims the decision maker is—

Mr. FEINBERG. BP.

Mr. BARTON. Well, they would—I wouldn't think we would allocate to them—what government official would oversee their decision?

Mr. FEINBERG. No. I mean I think the government official will send a claim for reimbursement, for cleanup, or for lost tax revenue or whatever to BP for processing. That is currently the plan.

Mr. BARTON. Mr. Chairman, do we—will we have the ability to ask written questions for responses from the panel?

Mr. RUSH. The Chair will address that issue once—

Mr. BARTON. I know my time is expired, and I appreciate the Chair, and I thank you for your answers, Mr. Feinberg.

Mr. RUSH. The Chair now recognizes Ms. Schakowsky for 5 minutes.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman, and I want to thank all the witnesses.

You know, I was listening to and looking through all the testimony here, and I think that it would be good, for example, for Mr. Daniels' questions, he asked a number of questions, to be included among those that we present as our own questions. I think they are very important and that he deserves those answers, and so that we should include that in the questions.

Mr. RUSH. They will be included in the written questions that we would submit to the witnesses.

Ms. SCHAKOWSKY. Thank you. I also wanted to ask about the suggestion, I think it was Mr. Dow's suggestion, that the government incentivize a—do an incentive for people to do tourism in the region. Was that you or Mr. Malone?

Mr. DOW. It was me.

Ms. SCHAKOWSKY. OK.

Mr. DOW. It was part of three points of \$500 million to get the perception, get the right information out, and incentivize travel.

Ms. SCHAKOWSKY. What—exactly what does that mean? What is incentivize?

Mr. DOW. There are several things that could be done. They have been done in the past. Commerce Department runs trade missions. There could be incentives where they don't charge for those missions to get more people here. There is opportunities to give meal tax deductions or some tax—things done. There are many things that have been done in the past throughout areas that will give people an advantage by going to an area and an incentive to do so, and we have got a list of them in that roadmap for recovery, ma'am.

Ms. SCHAKOWSKY. Thank you. I think, Mr. Feinberg, you may have answered this, but Mr. Malone said that he has personally spoken with a large number of business owners who have yet to see a single payment, particularly the larger ones. Are you suggesting that they re-file when you are up and running or no?

Mr. FEINBERG. They won't have to re-file at all. We will assume responsibility for those claims and accelerate them as quickly as possible. As Mr. Malone has pointed out to me and Governor Riley in Alabama has pointed out, we don't want to reinvent the wheel by requiring people to re-file.

Ms. SCHAKOWSKY. OK, and Mr. Feinberg, Mr. Overton was talking about the damage that has been done even though there is no oil at all. Is that still true? At his resort. This is clearly on the water, and so is his business eligible then for compensation from the fund?

Mr. FEINBERG. His business is eligible insofar as he has a claim where there has been no visible damage to the beach. He would have—that is not the issue in that case. What I don't know from that statement is how close is his business to the beach, how dependent is it on the beach or fishing or sightseeing or charter boats or what have you. So it is the facts surrounding the overall claim that are going to be critical in deciding eligibility in something like that.

Ms. SCHAKOWSKY. Yes. This perception question is really hard to get your arms around, but maybe the biggest source of damage long term, am I right, Mr. Brennan? Did you want to comment on that?

Mr. BRENNAN. Well, no. I think the best example is to look at Hurricane Katrina and the impact on New Orleans, the perception of the city as a damaged brand, and I think you as a member of Congress understand perception. We have to overcome that. It is just like BP is running these ads trying to change the perception of their company. We need to do a similar thing to change the perception of the hospitality and tourism industries along the Gulf Coast.

Ms. SCHAKOWSKY. Whose responsibility do you think, Mr. Feinberg, or is it everybody's to proactively address this issue?

Mr. FEINBERG. Well, I think it is BP's responsibility. I think BP has done some things, nothing to do with me. They clearly haven't done enough. They have spent some money, I believe. From what I have read in the newspapers they have spent some money promoting tourism in the Gulf but others know better than I about that.

Mr. DOW. I will address that. BP initially spent \$70 million, \$25 million for the State of Florida, \$15 million for the three other States. Requests have been denied by the Governor of Florida and by about ten Gulf Coast communities—not denied. They have not received any other information. The Governor of Florida was denied, the other communities have not heard anything back, and the challenge is it is \$70 million, and as I stated earlier, very little of that has actually got to marketing. I think one of the most important things this committee—that BP could do is isolate the funds and say, let us get experts working on this, and let us be sure they do that job, and I believe the gentleman to my right could do a terrific job overseeing that because he has proven himself. Thank you.

Ms. SCHAKOWSKY. Yes. I thank all of you for your efforts. Mr. Feinberg, you—and good luck on all your work.

If I could, Mr. Chairman, just a point of personal privilege, I have spent vacations many summers on the Pan Handle of Florida, and these sugar white sand beaches were just, of course, the lure. And the notion that the beaches would be spoiled but also that the reputation of this area would be hurt is just so painful. I can only imagine how it is to all of you.

So I thank you for being here.

Mr. RUSH. Mr. Stearns is recognized for 5 minutes.

Mr. STEARNS. Thank you, Mr. Chairman. Mr. Feinberg, the question would be who is going to pay the salaries of the employees that you hire to implement this program and disbursement the of \$20 billion?

Mr. FEINBERG. BP.

Mr. STEARNS. BP. And how many employees do you think that you will expect? Can you extrapolate from your 9/11 experience?

Mr. FEINBERG. Well, with 9/11, which was a relatively, thank goodness, a relatively modest, clean cohort—

Mr. STEARNS. Right.

Mr. FEINBERG [continuing]. We had 475 employees. BP in paying out \$230 million so far has hired about 1,500 at 35 claims offices

throughout the Gulf Region, and I think seven in Florida. I am now putting together a budget for the Gulf Coast Claims Facility. I think we probably wouldn't need that many people, but I will know more about that in the next week or two.

Mr. STEARNS. I understand. So it is roughly going to be 1,500 or less, and——

Mr. FEINBERG. Correct.

Mr. STEARNS [continuing]. These employees will be paid by BP.

Mr. FEINBERG. Right.

Mr. STEARNS. I mean, by the BP funds.

Mr. FEINBERG. That is correct.

Mr. STEARNS. And the salary structure, is this going to be something like the private sector or the government—the private sector or the government sector?

Mr. FEINBERG. Again, the Deputy Administrator of the fund, Camille Biros, who is putting—setting up the budget, she would have a better handle on that, but I can certainly get you that information.

Mr. STEARNS. In 9/11 did you use—what standard did you use for salaries?

Mr. FEINBERG. In salaries we used—Price Waterhouse had a contract with the Department of Justice——

Mr. STEARNS. OK.

Mr. FEINBERG [continuing]. That used largely private salaries.

Mr. STEARNS. OK. I have here I think it is a four-page claim form that BP used for commercial fishermen. I notice on their form it does not have a notary public on it, and it just—the people can fill it out. Do you intend to use the same form, or are you going to come up with your new form?

Mr. FEINBERG. New form.

Mr. STEARNS. New form. OK, and I notice that with BP that 43 percent of the claims are still waiting payment. So that means are you going to take over and inherit all those 43 percent, and does that mean that these people who supposedly haven't got claims, lack of information, are you going to follow up on that?

Mr. FEINBERG. Yes. We will not require people to re-file. Now, that 43 percent figure, I am not sure that figure is accurate.

Mr. STEARNS. OK.

Mr. FEINBERG. Because BP apparently has counted as a claim somebody who makes an inquiry and gets a claim number and never fills out the form. So I am not sure. I got to get my hand on—I got to get a handle on that data.

Mr. STEARNS. OK. Let me just give you a statement and ask if you agree with this. Do you think everybody should get reimbursed no matter where they are located if they can prove loss of income because of this spill?

Mr. FEINBERG. No. No.

Mr. STEARNS. Because, you know, a family could say I am in Tennessee, they are going to go to Pensacola, they say, we are not going to go to Pensacola, we are going to go to Tampa, and then the gas station on the interstate could say, well, golly, I just didn't get that family to Tennessee and make that claim. So, I mean, how are you going to work this so that it is a fair thing?

Mr. FEINBERG. I have to listen to these experts that are at this table like Mr. Malone, and Mr. Malone in a very careful presentation laid out for me sort of the proximity, the zone where there is the greatest direct impact and said, Mr. Feinberg, in that zone in Alabama that is the zone that is the most directly impacted. Tourism. These are the restaurants, the motels, the other sites, and with input from experts I will try and answer that very question as to what is the proximity where it is most likely that a claim should be deemed eligible.

Mr. STEARNS. Mr. Feinberg, under 9/11 did you have anybody, accounting firm come in and look at what you did? Was there anybody not necessarily that you reported to but somebody sort of like we have here, Inspector General, GAO, can go into a government agency and sort of tell members of Congress what is happening. Did you have that on the 9/11 commission?

Mr. FEINBERG. Constantly. The Office of Management and Budget.

Mr. STEARNS. OK. Now, you are not going to have that here. Don't you think you should—you would even want to have an Inspector General or a claims—or somebody that could oversee this and report back to Congress on what you are doing instead of you reporting back on what you are doing yourself? Don't you think, I mean, I would think I would like to have somebody checking up on me just to make sure that I get the cross the dots—

Mr. FEINBERG. I love that idea. I think we are going to do that. Now, we will have a separate question related. What about—I have heard this from various Congressional committees. What about fraud? Right. What about the problem of fraud? Not so much auditing. It is just fraudulent claims.

Mr. STEARNS. Right.

Mr. FEINBERG. The Department of Justice, Criminal Fraud Division, is working with us directly.

Mr. STEARNS. You will refer them to the Department—

Mr. FEINBERG. Absolutely will have an internal retained anti-fraud expert working within the facility to audit and check for fraud, but I absolutely have no problem with transparency in the form of Congressional oversight or some sort of regular reporting by an independent person checking on what we are doing.

Mr. STEARNS. Mr. Chairman, I think what Mr. Feinberg is mentioning is something that this committee or some committee in Congress should help him with this legislation that allows him to report to or they provide sort of an Inspector General type of accounting here. This is a huge amount of money, \$20 billion, and I think the American taxpayers obviously would like some kind of report, and obviously we have great confidence in Mr. Feinberg, but I think at the same time he wouldn't mind having somebody to counterbalance and show that everything is going—because this is going to be 1,500 employees that are working in a way that is—he can't control completely. So it is just a thought.

Thank you, Mr. Feinberg.

Mr. RUSH. Mr. Stearns, your point is well taken, and it will be taken under consideration by this committee.

Now, we recognize Mr. Green of Texas, recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. I know you read a statement earlier, and I would like to ask this question of Mr. Feinberg. We know BP has paid about over \$200 million in emergency payments, and the committee has heard complaints about BP's claims process, and Mr. Malone describes the process as erratic, somewhat convoluted, and at times dysfunctional. I think that could probably apply to Congress in some cases.

But, Mr. Feinberg, I was hoping if you could comment on how BP's processed these claims so far, specifically what problems have you identified.

Mr. FEINBERG. I think BP deserves some credit here. Most of these mass disasters that I have been involved in over the years, when I get involved, I start sort of from scratch. There is nothing in place, and we have to build from the beginning. While I am rushing to set up this facility in just a few weeks, in August, BP continues to pay claims.

Now, the problem is that as my fellow witnesses have pointed out accurately, BP is quick to pay the individual wage loss claims. They are quick to pay claims where there is physical destruction; oil on the beach or flowing somewhere injuring property, destroying property. Where they are reluctant or where they have less assuredness is business interruption claims, lost profits, lost business, calculating lost business, corroborating lost business, and that is why I think the gentlemen that are here today testifying are frustrated by BP, yes, they paid \$230 million, but shouldn't they be doing more on the business side?

And I appreciate that, and when I set up this facility ASAP we will focus on those business claims.

Mr. GREEN. OK, and so your testimony earlier that the claims will be actually—what BP is doing—you are monitoring those, and they are coming to you now instead of BP directly.

Mr. FEINBERG. They will be in a matter of weeks, and I will accelerate the payment of those claims.

Mr. GREEN. OK, and how do you plan to staff a Gulf Coast Claims Facility?

Mr. FEINBERG. We will keep the people that are there now. We will train them in the new facility. We will keep those that we like. We will hire additional local, local vendors and local people in the four-state, five-state area, as needed, and we will set up this new infrastructure in a matter of weeks.

We are doing it now actually.

Mr. GREEN. Mr. Malone, do you have any response to that? I know compared to Louisiana and Mississippi and Alabama and obviously the upper, the Gulf Coast of Florida, upper coast, have you seen the payments getting better and more response?

Mr. MALONE. As Mr. Feinberg said, the small payments to the individuals have been fairly routine matters. The payments to businesses that are in excess of \$50,000, \$100,000, and up, excess of \$1 million have been extremely difficult to obtain.

Mr. GREEN. Has it been because of documentation?

Mr. MALONE. It is very sporadic. There have been some spells where they have written some companies some large checks rather quickly. Other companies have been waiting nearly 3 months for their first check.

Mr. GREEN. OK. Well, coming from where I am and obviously we were concerned about Galveston a couple of weeks ago, but not that we don't have tar balls on a regular basis but that wasn't the issue and I know in southeast Texas but my concern, too, is if each of you could comment not only on the BP's response but also the impact of the moratorium, the hard 6-month moratorium we are seeing on whether it be Alabama, Mississippi, or Louisiana.

And what are you seeing on that, and those folks except for the workers, they probably are allowed compensation. If you are laid off of a rig, could you comment on that?

Mr. MALONE. Are you talking to me or Mr. Feinberg?

Mr. GREEN. Yes.

Mr. MALONE. I am in tourism, sir. I am not familiar with what is going on in the oil and gas industry. I know that our workers who are laid off get compensated. They go to the State Unemployment Office, and what that doesn't pay, then they get money from BP. I am just not familiar with the oil and gas industry and what is going on with their workers.

Mr. FEINBERG. If a rig worker was laid off as a direct result of the moratorium, BP agreed to set aside \$100 million, not part of the \$20 billion, a separate fund of \$100 million just for moratorium rig worker claims.

Mr. GREEN. Has that been pretty widely advertised, particularly in Louisiana? My colleague, Mr. Melancon, you know, that we are doing it, because I have folks in my own district who work offshore. I have not heard, but the fear is that they are not going to be able to continue to work.

Mr. FEINBERG. I think it has been fairly well publicized, and BP is now deciding where to deposit that \$100 million, which will be earmarked only for unemployed moratorium rig workers.

Mr. GREEN. I know I am out of time. Do you know how much of that \$100 million has been expended?

Mr. FEINBERG. I don't think any of it yet. I don't think it has been deposited yet to pay out those claims.

Mr. GREEN. OK. Thank you, Mr. Chairman, for your patience.

Mr. RUSH. Dr. Gingrey is recognized for 5 minutes.

Mr. GINGREY. Mr. Chairman, thank you very much. We have spent most of the morning listening to our witnesses and asking questions and of course, most of the questions and the testimony is around the issue of how we are going to get paid. And, of course, everybody looks at Mr. Feinberg, of course. He has got a tremendous job and responsibility in seeing that that is done in a fair and equitable way. And it is important, and you brought out the fact that time is of the essence. I think Mr. Feinberg may have said that.

The others of you have said, well, gosh, you know, I think Mr. Overton talked about Florida and even though there are no tar balls washing up on the beaches, the effect on the economy because of perception. And we talk about individuals, rig workers, and fishermen, and people that, you know, have these direct claims that are going to get processed real quickly, but the small business men and women across the country, the husband and wife that own the Motel 6, you know, maybe 100 miles, 70 miles I think was mentioned, from the coast that are suffering because they depend on

when all those motels along the coast are full in peak seasons, thank goodness they call up their friends 70 miles away and say, hey, have you got a vacancy.

I mean, how many of us know when we traveled to Florida years ago with our parents that you would just drive miles and miles and miles trying to find—or you saw these blinking neon signs that said, “no vacancy,” and you would have to go 70 miles inland.

So, you know, there is a huge problem, and Mr. Feinberg, it probably extends a lot further than we realize today as far as economic losses. I want to real quickly, you know, Rahm Emanuel, the Chief of Staff of the President, was credited with making a statement, “Well, let no crisis go to waste.”

Now, from the political perspective on our side of the aisle we would say that was—that is deplorable, but from a policy statement, if that is what he was talking about, then, in fact, I would agree that we should not let a crisis go to waste, and we should make an attempt to make lemonade out of these lemons, this huge lemon of the oil spill in the Gulf of Mexico.

And, you know what I think should be done, and I would love your opinion on it, the President’s state of the union address said, you know, we are going to take \$30 billion of the TARP money, the unspent TARP money. We gave—forced, in fact, the nine or ten largest financial institutions in the country to take that money even against their will, but it has been paid back, not completely, but to a large extent, and the President said, let us take \$30 billion of that money and let us give it to—let us recapitalize the small banks and help them make loans because small businessmen and women can’t borrow the money that they need to stay afloat.

Wouldn’t this be a great opportunity for the Federal Government to listen to the President and to actually follow through on this and get money available to small community banks, not just in Florida, all along the Gulf Coast, indeed, Georgia has 120 miles of coastline, and Florida and Georgia are two of the States that are seeing banks close every week on Friday, you know, or Saturday morning. You look to see, you know, which community bank is going under, and all these jobs are lost as a result of it. All these small Mom and Pops that invested 5, 10, 15, \$25,000 to start that bank would be part of the start up, raise \$15 million or whatever.

That money is totally wiped out. This would be a great opportunity to turn lemons into lemonade and to get that money in the hands of these small banks so that these businesses that are waiting on Mr. Feinberg to adjudicate their claims would have money to stay in business.

I would like—Mr. Feinberg, we will start with you, but I know this is not you all’s area of expertise, but you all are bright men, and you know what I am talking about, and we need to get this conversation going.

Mr. FEINBERG. Am I safe if I say worthy of consideration?

Mr. GINGREY. How about damn worthy of consideration?

Mr. Dow.

Mr. Dow. Yes. Mr. Gingrey, I think it is an admirable thought. When you talk about small businesses, you look at the Gulf Coast, it is probably almost all small businesses. New Orleans has big hotels and big—but if you look at this Gulf Coast, this is made up

of people who have relationships with these small banks. People know they have got their records and all that versus the larger banks, and I think it is all small business.

And the other thing, I also think this is a phenomenal opportunity. There will be another hurricane, there will be another tsunami, there will be another earthquake, and this is an opportunity for us to set in place how we deal with these disasters so we don't have to reinvent the wheel, and that is why I think this marketing fund we talked about is so critical and that we can use this over and over again.

But this is a great opportunity for the government to learn and to really set a process for the future.

Mr. GINGREY. Well, and I see my time is running out, Mr. Chairman. I don't want to extend too long here, but clearly, the President called for this to be done, it hasn't been done. This Financial Regulatory Reform Bill, the reason so many of us were opposed to it, it did nothing for Fannie and Freddie, but as far as this provision for some of that TARP money to the smaller community banks, it never happened.

But it is not too late, and we need to really look into this closer, Mr. Chairman. I hope we have an opportunity to discuss it further.

Mr. Chairman, I know some of the witnesses want to respond to this. It is up to you whether or not—I will shut up, and you can let them talk if they—you give them time.

Mr. RUSH. Witnesses have a response? Yes.

Mr. DANIELS. I must say I think it is a great idea, but I would be remiss if I did not impress upon you that this is still a liquid situation. Every day there are those of us on the Mississippi Gulf Coast who are praying that the cap stays. There is still oil in the water, and granted, the discussion of payment is excellent. Your idea is excellent, but BP doesn't have enough money when we talk about perception over the years if the oil continues to come.

So I think the idea of utilizing the community banks is great, but what the people on the Gulf Coast needs is reassurance. What they need, and only the Federal Government can give this, by the way, is the reassurance that it is safe. The reason—no matter how much advertisement BP does or we do in the tourism industry, if you don't think it is safe to go to the beach, then you are not going to take your kids.

So you esteemed gentlemen are the ones who are in charge of the DMR, OSHA, the DEQ. You guys need to have at BP's expense an army of scientists, biologists, and marine biologists there assuring the rest of the world that it is oK, and first, assure them that there is no more oil in the water.

So I think you have two components. I think Mr. Feinberg and BP with \$20 billion will not be enough if we are still discussing this very fluid situation next year.

Mr. RUSH. Mr. Daniels, we are going to move on because we have other members who want to question the witnesses.

Mr. Gonzalez is recognized for 5 minutes.

Mr. GONZALEZ. Thank you very much, Mr. Chairman. My question will go to Mr. Feinberg, and I have had the benefit of hearing your testimony in the Judiciary Committee, but I wasn't able to ask a question. I want to ask it at this time.

At the time of your testimony last week before Judiciary, that same morning Joe Scarborough, who is from Pensacola, was broadcasting his show from Pensacola and the beach, and he had a State Senator, and the State Senator made a couple of comments, and so I will build my questions on the comments.

The first one was, look at our beaches. They are beautiful, pristine, everything is fine. We are not getting people here. So it is the perception, and you have referred to this in the past, and I apologize. I wasn't here for all the testimony, and that is Charlie Gonzalez is thinking of going to Pensacola, but I am afraid there is oil, so I don't go, no one is at the hotel, the motels. That hotel, motel owner is a victim of some perception. It may be false. How are you going to handle that claim?

What was disturbing to me was that the State Senator's comment was, right now we have been dealing with BP on claims. Can you imagine now we are going to have to deal with the Federal Government? And you have already made it very clear that you don't—that is not your boss, neither is BP.

But would you say to that State Senator? Why is it that this Gulf Coast Claims Facility is superior to what was in place prior to the agreement?

And the second question is the one that I would like for you to answer if you don't mind and then go to the perception of the beaches being spoiled and such.

Mr. FEINBERG. I would like to think that with the experience that I would bring and the confidence that the President and BP had in selecting me to do this based on my prior work in processing mass disaster claims, BP is an oil company, not a claims facility, I would like to think that we will be able much more efficiently, much more effectively to process claims in a way that will engender the support of the people that I am trying to help.

All the talk in the world won't replace payments, and a sense that people have and businesses have that there are actually checks being paid to eligible Claimants. So the proof will be in the result in the next month, and I am hoping with my fingers crossed that the President's confidence in me and the Administration's confidence in me and BP's confidence in me will result in the people in the Gulf having confidence in me so that the program is working and that it is credible.

Mr. GONZALEZ. And to the second question, and I don't know—not to pre-judge any claims, but what do you do if the perception was that there was oil on the beach when there wasn't, but the business has suffered?

Mr. FEINBERG. You cannot need oil on the beach to have a compensable claim. I want to emphasize this. Florida law may require, I don't know. Attorney General McCollum has a different view and probably the correct view, but you don't need oil on the beach, you don't have to be unable to fish. Perception is compensable.

Now, the problem that Congressman Stearns and others pose, well, what is the proximity requirement? What is the dependence on that beach or on fishing or on shodder boats or sightseeing? I will have to draw some lines on eligibility. The lines will be based on proximity to the beach or to that natural resources, fishing or what have you, the industry, fishing, crabbing, oyster harvesting is

easy. Motels, restaurants depending on the motel and type of restaurant, legitimate, eligible, and how dependent is that claimant on natural resources. And I will have to in the next, actually in the next few weeks I am going to have to develop eligibility criteria that will answer that question.

Now, the Claimant still has to prove the claim. Eligibility is one issue. Corroborating the claim by showing that the spill caused my loss, that is another issue, but that is what I will have to deal with.

Mr. GONZALEZ. Thank you very much, and I want to thank the other witnesses, though I may not have a particular question. Thank you for your testimony, and I yield back, Mr. Chairman.

Mr. RUSH. The Chair recognizes Mr. Scalise of Louisiana.

Mr. SCALISE. Thank you, Mr. Chairman.

It has been talked about by a number of you about the problems of perception, both with tourism, with food, the fact that even where some areas have absolutely no oil, you still got a double digit, if not over 50 percent drops in people that are coming, and I want to start with you, Mr. Brennan.

When we talk about how to combat that, especially once the oil, you know, and we are all praying that this well is capped real soon, but there is still going to be oil that has got to be cleaned up, and there is still going to be perception problems. I know our State has worked on some different types of certification proposals to encourage FDA to set up a formal process so that people can go out there and actually have, all across the country have a clear confidence level that if they are buying seafood, we know if you can buy it, it is safe because our vendors aren't selling seafood that is unsafe, but there is a perception and a concern out there, and so a certification process would give a higher level of confidence.

First, can you talk about both that combined with marketing? What is it going to take in your opinion to get people to feel comfortable walking into a seafood restaurant, not just in New Orleans but anywhere in the country, to know if it is from the Gulf that it is safe?

Mr. BRENNAN. Congressman, clearly there are two issues here. You know, one is the damaged brand of the entire Gulf Coast as a tourist destination, and the other which you just mentioned is the food safety concern, and there are a number of regulatory agencies at the state and federal level that are now evaluating the safety of the seafood on a daily basis.

And we need one consistent program that can become sort of the goal standard that—so that people will feel comfortable. I had an opportunity to have dinner with a lady the other night from Santa Monica, California. She said she would never eat Gulf seafood because despite what they are saying about it, she still believes that it is tainted in some way. And there are probably many people around the country that feel that way, and there are restaurants around the country that are posting signs saying, we don't serve Gulf seafood.

So we have a serious issue here, and we need one standard so that the country will feel confident that the seafood that comes out of the Gulf is of—

Mr. SCALISE. Mr. Overton, we will just go down the line.

Mr. OVERTON. The seafood industry in general, particularly when you talk about the fisheries of the Gulf of Mexico, have been underfunded for a long time, the research associated with it, and so, you know, back to the earlier comments of how do we bring something good out of this crisis, I think it is an opportunity for us to take some funds and do some measurable data on the water columns, the baselines, and know how many fish we have, how many have been—what, you know, this class of fish, is it totally destroyed, or is it partially destroyed? It will give us an opportunity to really look at what our data should tell us today.

We don't have the funding currently to do that, and if I may, just one other point. When it comes to the perceptions, and Mr. Feinberg may have a comment on this, the complexity that we are faced with now is that we actually lose money in September and in August. We don't make a profit. We make our money in the other parts of the year, so what are we going to do if we don't have a claim paid by then, and by the way, for the record, I am not aware of any business owner in Florida that has been paid a large claim as of yet.

So what are we going to do? Are we going to become servants to the bank and our debt service covenant ratios, which are very important. Those covenants just can't be broken, or do we go lay employees off because we need to make that number? And that is what we are faced with.

Mr. SCALISE. Thank you, and I apologize, I have only got a minute and a half left, and I have got a number of other questions.

Mr. Malone, if you can get me a copy of the presentation that you made to Mr. Feinberg, it sounds like you all really put some things together that made an impression on him. If you would be willing to share that—

Mr. MALONE. Yes, sir.

Mr. SCALISE [continuing]. With us as well, I would love to see that, too.

Mr. MALONE. Be happy to. Can I speak briefly to another question about perception?

Mr. SCALISE. Real quick.

Mr. MALONE. Real quick.

Mr. SCALISE. I have got some questions for Mr. Feinberg, and I have only got a minute now.

Mr. MALONE. OK. The science community is doing our region a terrible injustice. We tend to believe the EPA, the regulatory bodies, but every week somebody, some scientist from some university, it varies, is continually questioning the quality of the water, quality of the air. As long as those questions are out there, these misperceptions are going to be—

Mr. SCALISE. All right, and I have got to get to my questions for Mr. Feinberg. As you have heard some of these comments from the panelists today, other conversations you had, can you help give them some confidence that when we talk about some geographical limitations, if you got a restaurant in New Orleans, and it is 60 miles away from the point of impact, how are you going to factor that in?

Mr. FEINBERG. I am going to factor that in. Proximity makes it sort of a per se case. If you are right on the beach or you are right

by the Gulf, by the waters, it sort of—that is what I mean when I say proximity. It is sort of easy.

That doesn't mean if somebody has another facility farther away they are automatically ineligible. We will take a look at the facts.

Mr. SCALISE. OK. Real quick, too. On the escrow negotiations, are you kind of held back on what you can do to start setting up your operation and cutting checks for that to be completed, or can you start before they complete these escrow negotiations?

Mr. FEINBERG. No. I am not held up. We are on parallel tracks. The sooner the escrow is set up the better, but meanwhile I am going forward setting up the infrastructure.

Mr. SCALISE. Can you cut any checks before the escrow negotiations occur?

Mr. FEINBERG. No, but I am confident that by the second week of August, which is, you know, already too late, I am hoping that the escrow should be up and running so that there will be no inability to cut checks.

Mr. SCALISE. OK, and then you said with the \$100 million, that is the only place to go for people who work on rigs. There is really no place to go that I have heard of for people that service rigs. Can they go to your fund? Would you pay them out of your fund? And if not, is just unemployment their only option at this point?

Mr. FEINBERG. I don't know about unemployment. I can tell you that unemployed rig workers who are unemployed because of the government's moratorium don't have a claim against the—

Mr. SCALISE. Once that—that \$100 million is going to run out within 2 months if they start paying on it by any estimate that we have been given, and so once that is extinguished, do they have any recourse other than just going on unemployment? They are still unemployed, and there is still a moratorium after 2 months.

Mr. FEINBERG. I am just suggesting I doubt very much that they would have a claim within this fund.

Mr. SCALISE. OK, and then if you could give me offline here the protocols for review board. As you are setting up the process if somebody—

Mr. RUSH. Mr. Scalise.

Mr. SCALISE [continuing]. Disagrees with your ruling and they want to go to some kind of additional process—

Mr. RUSH. Mr. Scalise, this is your last question.

Mr. SCALISE. Thanks, and I yield back. Thank you, Mr. Chairman.

Mr. RUSH. All right. The Chair now recognizes Mr. Sarbanes of Maryland.

Mr. SARBANES. Thank you, Mr. Chairman. Thanks to the panel.

Mr. Feinberg, I was going to ask you some questions. You say that you are not privy to the negotiations that are going on with respect to the escrow fund. Are you OK with that? Does that—do you think that is better from your standpoint? Worse? Or what is your perspective?

Mr. FEINBERG. I am neutral. As long as the money is available when the Gulf Coast Claims Facility starts processing claims and cutting checks, that is fine with me.

Mr. SARBANES. Do your decisions, are they immune from challenge under whatever understandings have been—

Mr. FEINBERG. No.

Mr. SARBANES. No.

Mr. FEINBERG. No.

Mr. SARBANES. So if you and Mr. Malone are talking about the appropriate zone, and the government things you have drawn the zone too small, and BP thinks you have drawn the zone too big, or someone who is on the outside of the zone doesn't agree with your judgment call, are you anticipating that there is going to be some challenge presented to that? Or are you—or under the structure of this arrangement is that not challengeable?

Mr. FEINBERG. Neither the government nor BP can challenge my independence, but if an individual claimant, business or an individual, doesn't like my eligibility determination or doesn't like the amount of money that I have awarded, that individual has two choices. The individual can either, not either, both. First, the individual can seek an appeal to three ex-Judges or an Appellant body that will review my decision, and only then can the Claimant, who if he or she is still dissatisfied, Congressman, can opt out of this system altogether and go file a lawsuit.

Mr. SARBANES. Got you. Was it a condition of your accepting this assignment that BP and the government agree that your judgment calls would not be challenged by them?

Mr. FEINBERG. Yes.

Mr. SARBANES. OK. Mr. Malone talked about how there are people who—let us assume there is a good claim coming down the pipeline, and when it eventually gets to you, you are going to do the right thing, but it is not there yet, and the business that is seeking those—that compensation is in a position as Mr. Malone described where they may not be able to hang on as against the obligations they face from others, from third parties.

Is there anything that can be done in your mind? Is there—could you even though you are not set up and ready to go, is there some kind of comfort letter or something that you can provide to that business that says, you know, by all indications you will be in a position to submit your claim to us once we are up and running, and you can use this letter and present it to third parties who may be liening on you so they understand that, you know, there is some recourse available to them? Is that something that is possible?

Mr. FEINBERG. Yes. First, I am going to be up and running in a matter of weeks. Now, that is too many weeks, but I understand that. That is small solace to somebody who is on—about to close their business. I will be up in a matter of weeks.

Secondly, if I know of that claim, I mean, BP is paying claims. If there is a claim like that that I can't wait 2 weeks or 3 weeks, be it a letter or your promise or your willingness to deal with me, if I know that claim, I will go to BP for that claimant. I have done this already—

Mr. SARBANES. OK.

Mr. FEINBERG [continuing]. To try and ease that transition.

Mr. SARBANES. So there is some recourse. I mean, if businesses can be identified that are kind of caught in the switches here, there is a way you can get that in front of BP—

Mr. FEINBERG. Yes.

Mr. SARBANES [continuing]. And say before it is too late, do something here while we are in this transition period.

OK. All right. Thank you. I yield back my time.

Mr. RUSH. The Chair recognizes Dr. Burgess for 5 minutes.

Dr. BURGESS. I thank the Chairman for the consideration. I am not part of this subcommittee, but I am part of the full committee.

Mr. Feinberg, if I understood correctly in your answer to a question Mr. Barton asked that the framework that is being set up surrounding your administering this fund is actually being done in the White House by an Assistant Attorney General, is that correct?

Mr. FEINBERG. The framework setting up my Claims Facility is being done by me. The framework for setting up the \$20 billion escrow fund, my understanding is, because I am not privy to those negotiations, is between the Associate Attorney General's Office and people at BP in Houston.

Dr. BURGESS. Now, at some point, though, those two universes have to merge. Is that correct? Otherwise you have a structure with no fund—

Mr. FEINBERG. You have got it.

Dr. BURGESS [continuing]. And they have got a fund with no structure.

Mr. FEINBERG. That is right.

Dr. BURGESS. When that merging occurs, will we on the Energy and Commerce Committee be made aware of what that structure looks like and how the fund then subsequently is to be administered?

Mr. FEINBERG. I would think so. You will certainly be entirely up to date on what I am doing with the Claims Facility and how that is working, what the protocol is, how we are drawing on the money. You will have—there will be full transparency as to what I am doing.

Dr. BURGESS. Well, let me just ask you this. When you worked 9/11, it was before my time, but when you worked administering that fund, who—for whom were you working?

Mr. FEINBERG. I was working for the Department of Justice and Attorney General John Ashcroft.

Dr. BURGESS. So you received a paycheck from the Department of Justice?

Mr. FEINBERG. I did—I worked on that assignment entirely pro bono.

Dr. BURGESS. OK. Had you been paid, though, likely would have come from the Department of Justice?

Mr. FEINBERG. Department of Justice.

Dr. BURGESS. On this—are you working pro bono on this account?

Mr. FEINBERG. No, I am not. The entire cost of this fund, the Facility, Gulf Coast Claims Facility, must, of course, be paid by BP. You can't ask the claimants to fund any part of it. You can't ask the government to fund any part of it.

Dr. BURGESS. Well, then that begs the question who is signing our paycheck?

Mr. FEINBERG. I am sure that BP is signing not only my paycheck but is signing the paycheck of everybody working in this independent Gulf Coast Claims Facility.

Dr. BURGESS. Do you see any difficulty in maintaining the independence with them holding the title of paymaster?

Mr. FEINBERG. I don't see any difficulty in maintaining my independence. I certainly do see the implication of your question, which is there could be a perception that since BP is paying, shouldn't we have more transparency or full disclosure, and I agree with that.

Dr. BURGESS. And I think that is where we would like to be of service to you and provide some help to you. When the 9/11 compensation fund was set up, my understanding, and, again, I was not here, but that was set up under a Congressional authorization or Congressional charter. Is that correct?

Mr. FEINBERG. It was a federal statute.

Dr. BURGESS. Right, but it was as a direct result of action taken in the United States Congress.

Mr. FEINBERG. That is right.

Dr. BURGESS. But this is a little different.

Mr. FEINBERG. Very different.

Dr. BURGESS. There has been no action taken in the United States Congress, so if we invite you, for example, to our Committee on Oversight and Investigations, if Chairman Rush invites you back to this committee, may we expect your attendance?

Mr. FEINBERG. You certainly may with honor.

Dr. BURGESS. Well, I want to say as the Ranking Member on Oversight and Investigations and who knows what will happen to the world after November but as the current Ranking Member, we will welcome you back or welcome you to that committee some time this fall when you actually get funded to have a visit about how those funds are actually being dispersed, and of course, we also will be terribly interested in how the merging of the structure that you are producing and the funding that is yet to happen.

You know, we had a field hearing the 1st of June down at Chalmette, Louisiana, Chalmette virtually destroyed in Katrina, built back, and now they are being destroyed by the oil spill and then subsequently the moratorium. There was a hotel operator there who talked about how he was keeping his cash flow going by borrowing, and having run a business before I know it is hard to keep your cash flow going if you are borrowing. And I asked him who was co-signing his loans with him, and he said his wife. I said, well, that is not exactly what I had in mind. I was kind of hoping BP was co-signing those notes with you, and he said, no such luck.

Are we going to get to a point where that individual or an individual in similar circumstance can continue to maintain their business without facing future financial ruin?

Mr. FEINBERG. That will be my goal.

Dr. BURGESS. Thank you, Mr. Chairman, for your courtesy. I will yield back.

Mr. RUSH. The Chair recognizes Mr. Melancon for 5 minutes.

Mr. MELANCON. Thank you, Mr. Chairman. I appreciate you allowing me to waive on. If I would, I would like to submit a statement for the record since I am not a member of the subcommittee.

Mr. RUSH. OK.

Mr. MELANCON. Thank you, sir. I would like to welcome my friend, Ralph Brennan with the Restaurant Association. We worked many years ago on a promotion for Louisiana not only out of Lou-

isiana but also internationally, and I guess my question to you is do you remember how many years it took us to build that reputation once we got that fund up and running?

Mr. BRENNAN. Congressman, I don't remember the number of years, but it is a long time.

Mr. MELANCON. And so we are right now kind of reverting back to where we were, and we are going to have to have some ability as well as Alabama, Mississippi, Florida, and Texas to get that message back out once this Gulf has been cleaned up. So it is a long time coming.

Mr. BRENNAN. Yes, sir.

Mr. MELANCON. I guess, Mr. Feinberg, is there any indication from BP of how long they are going to be in this thing, or are they thinking that this \$20 billion is the all to end all, and is it going to done then?

Mr. FEINBERG. BP has made it very clear publicly and privately that if the \$20 billion isn't enough, and I certainly hope it is, but if it isn't enough, they have promised to honor any additional financial obligations that might be their—its responsibility.

Mr. MELANCON. Mr. Feinberg, if I could, can you tell me what the hell this Alabama lawsuit is about?

Mr. FEINBERG. I am sorry?

Mr. MELANCON. This Alabama lawsuit. What is that about? I mean, BP is the responsible party. They are obligated not only for the money but paying for the administration of it, so somebody is filing—Alabama I think is filing suit.

Mr. FEINBERG. I am not—

Mr. MELANCON. That was something I had heard on the news the other day. I was wondering what that was all about. Maybe I didn't get my full information.

Ralph, let me ask you as a person from Louisiana and for the Mississippi folks, I spent quite a number of days along the coast including the Mississippi Gulf Coast after Katrina. We are all in this thing together. I fully support every state that has been affected, whether it is from the storms or whether it is from BP.

I wasn't here for the opening statement, and I apologize to all of you that—for that, but Ralph, is there anything since the discussions have started that has come to your mind that you wish you may has said or you might want to still say while I still have 2 minutes and 30 seconds?

Mr. BRENNAN. Congressman, all I would say is—and I said this in my opening remarks, this is a long-term problem. Unlike Katrina it was a fixed event, it was over, we knew what we had to do. We don't know the long-term effects of this on especially Louisiana, the tourism industry and the seafood industry.

And so we have to take an approach today, and we have to start today knowing it is going to be a long-term battle. I think you mentioned that earlier. We can't just end this at any date certain. It may go on for many, many years, and we have had conversations with the tourism industry officials and the seafood officials from Alaska, and after the Valdez incident they told us it has taken 5 to 10 years for them to overcome the effects of just that spill.

Mr. MELANCON. As I mentioned to my colleagues and others that will listen and the media, what our problem is, I guess, Mr.

Feinberg, is what we don't see out there in the marshes in the Gulf that are the concerns for us for the future, and that is why, you know, knowing that you fully well see the long term, it is not like a 9/11, we are settled, and we are done, and we walk away. That is where I may not be around either because the Lord doesn't wish it for me or whatever, but I just hope that maybe that the people will be made whole in some way, shape, or form.

I want to thank the Chairman for having this hearing as we continue to move forward to understand the problems that are faced by the people of the Gulf Coast of this country and hope that whatever we do the resolve will be such that it will be a model for the future.

So, Mr. Feinberg, I pledge you and your folks full cooperation of my office as long as I am in office to help you with this problem, and again, Mr. Chairman and Ranking Member, thank you all for allowing me to waive onto the committee.

Yield back the balance of my time.

Mr. RUSH. That said, the Chair wants to inform all the members, all the witnesses that you have been very patient, you have participated and informed the subcommittee far beyond our expectations, but we—and we certainly are appreciative of your sacrifice and your time that you submitted to this process. Mr. Dow, you had—

Mr. DOW. Mr. Chairman, may I make one statement? One of the more moving and impressive things that I have seen is in September of 2008, you returned to the House on the floor to personally support the Travel Promotion Act which is now law. I do appreciate you understand what promotion can do.

Mr. RUSH. Yes.

Mr. DOW. Your heroism being there but most important I am going to ask this committee and Congress if we can move forward and push for a \$500 million fund. It is not in Mr. Feinberg's purview, but if we do this, we can limit significantly what is going to be spent in damages and recovery, and you understand as well as anyone. Thank you, sir.

Mr. RUSH. The Chair does understand and however, the committee will take that under consideration and give its intense insight or intense interest in that, and we will use it in the process to determine what our next step should be.

But I want you to know that I do understand how important it is.

And the Chair as was indicated earlier, really appreciates all the witnesses for their time. I know that Mr. Feinberg does have a 12:30 deadline that he has to meet. So with that in mind the committee now stands adjourned.

[Whereupon, at 12:30 p.m., the Subcommittee was adjourned.]

Congressman Charlie Melancon
The BP Oil Spill and Gulf Coast Tourism: Assessing the impact
Statement

Thank you, Mr. Chairman for hosting this important hearing. We are facing the largest environmental disaster in our nation's history. My home state of Louisiana is especially sensitive to this catastrophe. It is hard not to draw comparisons to a similar tragedy five years ago when my district – and our state – bore the brunt of the largest natural and man-made disaster in history – Hurricane Katrina. As I have said before, so much of what I know and love about Louisiana and its way of life is once again being threatened.

Tourism is the life blood of my district. We are a warm welcoming people whose culture is rooted in hospitality. I believe travelers will serve as the leading edge of the economic recovery for my state. I'm sure that you are aware that attracting visitors to an area that has experienced a crisis is the most effective means of rapidly spreading new dollars throughout a local economy. In fact, maintaining visitation to a given area can prevent the full force of economic damage that a disaster is capable of inflicting.

Almost five years after Hurricane Katrina, visitor spending is finally recovering in New Orleans and helping the city turn around. But the damage of this cataclysmic event is still being felt throughout our tourism market. Before the Hurricane, New Orleans received 10.1 million visitors in 2004. In contrast, the city only hosted 7.6 million in 2008, roughly 25% below its pre-Katrina peak.

To appreciate just how important the travel industry is to the four Gulf States of Louisiana, Mississippi, Alabama, and Florida, consider the following: the travel industry generates \$94 billion in revenue and accounts for over 1 million jobs. In my congressional district alone, travel industry accounts for:

- \$1.3 billion in direct travel expenditures;
- \$290 million in travel-generated payroll;
- 2,800 travel-generated jobs

We know from experience that disasters can decimate a thriving tourism destination. Following the Exxon Valdez oil spill in 1989, the spill-affected regions of Alaska suffered a 35 percent drop in visitor spending when compared to the previous year. A similar 35 percent decline in traveler spending (from 2008 levels) in the Gulf Coast region could lead to the loss of:

- \$9.4 billion in direct travel related expenditures;
- \$2.4 billion in travel generated payroll;
- 108,800 travel generated jobs.

Mr. Feinberg, hopefully this hearing will reveal the great impact tourism has on the Gulf Region and the country as a whole. It must be a part of the solution and we're looking to you, the man at the helm of this important process, to lead us to the recovery our region deserves.

Statement of the Northwest Florida Tourist Development Council Coalition

Submitted by Dawn Moliterno, Executive Director Beaches of South Walton Tourist Development Council

to

The House Committee on Energy and Commerce

Subcommittee on Commerce, Trade, and Consumer Protection

Hearing on the "The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact"

July 27, 2010, 10 a.m.

While it is hard to dispute that the Deepwater Horizon oil spill is a national catastrophe; it is greatly impacting certain areas of our country that depend on the coast for its primary source of income. There is an urgent need for the Federal government to recognize the immediate, short and long-term impacts that the oil spill is having on the economy in the affected areas and to commit to taking the lead to mitigate those impacts. To help with this effort, we have created the Northwest Florida Tourist Development Council Coalition (NWFL TDC Coalition) which is comprised of cities and counties tourist development agencies throughout the region. Each of these councils is tasked by its local government with promoting tourism and supporting the local tourism industry.

Walton County, Florida is one of these areas greatly dependant on the tourism industry. In 2009, tourism related businesses generated more than \$263 million between June 1st and July 30th, during a time when the nation's economy was in recession. As the economy steadily improved, 2010 was set to be a rebound year for many in the tourism industry. Unfortunately, the oil spill and the media attention it has produced created the perception that all Gulf Coast beaches are unsafe to visit. Without the vacationers that spend millions annually in Walton County, the County's economic analysts are predicting that tourism will generate \$10 million less than in 2009. Conservative tallies show that the tourism industry, including hotels and seasonal businesses, saw revenues drop 30% in May and over 50% in June of this year. For a region that suffered significantly during the downturn in the nation's economy, this will have a severe impact on businesses throughout the County.

In other areas of Northwest Florida, the oil spill is having similar effects on tourism. Local attractions, outfitters and souvenir shops are suffering revenue losses of 25% or more in May and June as compared to 2009. Other tourist related industries such as restaurants and retail stores are also experiencing sharp declines in business. In Apalachicola, Florida two restaurants closed during the summer peak season when business should be the most profitable.

In Franklin County, Florida, the economy consists primarily of tourism and seafood related businesses. Together these two industries employ about 70% of the local job force. In early 2010, both of these industries were showing signs that they were steadily recovering from the recession of 2009, but the oil spill in April has virtually eliminated any gains that were made.

It is imperative that the federal government recognize that the businesses suffering the damages detailed above are eligible for compensation from the \$20 billion BP escrow account that was announced by BP on June 16, 2010. Even if these businesses are located along the Gulf Coast in regions that are not experiencing direct impact from the Deepwater Horizon oil spill. The NWFL TDC Coalition understands that businesses located in regions that have been significantly impacted by the oil spill will require a greater percentage of funds than those that have experienced little or no oil on their beaches. However, the NWFL TDC Coalition does ask that Congress ensure that a compensation standard be established by the Gulf Coast Claims Facility that recognizes the damages to the tourism-related industries along the Gulf Coast that were indirectly impacted by the oil spill.

BP did recognize indirect damages in the early stages of the oil spill and provided the State of Florida with \$25 million in advertising funds to counter the misconception that oil had severely impacted Florida Gulf Coast communities. These funds were dispersed by the State to Gulf Coast Counties based on the percentage of bed taxes lost relative to previous years. The problem with this methodology is that in areas heavily impacted by the oil spill, BP and federal agencies are boarding their workers in the hotels normally occupied by tourists. Therefore, hotel bed taxes do not accurately depict the damages that other tourist related industries such as charter boats, amusement parks and beach entertainment businesses are experiencing because of the lack of vacationers.

In an effort to overcome the difficulties in quantifying the damages on the tourist industries caused by the oil spill, the NWF TDC Coalition asks that the House Committee on Energy and Commerce, Subcommittee on Commerce, Trade, and Consumer Protection consider taking legislative action that would require the Department of Commerce to conduct an assessment on the damages that the oil spill has had on tourism-related businesses in the Gulf Coast region and report its findings to Congress and the Gulf Coast Claims Facility.

Thank you for holding this hearing and for any assistance that you can provide in addressing the needs of the tourism industry along the coast would be greatly appreciated by the people of Florida's Escambia, Wakulla, Santa Rosa, Okaloosa, Walton, Bay, Holmes, Washington, Gulf, and Franklin Counties.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBLURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3841

October 25, 2010

Mr. Kenneth R. Feinberg
Administrator, Gulf Coast Claims Facility
Feinberg Rozen, LLP
1445 Pennsylvania Avenue NW, Suite 390
Washington, DC 20004-1008

Dear Mr. Feinberg:

Thank you for appearing before the Subcommittee on Commerce, Trade, and Consumer Protection on July 27, 2010, at the hearing entitled "The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by November 8, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,



Henry A. Waxman
Chairman

Attachment



November 1, 2010

The Honorable Joe Barton
House of Representatives
2109 Rayburn House Office Building
Washington, DC 20515-6115

Dear Congressman Barton:

I have received Chairman Waxman's letter of October 25, 2010 referring to my appearance before the Subcommittee on Commerce, Trade, and Consumer Protection on July 27, 2010 at the hearing entitled "The BP Oil Spill and Gulf Coast Tourist: Assessing the Impact." The Chairman has asked me to respond to the written questions you submitted:

1. What is the current status of the Gulf Coast Claims Facility, in terms of when it will be able to disperse funds to people seeking payments? When should Gulf Coast citizens expect the Facility to begin operating?

Answer: The GCCF began operating on August 23, 2010. As of October 29, 2010 the GCCF has paid some 90,000 claimants over \$1.6 billion.

2. How do you intend to balance making the claims process more efficient and transparent without enabling opportunities for fraud and abuse?

Answer: The GCCF has vigilantly been screening claims for fraud and abuse. In addition, the GCCF is working closely with the Department of Justice to identify fraudulent claims.

3. Can you please explain how you are going to determine whether a claim is legitimate?

Answer: Each claim is reviewed by a trained analyst and then subjected to a quality control process. Claims of questionable legitimacy are specifically reviewed, and if they are not confirmed as legitimate, they are audited. Claims that have failed the audit check are submitted to an investigative team to determine if they are fraudulent. If a claim appears to be fraudulent, it is denied and referred to the Department of Justice.

4. Will the immigration status of a claimant be verified before payment is made?

Answer: Claims are only paid to claimants with a valid social security number.

5. How do you plan on handling the massive volume of claims that will be filed?
Answer: As of October 29, 2010, over 300,000 claims have been filed. Over 2,500 people are working on the claims process. In my view, the GCCF has sufficient staff to process the claims that have been filed.
6. Will you personally review all contested claims? All large claims?
Answer: The process does not contemplate "contested claims." I am not able to review all claims (we currently have over 300,000), but I am personally involved in reviewing claims that are of precedential value.
7. How quickly will a claimant receive payment assuming the claimant has proper documentation? Will it depend on the size of the claim?
Answer: The length of time required to receive payment differs on a case by case basis and is dependent on a number of factors including complexity of the claim.
8. Does Congress need to add additional deterrents to fraudulent claims? Will potential fraud distract you from efficiently processing legitimate claims?
Answer: At this juncture in the process, I do not see a need for additional deterrents. To date, the GCCF has not been distracted by fraudulent claims. Our auditing procedures and interactions with the Department of Justice have been operating smoothly.
9. Do you need any additional legislative authority to properly effectuate your mission?
Answer: No.
10. To what extent do you plan to compensate those who lost income because tourists avoid traveling to their location, such as hotels and restaurants?
Answer: Hotels and businesses who can demonstrate that they lost income because tourists did not come to their hotel or business due to the Spill will be eligible for compensation for their losses.
 - a. What financial or business metrics will you use to evaluate claims? (e.g., occupancy rate compared year over year, percentage decline in revenue, etc.)
Answer: The GCCF evaluates business claims for lost sales or profits as a business lost profits claim. The sales history of the business is evaluated. The total sales revenue from sales history is reviewed along with any other documentation the business submits that is relevant to the loss. This would include, for a hotel, historical occupancy rates as well as percentage decline in revenue.

- b. Will the same metric apply locally to all businesses in the same industry to determine compensation, or will you have different criteria to factor such considerations as proximity to the water, etc.?

Answer: The GCCF calculates the amount of a payment according to its established rules and guidelines that apply uniformly to all business claimants.

- 11. Do you plan to require claimants to release any claims against BP to receive compensation?

If so, how would this work? Would claimants have to release claims based on future losses?

Answer: Until November 23, 2010, claimants do not have to release any rights to receive an Emergency Advance Payment. After that date, however, claimants will have to sign a release to receive a Final Payment. Claimants for all claim types other than personal injury claims will receive an offer of Final Payment that includes future losses and will have to sign a total release for all current and potential losses.

- 12. Once you fully take over the reins of the claims process from BP, will you be consulting with anyone at the White House or BP over administration of the Facility?

Answer: I am always available to consult with all interested parties including Congress, DOJ, the Coast Guard, federal agencies, the Administration, the States, other governmental entities and BP.

- 13. When the escrow fund was announced on June 16, the BP press release stated: "Further and more detailed terms regarding the establishment and operation of the claims fund and the Independent Claims Facility will be finalized and announced as soon as possible."

- a. When do you expect the details of the claims fund to be worked out?
- b. Is the White House involved in the construction of the Facility?
- c. Is either the White House or BP in contact with you regarding when you will assume control of the facility?

Answer: The GCCF is currently operating pursuant to the Emergency Advance Payment Protocol which is published on the GCCF website at www.gulfcoastclaimsfacility.com. Other details regarding the claims fund are spelled out on the website including an explanation of payments and FAQs that address various aspects of the program.

- 14. Recent news reports note that BP has yet to have paid anything into the escrow fund. What exactly has been set aside by BP to date?

- a. Are you in contact with BP about this?
- b. If not, who is?
- c. How will this affect your ability to make payments rapidly?

Answer: BP is financing the fund and our ability to make payments is unhampered.

15. Will claims be processed on a first-come-first-served basis? If not, please explain how claims will be prioritized.

Answer: Claims begin to be processed as soon as they are submitted.

- a. How will you separate business owners' claims for lost business from the claims of employees who work for the business – such as waiters and waitresses? Will payments only go to the business or to both employee and business?

Answer: Eligible payments are made to both business owners and to employees who work for the business.

- b. Will businesses that collect insurance claim payments for loss of business also be eligible for claims from the Facility? Should they be eligible for both?

Answer: Businesses and individuals seeking a Final Payment must provide in the Claim Form the amount of insurance benefits received. These benefits will be deducted from a Final Payment. They will not be deducted from an Emergency Advance Payment.

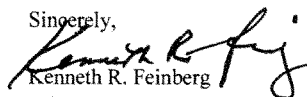
16. According to a June 26th story by Bloomberg News, the \$100 million fund set up by BP to pay oil-industry workers for losses tied to President Obama's six-month drilling moratorium might be depleted before the ban expires. Consequently, you said you may need to request more cash if the ban survives a court challenge.

- a. What role do you have in adjudicating claims related to the drilling moratorium?

Answer: I do not have a role in claims related to the drilling moratorium. These claims are being handled by the Gulf Coast Restoration and Protection Foundation.

I look forward to continuing to respond to any and all inquiries from the Subcommittee regarding the Gulf Coast Claims Facility and its processes.

Sincerely,



Kenneth R. Feinberg

Administrator

Gulf Coast Claims Facility

cc: The Honorable Henry A. Waxman
Earley Green, Chief Clerk
Earley.Green@mail.house.gov



November 8, 2010

The Honorable Joe Barton
Ranking Member
House Energy and Commerce Committee
United States House of Representatives
2109 Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Barton:

Please find enclosed my written answers to your questions for the record from the July 27, 2010 hearing entitled "The BP Oil Spill and Tourism: Assessing the Impact."

The BP oil spill was a terrible environmental and economic tragedy, which continues to impact the communities and businesses of the Gulf Coast. I sincerely appreciate your furthered interest in the impacts of the oil spill, and I look forward to working with you on this and other matters in the future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger Dow". The signature is fluid and cursive.

Roger Dow
President & CEO
U.S. Travel Association

Cc: The Honorable Henry A. Waxman, Chairman, Committee on Energy and Commerce

1. Your association is recommending the United States government secure \$500 million dollars to be used over the next three years to fund marketing campaigns to increase travel to the Gulf.

a. Are your members seeking these funds as part of the emergency relief claims process or would this fund be separate from the 20 billion already provided?

Ranking Member Barton, as stated in my July 27, 2010 testimony, the U.S. Travel Association believes these funds should be made available through either the \$20 billion escrow fund or through a separate fund established by BP. The important factor is that BP makes available additional tourism marketing dollars to help the communities of the Gulf Coast recover.

b. How much money has BP already awarded the effected states and local governments for emergency marketing and advertising?

Ranking Member Barton, as of November 5, 2010, BP has awarded a total of \$87 million in tourism grants to the four Gulf Coast states of Louisiana, Florida, Alabama, and Mississippi. To date, the \$87 million in tourism grants have been distributed as follows:

- Alabama: \$22 million
- Florida: \$32 million
- Louisiana: \$15 million
- Mississippi: \$18 million

In addition, BP recently pledged an additional \$30 million in tourism marketing grants to the state of Louisiana, which will be distributed over the next three years. Recent media reports have indicated that BP intends to announce further tourism grants to the states of Alabama, Mississippi, and Florida in the near future.

c. Has this money been exhausted?

Ranking Member Barton, the four Gulf Coast states of Louisiana, Alabama, Mississippi, and Florida, and the various localities that received tourism marketing grants from BP, have not reported their spending and allocation of these grants to the U.S. Travel Association. However, it is my understanding from media reports that the majority of the initial \$87 million grants have been spent.

d. **Have these campaigns been successful?**

Ranking Member Barton, these campaigns had a positive impact on the Gulf Coast tourism industry but recent surveys of potential travelers show that more needs to be done to combat the negative perceptions caused by the spill. For example, the tourist development councils in Okaloosa, Santa Rosa and Walton counties of Florida recently announced increases in bed tax revenues for September 2010, when compared to the previous year. The Executive Director of the Santa Rosa County Tourist Development Council, Kate Wilkes, said its programs funded by a BP tourism grant were successful in bringing tourist back to the area.

However, recent consumer surveys indicate that travelers still hold misperceptions about the oil spill's impact. For example, an October 2010 survey conducted for Pinellas County, Florida, interviewed 90 potential travelers to the region and found that nearly one-third of them believed that the St. Petersburg-Clearwater area had been "very affected" or "somewhat affected" by the spill. In addition, over half of the interviewed travelers indicated that they planned to choose another vacation destination. These negative perceptions continue to persist even though St. Petersburg-Clearwater did not suffer any damage from the oil spill.

Despite the success of various tourism marketing campaigns in the Gulf, more still needs to be done to combat traveler misperceptions about the region.

e. **Will you use this money to market and advertise the Gulf region to visitors from other countries?**

Ranking Member Barton, the U.S. Travel Association will not seek any funds from BP to conduct tourism marketing campaigns on behalf of our members in the Gulf. We continue to believe that Gulf Coast travel businesses, and the state and local tourism entities are best equipped to attract visitors back to the region.

2. **Please describe how the oil spill has negatively impacted your members' businesses.**

Ranking Member Barton, many of our Gulf Coast members saw sharp declines in traveler levels during the 2010 summer travel season. These decreases can be attributed to travelers choosing destinations outside the Gulf or cancelling their travel plans entirely because of real or perceived damage to the region. When traveler levels decline, local businesses experience decreases in revenue, which can lead to cut backs in business expenditures and employment. This, in turn, has a ripple effect throughout local economies.

3. I understand current indicators show double-digit declines in plans to travel to the region.

a. What regions are benefitting from this decline?

Ranking Member Barton, the U.S. Travel Association does not have any data regarding regions of the United States benefitting from a decline in travel to the Gulf Coast.

b. Have your other members across the country seen increased visitors and spending numbers?

Ranking Member Barton, on November 5, 2010, the Department of Commerce Office of Travel and Tourism Industries announced that real spending (adjusted for changes in price) on travel and tourism increased at an annual rate of 3.0 percent in the second quarter of 2010, following an increase of 5.0 percent in the first quarter of 2010. However, we do not have any data that indicates a direct increase in tourism to a specific region as a result of a decrease in travelers to the Gulf.

c. Have any regions specifically benefitted from the spill?

Ranking Member Barton, the U.S. Travel Association does not have any data demonstrating that regions of the United States benefitted from a decline in travel to the Gulf Coast.

4. Do you believe that the \$20 billion fund will be adequate given the Oxford Economics study that found there could be a cost of \$22.7 billion in lost revenues over three years just in the tourism industry alone?

Ranking Member Barton, the Oxford Economics study predicted that the BP oil spill would result in economic losses to the travel and tourism industry ranging from \$7.6 billion to \$22.7 billion. The ranges of impact were determined by using the relative risk of oil reaching shores, as determined by the National Oceanic and Atmospheric Administration (NOAA). The economic loss of \$22.7 billion was based on NOAA's "worst case scenario" projection in which oil reached large areas of the United States coastline from Louisiana to the East Coast of Florida.

- a. **When the Committee held a hearing on the Travel Promotion Act in the previous Congress, we received testimony Oxford Economics estimated a modest promotional effort of the US to international visitors could yield 1.6 million new visitors and \$8 billion in new spending. But you are suggesting it would take \$500 million in marketing to achieve nearly the same revenue. Is this based on domestic travelers only or does it include international visitors?**

Ranking Member Barton, in the study conducted for the BP oil spill, Oxford Economics projected the return on investment (ROI) of marketing campaigns in the Gulf by examining the ROI of other post-disaster marketing campaigns that occurred during the past decade. This methodology focused on Gulf Coast tourism returning to pre-oil spill levels and did not contemplate specific returns from domestic and international markets.

5. **You testify that TNS market research firm found 10 percent of those intending to travel to the Gulf Coast had changed their plans due to the oil spill, while 22 percent had decided not to go for unspecified reasons. Is the 10 percent cancellation an appropriate figure to determine losses? Why or why not?**

Ranking Member Barton, the 10 percent cancellation rate is not sufficient to determine the full extent of economic losses. The TNS report only examined those travelers with existing reservations or stated intentions to visit the Gulf region. There is another large segment of travelers that would have visited the Gulf region but never booked reservations because of oil spill. This segment of travelers should also be included in any estimation of losses.

6. **Are you seeing any indication travelers who cancel their plans for one part of the Gulf are willing to change their plans to go to the other Gulf beaches unaffected by the spill, or do they just cancel their trip altogether and head to an entirely different region?**

Ranking Member Barton, I have not seen any data to this effect.

7. **According to the report you commissioned by Oxford Economics, impact endures beyond the resolution of the crisis itself, due to brand damage and ongoing traveler misperceptions.**

- a. **If perception is the problem, how easily can this be changed to make known the realities and reverse the predominating opinion?**

Ranking Member Barton, it can be very difficult to change misperceptions and reverse public opinion. The way to change misperceptions is through the wide distribution of accurate information in a number of media and social outlets. This can be an expensive, difficult, and time-consuming endeavor.

- b. **Should the media be held accountable for misrepresenting the facts?**

Ranking Member Barton, the media has undoubtedly contributed to the widespread misperceptions about the impact of the BP oil spill. The negative role the media has played should certainly be acknowledged and I hope the media refrains from sensationalized disaster coverage in the future.

- c. **What are steps your businesses or association have taken to inform the media of the actual situation along the coastline?**

Ranking Member Barton, the U.S. Travel Association has taken several actions to inform the public and the media of the actual situation in Gulf. My association commissioned the Oxford Economics study to shed light on the economic impacts of misperceptions and negative media coverage surrounding the BP oil spill. In addition, the U.S. Travel Association recently launched GulfTravelUpdate.com, a portal site that centralizes links to up-to-date travel and recovery information for Alabama, Florida, Louisiana and Mississippi.

8. **You testify that BP recently denied the State of Florida its request for another marketing grant and instead informed the Governor's office that individual counties and cities should submit claims directly to BP.**

- a. **Why is this protocol a problem?**

Ranking Member Barton, I believe the problem is that BP has not established formal guidelines and eligibility criteria that states, local governments, and destination marketing organizations can follow when apply for emergency marketing funds.

b. **Why would this diminish the effectiveness of any campaign?**

Ranking Member Barton, I do not believe that this would diminish the effectiveness of any campaign. However, I do believe that every application for marketing funds should be considered in an open and transparent process with an established set of criteria for evaluating the merits of the application.

9. **According to a recent story in the Washington Post, local business owner's say it's going to take more personal touches than 15-second TV and radio spots to lure back leery tourists.**

a. **Do you agree with this statement, or do you still believe distribution of marketing dollars should go to large claimants such as State tourism offices, Convention and Visitors Bureaus, and Destination Marketing Organization?**

Ranking Member Barton, I believe that marketing campaigns conducted by organizations such as State tourism offices, Convention and Visitors Bureaus, and Destination Marketing Organizations, are a cost effective and proven method to attract visitors to a destination. Utilizing the expertise of these organizations should be a part of any recovery effort in the Gulf. However, I also believe that individualized campaigns by local business can also be an effective means of attracting visitors back to the Gulf. Therefore, marketing for destinations should be enhanced and complimented by the efforts of individual businesses.

b. **Isn't there an argument to be made that the actual business owners themselves are most capable of marketing and advertising their town, region, or establishment?**

Ranking Member Barton, Convention and Visitors Bureaus (CVBs) and Destination Marketing Organizations (DMOs) are entities that were created by local businesses and governments to pool resources, and maximize the reach and effectiveness of marketing campaigns. By pooling the resources of a local region, CVBs and DMOs are capable of reaching a broader audience on a larger scale than any one business can hope to achieve on its own. These efforts are always conducted alongside of the individual marketing efforts of local businesses. I believe both strategies are needed to bring visitors back to the Gulf.



GULF SHORES & ORANGE BEACH
Alabama's white-sand beaches

November 4, 2010

The Honorable Henry A. Waxman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman,

Thank you for the opportunity to elaborate on my earlier testimony from July. I have also interjected some comments that will update you on the situation since that time. My response is enclosed.

While the well may be permanently killed and the new oil has stopped flowing into the Gulf, many challenges continue to devastate our local economy. The claims process continues to be a huge problem among others.

I would like to invite you and the other members of your committee to come to our region, hold a public meeting and hear directly from affected people as to the problems we are living with. Only then will you have a true comprehension of just how bad this has devastated our economy and how broken the claims process really is.

Regards,

Herbert J. Malone, Jr.
Herbert J. Malone, Jr.
President/CEO

HJMj/cv

Enclosure

P. S. Will you please share with me what actions your committee has taken to help the people and small businesses of the Gulf region?

cc: The Honorable Joe Barton
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Barton
 “The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”
 Herb Malone’s Testimony – July 27, 2010

1. Please describe how the oil spill has negatively impacted the Alabama Gulf Coast tourism industry.

Oil washed up on our beaches periodically from mid-May until mid-July. Tourists cancelled vacations en masse. Our lodging establishments in the Gulf Shores and Orange Beach, Alabama area experienced a year over year decline this summer of nearly 50%. In addition, the pre-oil spill summer season projections were running at a 15% to 20% increase, based on the pace of reservations. All of this was lost as well. Our retail stores and restaurants declined nearly 30% of their summer season business, measured year over year, and also lost any anticipated increase. The bottom line is the oil spill has devastated our local economy, which is made up of predominately small, family owned businesses.

2. In your testimony, you estimate losses will be between \$850 million and \$1 billion. How did you arrive at this range?

Polling of our lodging businesses in early June indicated a projected loss of approximately 50% in June, 60%-65% in July and 70% in August. As described in my written testimony, research shows that Baldwin County annually receives \$2.3B in visitor spending. Extrapolating from that study, I was able to estimate the \$1.7B of that is in our high season, 50% of \$1.7B is \$850M. Please note that as stated in #1., the percentage of losses have not been as great as the original polling indicated. This was due in part to aggressive and creative marketing that was funded by some grants from BP.

3. In your testimony, you noted that “the claims process has been erratic, somewhat convoluted, and at times dysfunctional.” Can you please elaborate further on this point?

These terms, erratic, convoluted and dysfunctional are terms most frequently heard from frustrated business owners who were dealing with the BP claims process. One are requests for thousands of pages of documents, sometimes having to be resubmitted multiple times due to the adjuster “losing” the papers, frequent changes of positions and policy by BP adjusters, promises of checks that never came, checks that came for only partial payment, some as low as 1% of the claim with no explanation of why the full claim was not paid, a gross lack of communication with the claimants, and the stories can go on and on. Many people have concluded that no one can operate this ineptly, thus it must all be just part of stalling tactics. And frankly, the process for many is no better under Mr. Feinberg.

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 The Honorable Joe Barton
 “The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”
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4. In your testimony, you stated that you were surprised to learn that Mr. Feinberg’s perspective on eligibility was much narrower than you expected. Can you please explain what you believed his position to be on this issue? And how might that position negatively impact the businesses in your community?

In our initial meeting with Mr. Feinberg, he stated that to be eligible, a business must have been “directly” impacted by oil in the water, on the land or in the air. In essence, he was drawing a line at the beach highway. He has since expanded his geographic boundary, but he is still much too limited on the type of business. For example, he allows the restaurant that sells food to the consumer, but disallows the wholesaler who the restaurant buys their food from. And there are many more examples of businesses that do business with tourist operators who are being excluded. But of course, it seems to change weekly as Mr. Feinberg’s rules are moving targets.

5. In your testimony, you express concerns with the claims process bearing similarity to an IRS audit. But, isn’t it necessary to have a verification procedure before paying out a monetary claim?

My reference to the IRS audit was made to point out sequence. When a business owner (and their CPA) file a tax claim, they sign under penalty of law that the return is accurate. If a refund is due, the IRS sends a check after processing the return. If irregularities are found, the IRS then conducts an audit and repayment of any deficiency is collected. In the claims process, every claim submitted is presumed to be fraudulent, even though it is signed by the business owner and CPA, again under penalty of law (for fraud). Then their forensic accountants take months to review a claim before any payment is considered. My statement has always been if the signature of a CPA is good enough for the IRS, why is it not good enough for BP?

6. In your testimony, you refer to BP’s public statement that they “will pay all legitimate claims.” Now that BP is on its way out of the claims business, what has Mr. Feinberg done to give you the same assurance?

In my opinion, BP is not “on its way out of the claim business” as you say. In spite of Mr. Feinberg’s statement to the contrary his actions have made it abundantly clear that his priority is to look after BP, not the people of the Gulf Region. His claims process is no better, and in many eyes much worse than when BP’s name was on the door.

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The Honorable Joe Barton

“The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact”

Herb Malone’s Testimony – July 27, 2010

- a. Do you believe the lack of information and detail regarding the Claims Facility will hinder or delay the process for individuals and businesses to adequately file their claims?

Filing of claims is not the problem. The problem lies with failure to promptly process the claims and deliver money to the rightful owner.

Ralph O. Brennan's Responses to Questions posed by The Honorable Joe Barton

1. Please describe how the oil spill has negatively impacted your restaurant business.

The oil spill impacted our restaurants in three distinct ways. First, sales that had been trending up by double digits in the six months prior to the spill, fell in June, July and August. September sales rose again which we attribute to the well being capped and the subsequent end of the daily images in the media of oil gushing into the Gulf. Second, pricing for Gulf seafood skyrocketed. At the peak of the spill and despite our considerable buying power, our company paid average pricing increases of 30% on Gulf shrimp, 21% for Gulf fish, 18% on oysters, and 18% for crabmeat. Finally, the perception that Gulf seafood is tainted and unsafe to eat was and still is prolific. The damage done to the Gulf seafood brand and the subsequent impact on our tourism economy is a devastating, long-term effect of the oil spill. A recent survey conducted by The Louisiana Office of Tourism found 29% of visitors have cancelled or postponed trips to Louisiana because of misperceptions about the quality of our environment and seafood.

2. Compared to this time last year, how much is your business down since the spill?

2010 sales should have been 25% higher in June; 20% higher in July; and 15% higher in August.

3. How many employees do you have?

I employ 270 individuals in New Orleans.

a. Have you had to lay off any employees since the spill due to the loss of revenue?

No, we have not had to lay off any employees.

b. How much money would you estimate the average waiter/waitress is losing in tips each month because of the downturn due to the oil spill?

The opportunity cost associated with lost sales impacts not just our company's gross revenues, but also tipped employees. A fair estimate of damages for the average member of our wait staff is a loss of 15% - 20% on the gross sales of each transaction that did not occur due to the oil spill and subsequent decline in tourism.

c. Have any of your wait staff left for new jobs because business is down?

We are not aware of any members of our wait staff leaving for a new job because business is down. Louisiana's neighboring states are dealing with a similar decline in tourism, and the struggling national economy may be keeping our employees in their current positions.

Ralph O. Brennan's Responses to Questions posed by The Honorable Joe Barton

4. Have you met with BP or Mr. Feinberg yet to discuss compensation from the fund? If yes, how did it go? If not, do you plan on doing so?

I have met with Mr. Feinberg in a group meeting with other local restaurateurs. We have asked Mr. Feinberg to establish a separate claims process to address the unique issues of our industry in a simple, straightforward filing process. This request has not been honored.

5. Do you have appropriate documentation to illustrate the losses you'll be claiming?

Yes.

6. Do you believe that your employees will be able to provide adequate documentation to illustrate the losses that they'd be claiming, since many of your restaurant employees probably have a majority of their compensation come in the form of cash tips?

It appears that BP is requiring minimal documentation, and anecdotally, we have heard that our tipped employees are receiving generous reimbursements.

7. Please describe how your seafood supply has been negatively impacted by the spill.

The availability, pricing and perception of our seafood supply have been negatively impacted by the spill as stated above. The oil spill forced the closure of major fishing areas which altered supply and pricing. It is my understanding most of these fishing areas have re-opened. With respect to oysters specifically, in addition to their scarcity and increased price, the taste of Gulf oysters was compromised. This shift in oyster flavor profile was due to fresh water diversions designed to alleviate oil from coming ashore. Freshwater diversions alter the salinity of the oyster and diminish the product's salty taste.

BP has given the Louisiana Wildlife and Fisheries Foundation \$10 million dollars a year for three years to market Louisiana seafood. Ultimately, availability and pricing will adjust to the market; however, the perception of Gulf seafood as a damaged brand is a long-term problem and the impact on our region, our industry, and on our business is yet to be quantified or known.