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GULF COAST RECOVERY: AN EXAMINATION OF CLAIMS AND SOCIAL SERVICES IN THE AFTERMATH OF THE DEEPWATER HORIZON OIL SPILL

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JANUARY 27, 2011

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GULF COAST RECOVERY: AN EXAMINATION OF CLAIMS AND SOCIAL SERVICES IN THE AFTERMATH OF THE DEEPWATER HORIZON OIL SPILL

THURSDAY, JANUARY 27, 2011

U.S. SENATE,
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:45 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Mary L. Landrieu, Chairman of the Subcommittee, presiding.

Present: Senators Landrieu, Carper, Nelson, Shelby, and Vitter.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. The Subcommittee on Disaster Recovery will come to order. I am pleased to be joined by my colleague, Senator Shelby from Alabama, and we are hoping to be joined by several other colleagues. I am expecting Senator Vitter, Senator Bill Nelson and Senator Carper to join us as the afternoon goes on.

I want to thank our witnesses, in particular for making the special effort to be here today because of the challenges with weather and transportation, so I really thank you, because we did not want to cancel this important hearing and I am very pleased that we can proceed as scheduled.

Let me go ahead and quickly begin with an opening statement and then turn it over to Senator Shelby, and as other Members come, they will also be allowed to make a brief opening statement, and we want to get right into our witness presentations.

I again thank all the witnesses for making a special effort in these weather conditions to join us for this important hearing.

As you all will note or know, last week, the Graham-Reilly Oil Spill Commission released its report on the technological and regulatory failures that caused the Macondo well to explode on April 20th last year, taking the lives of 11 men and creating one of the largest environmental catastrophes in American history. It is important that we thoroughly review this accident and implement new measures to ensure a robust and competitive offshore energy industry that operates as safely as possible. But there are some other obligations that we have, as well.

This particular report, nor was this Commission charged with this task, and so they did not examine claims payments and the

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human side of this tragedy. They are focused on the technological and the general business side of offshore oil and gas drilling. But there is another side that we are here to examine today, and that is the human side of this disaster.

Four-hundred-and-eighty-three thousand people in the Gulf have filed claims so far for lost wages and revenues. They are currently experiencing severe challenges getting timely payments or accurate information in some cases about their claims. Roughly 194,000 of these claimants are located in Louisiana, 162,000 are in Florida, 68,000 are in Alabama, 52,000 in Mississippi, and 10,000 in Texas. So these claimants are located across the entire Gulf Coast.

The Commission report does not address these claims but to say that after everything is over, we should do an after action report. But right now, this Subcommittee is today and has been for a while focused on this human side, the claims process, helping make people as whole as possible from the harm they have suffered as a result of this catastrophe.

Fishermen, deck hands, and restaurant workers put out of work by the oil spill, small business owners whose businesses have been threatened, many of them still struggling to make payroll to keep their doors open, are each entitled to just compensation under the law, but the system is not yet working, in my view, as well as it should be. Thousands of Gulf Coast residents have lost their jobs and are fighting to feed their families, keep their homes, and preserve their way of life. For a while, clean-up jobs and emergency payments made this situation tolerable, but the clean-up jobs—the well is now capped—are diminishing or substantially diminishing, and the seafood and tourism markets have not yet recovered to their pre-spill levels.

Today, we are here to discuss the payment system established by Mr. Feinberg under the authority of the White House and British Petroleum (BP) to compensate people for lost earnings, property damage, and subsistence losses resulting from the spill. We will also learn about work that nonprofit organizations are doing along the Gulf and the continued challenges they face in providing assistance to spill-affected communities.

Frequent visits, and I have made many, to coastal communities and dozens of conversations with constituents and briefings with local leaders lead me to believe that the claims determinations have not been as consistent as they need to be or as transparent as they could be. People have struggled to obtain information about their claim on a timely basis.

In my view, non-governmental organizations (NGOs) have also been somewhat marginalized and under-resourced throughout this recovery process, and it seems like we are making a similar mistake that we made in the aftermath of Hurricanes Katrina, Rita, Gustav, and Ike by underestimating the power and the effectiveness of community-based NGOs to help the Vietnamese community, for instance, or the Hispanic community, for instance, or a certain group of elderly people in a community from submitting and accessing information about their rightful claims.

Mental health issues, including domestic violence and suicide, are on the rise, and they are becoming an increasing challenge for the region. A study released last July by Ochsner Clinic revealed

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that 30 percent of interviewees in Louisiana, Mississippi, Alabama, and Florida suffered from serious psychological distress and cited disproportionate impacts among children and low-income households.

Today, we are going to hear a very heartwarming story with a sad ending, from a Vietnamese oysterman who successfully piloted a boat of refugees out of Vietnam many years ago, made a new life for himself fishing off the waters of the Louisiana coast for decades, until suddenly this oil spill caused him to lose his business and his livelihood. He represents a great and growing number of Vietnamese American fishermen. Over 80 percent of the Vietnamese Americans in the Gulf region are connected to the seafood industry. We are going to hear from a member of their community today.

We also want to hear from NGO representatives that were asked by BP to present social service proposals last summer and have never received a response, despite backing from 53 organizations in the State of Louisiana and another 32 organizations in Mississippi.

And finally, BP has made a pledge of $20 billion to cover legitimate claims and placed a portion of those funds in escrow under Mr. Feinberg's control. He is here with us today, and I appreciate him being here to give us an update.

The function of the Gulf Coast Claims Facility (GCCF) is to compensate people fairly for their losses, to discharge BP's fiduciary obligations under the Oil Pollution Act (OPA) of 1990 with regard to those claims, and to offer a simpler, speedier alternative to prolonged litigation, which continued for 20 years after the Exxon Valdez oil spill. We are hoping it will not take 20 years to compensate people fairly in the aftermath of this spill.

The Gulf Coast Claims Facility took over individual business and claims from BP on August 23. From May to August, BP was directly managing all claims. And so far, the Gulf Coast Claims Facility has paid out $3.3 billion to 168,000 claimants. That is what our records show. If that information is not up to date, we will get the new numbers today.

Mr. Feinberg has traveled extensively to the Gulf. Senator Shelby, I am sure you have seen him or been with him in Alabama. I have attended several of the town hall meetings in Louisiana. You have made some commendable program changes along the way and I want to acknowledge that you have been flexible when things have been brought to your attention, first, by agreeing not to subtract vessel of opportunity earnings to use local firms to provide people with information about their claims, to provide interim payments, and other important changes along the way. So we are very grateful for those program changes.

But on the other side, there are many challenges that remain. One of the things we are going to explore today is that while BP did provide $1 million to Louisiana charities for emergency relief and $52 million for mental health services along the Gulf. But without case management, financial counseling, claims assistance, and direct aid for food, rent, and mortgages, many families are still struggling.

So in conclusion, I am pleased to be joined today, as I said, by several colleagues. I want to thank Feeding America and the Louisiana Association of Nonprofit Organizations (LANO) for submit-

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ting written testimony for this hearing. I would also like to acknowledge the White House staff that is in attendance. Congressman Steve Scalise for his continued efforts to improve the claims process on behalf of his constituents. I want to recognize Darryl Tate with the United Methodist Church in Louisiana and everyone else that has joined us for this important hearing.

We have a great deal of business to cover, so let me turn it over to Senator Shelby for his opening statement and then we will get right into our first panel of witnesses. Senator.

OPENING STATEMENT OF SENATOR SHELBY

Senator SHELBY. Thank you, Madam Chairman, for letting me join your Subcommittee here today.

While the Deepwater Horizon rig has been capped, the boom recalled and the media on to the next story, many may think this disaster is over, but this is not true. Like many Alabamians, I remain extremely concerned regarding both the short- and the long-term effects that the oil will have on the Gulf Coast's economy and the ecosystem. Alabama's Gulf Coast region may take decades to recuperate and downstream effects could cripple the region for years to come.

Since the oil started pouring into the Gulf last April, Alabama has seen a nearly 50 percent drop in tourism-generated dollars and a substantial loss of jobs. Tourism revenues lost to Alabama's coastal economies as a direct result of the oil spill are estimated at between $850 million and $1 billion, a figure that does not include the additional losses to the fishing industry and the shipyard repair and maintenance operations.

The federally mandated fishery closures have resulted in a significant loss of income for the entire seafood industry, fishermen, shrimpers, bait and tackle shops, and processors. Alabama's fishing industry represent one of the largest economic engines in the State, accounting for more than $800 million in sales annually and nearly 18,000 jobs. The economic impact on the commercial and recreational fishing industry already is severe and extensive. I think we must ensure that individuals and businesses are compensated now, but also put in place mechanisms to assist them with rebuilding and restoring efforts as the Gulf continues to recover from the disaster.

I have met with Mr. Feinberg, who is with us today, several times since the Gulf Coast Claims Facility was created, yet I continue to have serious concerns regarding the claims determinations made by this organization. Like the entire Gulf Coast, Alabama is at a critical juncture. The Gulf Coast Claims Facility is not acting with appropriate urgency as I thought they would. Nine months since the oil spill, 57 percent of claims in Alabama remain unpaid. This amounts to 38,605 individual and business claims that have not received one penny in funding. That is a startling statistic to me.

Further, from January 12 to January 24 in Baldwin County, the hardest-hit region in Alabama, only 28 claims were processed. That is less than three claims a day. Let me reiterate, Alabama has 38,604 outstanding claims and the Gulf Coast Claims Facility is currently only processing three Alabama claims a day. Moreover,

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there is no distinction given by the Gulf Coast Claims Facility in their statistics between how many claims were paid and how many claims were underpaid. I am sure that this is not an insignificant figure.

When Mr. Feinberg and I met in both November and December, I relayed these issues to him, and one of the largest issues that needed to be addressed was the lack of a clear formula on how a claim is determined. Filers, I believe, deserve clarification as to why their claims were denied, if they are denied, or why their payments were less than expected, if that be the case.

On December 16, Mr. Feinberg told me here at the Capitol that the formula for claim payments would be made publicly available on the Gulf Coast Claims Facility website. Six weeks later, this information is still not available and I believe this is unacceptable, Madam Chairman. Those affected by the spill need to know that there is transparency, clarity, and consistency in the payment process.

Finally, as we continue with the recovery efforts along the Gulf Coast, Congress needs to swiftly address the allocation of the Clean Water Act fines from the BP oil spill. The entire Gulf Coast faces an enormous ecological and economic disaster with an estimated impact of as much as $3 billion in my State of Alabama alone. Under the Act, BP could be liable for penalties up to $20 billion. Congress, I believe, needs to ensure that all five affected Gulf States are treated equitably when these fines are disbursed. Each State should have the ability to use these funds how they see fit to restore the economic and ecological damage caused by the spill. The impact to each State is unique and there needs to be flexibility in spending the Clean Water fines in the matter which best meets their needs.

And while the national press has moved on, the Gulf Coast continues to face the challenges from one of the largest disasters in our Nation's history. The damages caused by the oil spill could last years. Our residents and businesses are severely hurting, and we need a commitment by all stakeholders to the Gulf Coast's full recovery. In particular, it is my expectation that the Gulf Coast Claims Facility will uphold and follow through on its obligation to the people of the Gulf Coast. Mr. Feinberg has assured me of that. He has been a man of his word in the past.

Thank you very much, Madam Chairman.

Senator LANDRIEU. Thank you, Senator Shelby, and you can rest assured that this Senator will continue to focus on those issues, and I thank you for your help and support.

Senator Vitter, we would be happy to take opening statements now if you want to do that, or wait a minute——

OPENING STATEMENT OF SENATOR VITTER

Senator VITTER. Thank you, Madam Chairman. I will be relatively brief.

First of all, thanks for your leadership and for this hearing. Thanks to all the witnesses and for your work.

I just wanted to stress three points in my opening statement, and then I will follow up on all of these points in questions.

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First of all, Mr. Feinberg, thanks for your continuing work. It is obviously very important for all of our area. But I just wanted to stress a concern and urge you not to declare a victory quite yet based on the numbers and statistics that you always present, and I apologize if I missed any of your comments, but normally when we meet or when we are in public settings, you certainly cite the three-plus billion dollars issued and the tens of thousands of claimants paid. My concern is I really do not think that is an accurate or full snapshot picture and I would urge us to look at other metrics and make sure we all stay in it for the long haul.

In particular, I think there has been a big emphasis on the quick claims. I believe over 50 percent of claims are quick claims. In Louisiana, I think it is over 57 percent, the sort of $5,000 payments. And in fact, that means that the folks most impacted, most hurt, most directly impacted by the spill are not taking those quick claims because their claims are more complicated and bigger and so they are still waiting or standing in line.

Just as an example, a huge percentage of the quick claims have gone in Louisiana to tourism industry-type people, and they have losses—I am not arguing against that—and a tiny percentage, maybe 5 percent, to fisheries people. And obviously the fisheries folks are the ones most impacted and first impacted. So I would caution all of us to make sure we are in it for the long haul and use full metrics and make sure we get to the right outcome over time.

Related to that, there have been some suggestions, including from some of our colleagues from New York, that you be appointed to this new 9/11 project coming out of the First Responders bill. Please take this as a compliment and nothing else, but I do not think you can possibly take on another job until this is fully closed out, and I invite you to say that publicly. [Laughter.]

Third and finally, and this is not your bailiwick, we continue to struggle with the economic devastation of the spill and the resulting moratorium, including the continuing de facto moratorium. Now, this story has left the front pages of the national papers. Evidence of that, the President, unfortunately, did not even mention this in the State of the Union. But economically, the Gulf Coast continues to be hit hard by all of this, and it is not the spill directly, it is the de facto moratorium which continues. And this would be tragic whenever it happened. Coming in the middle of a serious recession, it is triply tragic.

Just as an example, our State, Louisiana, before this month, which was a slight and welcome uptick, we have had eight straight months of increasing unemployment. That is not a coincidence with the spill and the moratorium. That is a direct result of the drilling moratorium, including the de facto moratorium, eight straight months of increasing unemployment catching up to the national average, and we need to end that, and coincidentally, we need domestic energy production from the Nation. So certainly, I will continue to work with my two colleagues here on that.

Thank you, and I look forward to your testimony and questions.

Senator LANDRIEU. Thank you, Senator Vitter, for those observations and comments.

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Let me quickly introduce the panel, and I am going to shorten these introductions.

Mr. Feinberg has been introduced before. He is the Administrator of the Gulf Coast Claims Facility. He has testified before this Subcommittee and others. Prior to taking on this challenge, he handled claims for the family members of 9/11 victims, Agent Orange, and the Virgina Tech shooting incident, so he comes to this job with decades, literally, of experience, and he is going to need all of that to get this right. We are looking forward to hearing from him today.

Craig Bennett is our second witness. He serves as Director of the U.S. Coast Guard National Pollution Funds Center. The National Pollution Funds Center (NPFC) was established by the Oil Pollution Act of 1990. They manage the Oil Spill Liability Trust Fund (OSLTF) and review claims decisions by the responsible party under the law. We are looking forward to hearing from you on that. He has been with the Coast Guard for 22 years.

Mr. Nguyen is the witness I referred to in my opening statement. He piloted a refugee boat out of Vietnam and fled for his freedom with his family, got to the shores of South Louisiana, where many South Vietnamese were relocated, along the Gulf Coast—Mr. Shelby, I am certain in Alabama, as well—and managed to get through all of that, only to be shut down with this oil spill and is now on the verge of losing his business. And he, like many fishermen, and particularly in the Vietnamese community where subsistence fishing is common, is having a very difficult time specifically navigating this claims process.

So, Mr. Feinberg, let us begin with you. I think we have 5-minutes for each witness to offer their testimony and then we will proceed to questions.

TESTIMONY OF KENNETH R. FEINBERG,[1] ADMINISTRATOR, GULF COAST CLAIMS FACILITY

Mr. FEINBERG. Thank you very much, Madam Chairman. I am testifying today before three Senators who I have known for a while and who have been among my most vigorous supporters in trying to get this program to work right and have been, thankfully, some of my most constructive critics in pointing out in good faith how we can improve the program, and I am grateful for that criticism.

The program—just as Senator Vitter predicted, I go right away to the statistics—the program is working. We have paid out in 5 months almost $3.5 billion to 170,000 people, businesses, individuals in the Gulf region. Baldwin County, I believe is the second county in the Gulf that has received the most funds from the Gulf Coast Claims Facility, due in part, I guess, to Senator Shelby's insistence that we focus on Baldwin County, which we are doing.

Also, it is true that in the last 5 weeks, as Senator Vitter has pointed out, 85,000 people and businesses have accepted the quick payment option. We have paid out in the last 5 weeks about $700 million to individuals and businesses who either have already been compensated and feel that this is additional compensation that

[1] The prepared statement of Mr. Feinberg appears in the appendix on page 42.

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they will accept in return for releasing their claim or cannot document any additional damage. I do not know which, but 85,000 people have taken the quick payment option.

Now, transparency, a big point with the three Senators today. We are taking steps on this. First, on Tuesday, February 2, about a month later than I promised, Senator Shelby, but on February 2, we will post publicly the criteria and the methodologies being used to calculate final payments and interim payments. We are going to give a 2-week public comment period for any business or any individual before we implement it. Before we start making these final payments and interim payments, everybody in the Gulf will have an opportunity, as will the Senators, to comment on what we propose to do. And if there are comments that we should change it before we implement it, but the final payments and the interim payments, I assure the Senators, will commence in February to about 90,000 businesses and individuals requesting a final payment and about 40,000 businesses and individuals requesting an interim payment.

And, Senator Shelby, the reason it took longer than I had promised you, I have to get this right. The Final Payment Program requires a lump sum payment for all present and future damage, and I am trying, talking with all the experts, with the citizens of Alabama, with the businesses in the Gulf, to find out from them, what are the long-term implications of this bill. Nobody knows for sure. And it has taken me longer than I had hoped to gather that information together. But it will be announced on Tuesday. It will be a 2-week public comment period. And at the end of that period, we will finalize that program and begin to commence to make those payments.

I also want to pick up on a point. Senator Landrieu advised me to do this 3 months ago. We have now put in place in Alabama, in Louisiana, Florida, and elsewhere local people, live bodies in the claims facility offices to meet with claimants, to answer their questions. They are not representing them in a court of law. They are not offering legal advice. But instead of people being frustrated by calling 1–800 numbers or not getting answers or getting inconsistent answers, we are trying to deal with that by hiring local people who will address local individuals with local problems.

We have received in the last 5 months—the Coast Guard has been fabulous. We have been working with the Coast Guard since day one. Craig is here. I acknowledge their support for this.

The Gulf Coast Claims Facility has received about 500,000 claims. I have to get back to Senator Shelby in writing. When he says we have only processed X percent or three claims, he—you take what Senator Shelby says with a good deal of credibility. I have to check this. It does not ring true, except it is coming from Senator Shelby. I will get an answer to you in writing on this, Senator.

Senator LANDRIEU. Thirty seconds, if you could.

Mr. FEINBERG. So, in sum, just as an opening comment, we are taking steps to deal with transparency. We are dealing closely with Catholic Charities, Madam Chairman, and those other nonprofit service providers. We have no authority under the facility to pay them. That is a BP obligation, if anybody has that obligation. And

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I look very much forward to the questions where we can get into some of this in more detail.

Thank you, Madam Chairman.

Senator LANDRIEU. Thank you. We are going to go to Mr. Bennett, but I want to clarify something. You said, in the last 5 weeks you did what? What was the number you threw out?

Mr. FEINBERG. We have paid out in the last 5 weeks about 85,000 quick payments totaling almost $700 million.

Senator LANDRIEU. OK. Thank you. I wanted to get that clear.

All right, Mr. Bennet. And we have been joined by Senator Nelson from Florida and he will join us in our round of questioning. Senator Bennett. I mean, Mr. Bennett.

TESTIMONY OF CRAIG BENNETT, DIRECTOR, NATIONAL POLLUTION FUNDS CENTER, U.S. COAST GUARD

Mr. BENNETT. Good afternoon, Madam Chairman. I appreciate——

Senator LANDRIEU. You have been here long enough. We are going to have to promote you. Twenty-two years.

Mr. BENNETT. Thank you. Good afternoon, Madam Chairman and other Members of the Subcommittee. I am grateful for this opportunity to testify today about the role the National Pollution Funds Center, which I have headed for these past 2 years, plays in implementing the liability and compensation provisions of the Oil Pollution Act of 1990, particularly as they relate to the Deepwater Horizon oil spill.

Let me start by saying that I have a deep appreciation for the people and environment of the Gulf. I graduated from high school in Louisiana. I met my wife and got married in Houston, Texas. And I spent time raising my two children in St. Petersburg, Florida. So I remain mindful of my Gulf Coast heritage as I serve the NPFC.

The National Pollution Funds Center serves a number of functions with respect to the funding of oil spills. First, it provides funding for Federal oil spill response through the Oil Spill Liability Trust Fund, which this office administers. The fund was authorized in 1990 with the passage of OPA to ensure no delay in the Federal response to a spill and for those spills where there was not a viable responsible party. Fund revenue sources include a per barrel tax on oil, cost recovery from responsible parties, interest income, and Clean Water Act (CWA) fines and penalties. The NPFC also ensures that the responsible party is advertising its availability to pay claims for removal costs and damages. If the responsible party denies a claim or does not settle it within 90 days, the claimant may present the claim to the fund. Finally, the NPFC recovers Federal response costs and any claims that are paid out of the fund from any and all responsible parties.

As of January 24, the fund had obligated or expended $684 million for the Federal response to the Deepwater Horizon oil spill. That was the removal actions of the clean-up. These costs included Federal agency oil removal costs as well as funds provided to the Natural Resource Damage (NRD) Trustees to initiate assessments.

A key policy of OPA is that the polluter pays, not the taxpayer. The Federal Government has consistently billed responsible parties

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for reimbursement of costs paid out of the fund. To date, nine bills have been sent to responsible parties for the Deepwater Horizon expenses, of which the first eight, totaling $606 million, have been paid by BP. The ninth bill, for $26 million, was presented on January 11 and I anticipate it being paid soon.

OPA requires that I ensure that responsible parties are advertising for and receiving claims. They should also advertise that if not settled in 90 days or denied, the claimant may come to the fund or file an action in court. The NPFC only receives claims which a responsible party has not settled to the satisfaction of the claimant, in this case BP, which has delegated the claims process for personal and business claims to the GCCF, and the NPFC process provides a venue to adjudicate any claims that were denied or were not acted on through that normal process.

Information about the NPFC claims process is available on our website. It is also on the BP, the Gulf Coast Claims Facility, and the Restore the Gulf websites, as well. This information includes a claimant's guide in English, Spanish, Vietnamese, and Cambodian, as well as a list of frequently asked questions. Recognizing that not everyone is on the web, claimants are also informed of our claims option by the GCCF Claims Center and their call center. Eighty percent of the claimant inquiries that we have to our call center at the NPFC tell us that they were referred to us by the Gulf Coast Claims Facility.

Denial letters to claimants for final claims will also include notification of the claimant's right to submit a claim to the NPFC or to pursue litigation. The reasons for denial are generally due to insufficient documentation to support the claim, or the documentation showed the claim was not payable under OPA, or the responsible party had already paid the claim. Again, claimants who are denied by the NPFC have 60 days in which to submit additional information for reconsideration.

In conclusion, individuals, communities, and businesses have suffered as a result of this spill. The National Pollution Funds Center is working to ensure a robust Federal response, that those damaged from this spill are compensated, and that the polluter pays. The Department and the Administration are working to ensure a full recovery throughout the affected States.

Thank you for the opportunity to testify today and I look forward to your questions.

Senator Landrieu. Thank you, Mr. Bennett.

Our next witness is Ve Nguyen. As I said, he is a resident of Plaquemines Parish, a commercial fisherman. He has worked in the waters of the Gulf for over 29 years. He has been directly impacted by this spill, and we have a translator from the State Department here with him. Mr. Nguyen.

TESTIMONY OF VE NGUYEN,[1] MEMBER, UNITED LOUISIANA VIETNAMESE AMERICAN FISHERFOLKS

Mr. NGUYEN. [Speaking through interpreter.] Members of the Subcommittee and honored guests, my name is Ve Nguyen. I have been harvesting oysters in the Gulf of Mexico for 29 years.

[1] The prepared statement of Mr. Nguyen appears in the appendix on page 51.

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[Mr. Nguyen speaking in Vietnamese.]

Senator LANDRIEU. OK. Let her translate. Just a minute. Go ahead.

Mr. NGUYEN. [Speaking through interpreter.] On behalf of the United Louisiana Vietnamese American Fisherfolks, thank you, Senator Landrieu, for calling this hearing and special thanks for your staff for inviting me today.

I would like to take this opportunity to do three things: To share my story, to present to the Subcommittee a request, and to ask Mr. Feinberg a question.

Senator, if I may, my story is a common story in the Louisiana Vietnamese American fishing community. As of the spring of 2010, approximately 30 to 50 percent of all commercial fishers living in the Gulf of Mexico region are Vietnamese American, while more than half of every other Vietnamese American in the region are connected to the seafood industry. In my neighborhood of Plaquemines Parish, 100 percent of the Vietnamese households are fishermen. Louisiana fishermen of all ethnic backgrounds are independent and hard-working people.

As refugees to the United States after the end of the Vietnam War, we all chose to build our lives anew in these fertile waters of the Gulf Coast and carry on the fishing tradition and customs of our ancestors. I was raised on my father's fishing boat in Vietnam. During the Vietnam War, I used my naval skills to help the South Vietnamese Democratic Government defy communism——

Senator LANDRIEU. Thank you. Go ahead.

Mr. NGUYEN. [Speaking through interpreter.] At the end of the war, I carried dozens of people on my boat to escape the communist regime. In the United States, our people carry on the fishing tradition of our ancestors despite the hate crimes from the Ku Klux Klan. I taught our children the love of the water and appreciate its creatures. My daughter is a marine biologist and my son helps me on the boats.

After I was forced to flee my country to the United States and the United States took me in, I pledged an allegiance to the United States that includes paying my taxes. Unless I have no other choices, I do not seek government assistance. But with the oil spill, like many of my fellow fishermen, I have had to stand in line for handouts and Food Stamps.

Before the BP Deepwater Horizon oil spill, my wife and I would be out on the sea by 6 a.m. and return in the late evening. Like all of the other fishermen in Louisiana, we typically hold back a portion of our catch, 5 or 10 percent, to bring home for personal consumption in the family, to contribute to community events, and to barter with other fishermen for other seafood.

I face many challenges in the Gulf Coast Claims Facility process, but I would like to take this opportunity to highlight one in particular. Mr. Kenneth Feinberg received over 16,000 emergency payment claims for subsistence use, including mine, and Mr. Feinberg only paid one claim of $3,000. Mary Queen of Vietnam Community Development Corporation (MQVNCDC), a Louisiana contracted technical assistance provider, helped me packaging my subsistence use claim. Mr. Feinberg denied my neighbor's emergency pay-

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ments, loss of subsistence use claim almost that was identical to mine.

I, therefore, would like to make our request to members of the Senate today, the United Louisiana Vietnamese American Fisherfolks, in solidarity with 14 other organizations request that the Members of this Subcommittee to clarify, reaffirm the definition of subsistence use in the OPA of 1990, fully acknowledging and recognizing the local non-taxable practice of bartering community gifts and family consumption of commercial fishing communities of all ethnic backgrounds. The definition is clearly intended by Congress in 1990 and comports fully with the Department of Wildlife and Fisheries (WLF) definition.

Moreover, the calculation of emergency compensation for loss of subsistence use should be based on the quantity of the food that commercial fishermen subsisted on before the spill multiplied by the current retail value of the seafood. This formula has been summarized and defended by the White Paper submitted by the United Louisiana——

Senator Landrieu. Thirty seconds, please.

Mr. NGUYEN. [Speaking through interpreter.] Finally, I have a question for Mr. Feinberg. On behalf of the 14 grassroots organizations, I would like to ask Mr. Feinberg why only the people with $250,000 minimum payment can claim. Why do not low-income people have the right to appeal to the panel?

Senator LANDRIEU. That is an excellent question, and first of all, thank you for your testimony, Mr. Nguyen. We really appreciate it.

Why do we not start with that question, Mr. Feinberg, if you do not mind starting with that, and we are going to go through a 5-minute question round. Go right ahead.

Mr. FEINBERG. Thank you very much, Madam Chairman. Anybody can appeal, regardless of any amount. In fact, you can appeal to the Coast Guard if you have no amount and were denied any amount. So nobody at all, nobody who files a lost income or lost wage claim with the GCCF, nobody is foreclosed from an appeal to the U.S. Coast Guard, and Mr. Bennett can give you the statistics on that.

It is true that I did establish in the GCCF an additional limited right to appeal for claimants receiving over $250,000 or my awarding the claimant over $500,000. I decided that an additional claim right should be awarded to those high-impact claimants. But any claimant can appeal to the Coast Guard from my determination, and the reason I did not have a broader appeal right, I am worried very much about slowing down the process, which I am getting criticized about. Having appeals and more appeals is an inefficient way to get money out the door and that is why I limited it. But everybody has a right to appeal.

Senator LANDRIEU. But just to be clear, anyone at any amount can appeal to the Coast Guard.

Mr. Bennett, you run that program, so is that your understanding?

Mr. BENNETT. Yes, Senator.

Senator LANDRIEU. OK. So if anybody gets a denial letter, whether they have asked for $3,000 or $5,000 or $500,000 or $5 million, they get a denial letter, or if they are compensated $1 million with

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no explanation and they thought they deserved $5 million, they could go to you.

All right. Let me start with my line of questioning. First, I want to acknowledge for the record that in the 5 months that BP managed this claims process, and, of course, they had to stand it up very quickly and it was unprecedented, they only distributed $359 million Gulf-wide. In the 5 months that Ken Feinberg has been on the job, you have distributed $3.3 billion, so you should be commended for that.

However, one of my first questions is that people in my State, now I do not know about Florida or Mississippi or Alabama, but in Louisiana, Mr. Feinberg, they go to the centers. They try to get an update on their claim, and all they are told is, quote, "Your claim is under review." They cannot get access to the status of that review. Is it the beginning, the middle, or the end? They cannot get a confirmation that their documentation is either in order or completely disorganized. And I think that is a real problem with the system and I would like you to respond.

And also on this subject, one of the things I think many of us had asked you to do in the beginning is to have these offices staffed with people who the communities knew, local workers, and people who had knowledge or at least access to the computer database to give people some update. So would you please respond, and what are you going to do to correct it?

Mr. FEINBERG. As I said in my opening statement, A, it is a fair criticism. B, there are 500,000 claims that have come in since August 23. We have picked up on your suggestion, which was made for the first time months ago, we have expanded our local people in these 35 claims offices so that individuals will be not as frustrated in trying to get an answer about deniability or the calculation of award——

Senator LANDRIEU. But do these employees in some of these law firms that have been, although they are not there for legal purposes but for advocacy purposes, do they have access to the database, because the Worley employees who were there who are—you could define as local, it is a local company, most certainly, in Hammond, Louisiana. I am sure people work for their company from all over the country, but many from the Gulf Coast. But I want you to testify, do they have access to the database, because they tell me no, and are the other firms that you are bringing in going to have access so people can get an update when they need one?

Mr. FEINBERG. The answer is yes. I will not say they have access to the confidential database. They will have access to the——

Senator LANDRIEU. To the status?

Mr. FEINBERG. That is correct, to give status as to eligibility, status as to denials, status as to the amount of the money that has been calculated.

Senator LANDRIEU. OK. We are going to follow that up. This is similar, along the same lines. Claimants receive a denial letter. I do not have a copy of one with me, but I am going to ask the staff, if they do, to give it to me before the hearing is over, and if not, it will be up on our website. When claims are denied or awards are lower than expected, people are not receiving any commentary or detail. We know you requested $10,000. Here is a check for $2,000.

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The reason you did not get the additional $8,000 is because of X, Y, and Z. There does not seem to be any explanation, and people then get very frustrated. They do not even know where to begin. Should they completely refile? What did they not understand? This is a real problem.

Mr. FEINBERG. It is a problem. Now, I must say, the great majority of people do not have this problem. But I agree with you. If even a few people have this problem, it is a big problem.

Senator LANDRIEU. OK. So you are testifying that denial letters or letters accompanying reduced award amounts include detailed explanations, because that is not our understanding.

Mr. FEINBERG. No, I am not suggesting that. I am suggesting that, for the most part, when people get a denial letter, even if there is not an explanation, they understand why there has been a denial. The number of people—the critics are a relatively small number, but it is too many. I agree, it is too many.

Senator LANDRIEU. All right——

Mr. FEINBERG. But we are dealing with this problem, as I said, by putting people in these local offices that have the ability to come up with live answers to help these people understand.

Senator LANDRIEU. OK. Senator Shelby.

Senator SHELBY. Thank you. Senator Landrieu, thank you very much for bringing forth this meeting. It is timely.

Mr. Feinberg, I want to reiterate again, it has been 9 months since the oil spill. I will give these numbers to you again. Fifty-seven percent of claims in my State of Alabama remain unpaid. This amounts to 38,604 individual and business claims that have not received one penny in funding. Further, from January 12 to January 24 in Baldwin County, Alabama, this year, the hardest hit region in Alabama, as you referenced, only 28 claims were processed. That is less than three claims a day. You mentioned the numbers earlier. All the claims and the statistics that I referenced here came from your website. They are from your people. If they are wrong, correct them for the website and correct them for the record. We are relying on your numbers.

Now, having said that, how many of the paid claims were paid in full? How many of the claims that you paid were paid in full, and if you do not have this, can you get this for the record——

Mr. FEINBERG. I will have to get that for the record.

Senator SHELBY. A lot of people have complained, especially in Baldwin County, about partial claims, and they are desperate for the money. I know you are trying to expedite a lot of this and I know you are acting in good faith.

The claims process has surely slowed down. Why is that, could you tell us for the record?

Mr. FEINBERG. It has slowed down, briefly. Now, it has not slowed down in terms of 85,000 people in Alabama and elsewhere who have accepted the quick payment. The problem I have run into, and it is about to be solved by next Tuesday, I want to make sure before setting out a public methodology for processing final payments that we take into account, as you pointed out, Senator, the future of the Gulf. And it has taken me an extra month to gather together all of that expert information, and next Tuesday,

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I will announce, as I promised you I would, a final payment methodology and criteria.

Senator SHELBY. Mr. Feinberg, we have known each other a long time and we have dealt in good faith, and I believe you are dealing in good faith. I appreciate the times you have gone to the Gulf Coast, not just my State of Alabama but the whole Gulf Coast. I know you have a very difficult situation. I know that. It is complex. But to our constituents that are frustrated, especially my area of Alabama, they have seasonal economy. The winter is here. They lost a lot back in the summer. They are not sure if they can make it until the spring. And we have talked about this before and a lot of your people have.

So if you can process those claims—only bona fide claims. I would never want you to pay one cent that was not meritorious. But I would want you to pay the meritorious claims. And by now, you should have some methodology to differentiate between the real and the apparent, so to speak. That is all I am asking you, and I think that is all my constituents in Alabama want, is they want to be compensated for bona fide things and they are not all getting it and that is why I am here today.

Mr. FEINBERG. And you have my word, Senator, that I am diligent in understanding that concern.

Senator SHELBY. Thank you a lot.

Senator LANDRIEU. Senator Vitter.

Senator VITTER. Thank you, Madam Chairman, and Mr. Feinberg, again, thanks for your continuing work. I know it is not easy.

Let me go back to some of the points in my opening statement. Will you publicly state that you will not take the 9/11 First Responder job or any other big public project until this Claims Facility is fully closed down?

Mr. FEINBERG. Senator, I do not see how I can. I do not want to publicly state absolutely I will not, because, first of all, nobody has asked me. There has been no inquiry whatsoever that I do this. I am just reluctant, before the President of the United States or the Attorney General of the Department of Justice (DOJ) or whatever, I am reluctant to make that commitment before I know anything about it. But I assure you that my wife agrees with you, Senator. Absolutely. [Laughter.]

Senator VITTER. Well, I am disappointed with your response. It would be flattering and perhaps appropriate for you to be asked, but, of course, you have to decide the answer, and I would suggest, given that this is a big unfinished job, that the answer should be public and unequivocal that you will not do that and would not do anything like that until this facility is completely closed down.

Mr. FEINBERG. I take that criticism as valuable. Let us see what unfolds over the next few weeks.

Senator VITTER. OK. Well, I am a little surprised and very disappointed with the response.

Is the compensation package of you and your firm for this work public information?

Mr. FEINBERG. Yes. It is public and it has been public for the last 3 or 4 months.

Senator VITTER. OK. Great.

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Mr. FEINBERG. It is on the website, I think, but it is certainly public.

Senator VITTER. OK. I have not seen it, and that is only my fault, apparently, if it is public. If you could just get us that detailed information, I would appreciate it.

I talked about these quick payments. Of the 124,000 claimants who have been paid, do you know what percentage are quick payments?

Mr. FEINBERG. I can say this. We paid 168,000, as Senator Landrieu pointed out, 168,000 emergency payments. Since that time, since those 168,000 were paid, we have paid an additional 85,000, approximately, quick payments in the last 5 weeks. So we have made 168,000 emergency payments plus 85,000 quick payments.

Senator VITTER. OK. We may be using slightly different terms. My understanding is that of all payments to claimants, over half are quick payments, and in Louisiana, it is over 57 percent. Does that sound like it is roughly accurate?

Mr. FEINBERG. No, I do not think so. I mean, it may be. I would have to go back and do the math. The 85,000 quick payments have all been made in the last 5 weeks as supplemental payments. I would have to go back and do the math and give you those statistics.

Senator VITTER. OK, again, that is the statistics I have, and the general point is that a huge percentage of claimants paid are quick payments.

Mr. FEINBERG. That is true.

Senator VITTER. My understanding is over half. Again, in Louisiana, my understanding is over 57 percent.

If you look at those quick payments, my understanding is that 92 percent go to retail, service, restaurant-type folks.

Mr. FEINBERG. I do not know how anybody has that information. I can check and see. I doubt that is true.

Senator VITTER. OK. And my understanding, that compared to that, about 5 percent go to seafood-related folks. Now, there are a lot less seafood-related folks than the other category. I understand that. But I think there is something else at work, which is that a lot of the payments, a lot of the success, a lot of the numbers that you cite, and it is appropriate to cite it, is essentially the low-hanging fruit. It is essentially the easiest cases to do. And my concern is that the folks most impacted, most hit, and sometimes in most dire straits are not the low-hanging fruit and are still waiting and in dire straits. Do you have a general response to that?

Mr. FEINBERG. I do not—I would characterize it differently. I would say that those who have accepted the quick payment are either individuals who feel that they have been adequately compensated and here is additional compensation that is available simply by signing a release or individuals who cannot document any further damage and therefore see the wisdom of accepting these payments.

I agree completely with you, Senator, that fishermen and shrimpers and commercial businesses dependent on Gulf resources are waiting impatiently for the Final Payment and the Interim Payment Program, which will be announced next week, because

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they are the ones with long-term decisions to make about whether to take the money and issue a release or wait and see over time how the future will develop in the Gulf.

Senator VITTER. OK. Well, again, let me just state my conclusion, and people can reach different conclusions. I think these numbers, which are strong in dollar figures, in claimants paid, in many ways, do represent the easiest cases, and my concern is that the folks most hard hit are by definition generally not in that category.

Mr. FEINBERG. Senator, I just want to make one other point, which is it is a very interesting point you are making. I get criticized for the opposite. I get criticized that people who take the quick payment are desperate. I do not believe this myself, but this is the argument I hear. It is the exact opposite of your argument. It is, Mr. Feinberg, people who take the quick payment cannot afford to wait. They are tempted. They are desperate, so they take the quick payment because they need it desperately.

You are making a different argument, which I tend to share, and that is that people, commercial fishermen, shrimpers, people who have a long-term view of the Gulf, are in desperate need—Senator Shelby says it has been delayed too long—for these final payments and interim payments. So I am basically in agreement with you that I have to get these final payments out to these people, these fishermen who really need this.

Senator VITTER. Can you come back to me? I have some more questions.

Senator LANDRIEU. Yes, I can come back to you. Let me get Senator Nelson and then I will come right back to you. Go ahead.

Senator NELSON. Thank you for your service. I just want to underscore what that chart says. You see that the number of claims, even though the spill was closer to the other three States than it was to Florida, nevertheless, there are almost 800 miles of Gulf Coast coastline in our State and that has spawned 162,000 claimants, compared, for example, where the spill was right next to Louisiana, 194,000. And it is simply that a spill far away is still affecting a State like Florida. And our people are frustrated and I want to bring those frustrations to you, Mr. Feinberg, respectfully.

Take, for example, a lady named Susan that was in the process of renting vacation homes. That is how she made her living. She put in a claim. Obviously, she was impacted because vacationers did not come, and her claim was denied. Or take Theresa, who was selling advertising in directories and vacation guides for tourists. When the tourists did not come because they thought there was oil on the beaches—she is a disabled woman, that is her only source of income, and her claim was denied.

And so I want to ask five questions, and if I cannot get to it, since I did not have an opening statement, I am down to three-and-a-quarter minutes——

Senator LANDRIEU. Go ahead.

Senator NELSON. Let me just say, first of all, your structuring of the claims process. Are the folks that are processing the claims given some sort of worksheet or instructions how to determine when all of the required documentation is complete, and is that instruction sheet there in order to determine how much the compensation should be?

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Mr. FEINBERG. Yes——

Senator NELSON. In other words, I am looking for uniformity.

Mr. FEINBERG. Yes. There is an instruction sheet. They have been trained. The claims intake people in Florida do not calculate the amount, but they make sure with their instruction sheet that all the necessary documentation to process the claim is there, is available, and is submitted.

Senator NELSON. OK. As in any big organization, somewhere it has broken down with, for example, the two I just mentioned.

All right. Question number two, we have seen with similar documentation different outcomes. So in what ways do you oversee that the claims are processed so as to try to get as much consistency as possible?

Mr. FEINBERG. In a small number of cases, relatively speaking, there is inconsistency. You are absolutely right. It is inevitable. There are 500,000 claims, Senator, that we have processed in 5 months. I agree with you, there is inconsistency. We are trying to deal with it in our facility here in Washington. Where we see inconsistency, we flag it. We correct it.

I went down to Alabama and Florida and met with people who claimed inconsistency and we fixed some of them, but not enough. And I agree with you, we have to do a better job of uniformity. I agree completely.

Senator NELSON. OK. Now, there is a need for an expedited review when there are folks that are desperate—electricity shut off, foreclosure, cannot afford the basic necessities of life. Is there an expedited review?

Mr. FEINBERG. Senator, I think the answer to that is categorically yes. We have paid 168,000 people, including in Florida 160,000 emergency benefits in 90 days without requiring any release or anything. Now, there may be some people, Susan or Theresa or others, who for whatever the reason. But when those claims have been brought to my attention, we have done what we have to do to try and accelerate those claims. I am mindful of this criticism.

Senator LANDRIEU. Go ahead and take another minute, Senator.

Senator NELSON. People are hurting. When you have your electricity shut off, they are hurting.

All right. Now, you, your organization has said they are going to release the formula in February.

Mr. FEINBERG. February 2, Tuesday.

Senator NELSON. All right. Would it not have been a wise thing to do, to be beneficial to the people that are making the claim, to know how those claims were going to be evaluated before they submitted those claims?

Mr. FEINBERG. Absolutely. On February 2, next Tuesday, we are going to release for a 2-week public comment period the opportunity for claimants, experts, whoever, to comment before we start processing the claims next month, the final payments, to review the methodology, review the criteria for people like Susan and Theresa, and decide what they think before we process that claim, if they like the approach we are going to take.

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Senator NELSON. That is a step in the right direction. And then I will just say that you all said that there is an appeal process to the Coast Guard?

Senator LANDRIEU. Yes.

Senator NELSON. Where is there not an appeal process to your facility?

Mr. FEINBERG. There is. We are implementing a very limited——

Senator LANDRIEU. Thirty seconds.

Mr. FEINBERG [continuing]. Appeals process, a very limited appeals process for high-end claims. There are so many claims, Senator Nelson. I do not want to bog down the processing of the claims with what could be thousands of appeals. Those individuals who are denied or who do not get what they want can immediately appeal to the Coast Guard and that is a separate appeal opportunity for any claimant.

Senator LANDRIEU. OK. We have to move to the second panel, but every member will get another 2 minutes on this round, and I know, Senator Vitter, you had another question or two.

Senator VITTER. Thank you very much, Madam Chairman.

Let me pick up where I left off. My concern is that, in terms of the payments that have been made, a lot of which are quick payments, that has not hit the seafood and seafood processing community significantly. And so the seafood sector remains unaddressed compared to other sectors, and that is a big and important sector, very hard hit in Louisiana.

Let me give you some examples. You came to Louisiana for some town hall meetings in January. Thank you for that. You were presented with a lot of cases that folks that were not resolved, were not being adequately dealt with from their point of view. Tracy and Mike Roberts from Barataria were at the Lafitte town hall and they brought up their claim. Michelle Chauncey [phonetic], also from Barataria, she was at the same meeting. Rudy Carmandell [phonetic] from Crown Point, he was a fisherman. He explained that his paperwork was not straight and the Claims Facility said, well, the problem was he needed to get something signed off by the boat captain. That really frustrated him, because guess what, he is the boat captain.

In all of those cases, you said, "I am going to look into it. We are going to get back to you." My information is that in all of those cases, they have not heard anything, nothing new, nothing at all from the Claims Facility since that town hall meeting. Do you want to respond to that, and how can we fix that and address that?

Mr. FEINBERG. I do not believe—if I have not responded to individuals who handed me a claim in a visit to Louisiana, shame on me. I would like to know, Senator, through your staff, the names of those individuals or their claim numbers and I will be back to you and your staff forthwith.

Senator VITTER. OK. We will give you those three. Can I ask you, in those three Louisiana town hall meetings, by definition, there are obviously a limited number of people who could stand up, could you all also report to us who is on that list and what has happened to those people since those meetings?

Mr. FEINBERG. Yes.

Senator VITTER. Great.

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Senator LANDRIEU. Senator Shelby, and then I will get Senator Carper.

Senator SHELBY. Thank you, Madam Chairman. I will be brief.

Mr. Feinberg, I know you have a very difficult task. I understand that. As I said, I have known you a long time and I know you are working to resolve this. It is not easy. It is complex. But I think my people in Alabama, just like Florida, Louisiana, Mississippi, Texas, and others, they are interested in a fair process, a process that can be expedited, because time is everything to them right now, to try to get over the winter into the spring and praying and hoping that they can get another season.

You have been to Alabama several times and I appreciate that, just like the others. You have been involved and we want you to continue to do this. We know you cannot process every claim yourself, that you rely on your staff and so forth. And you have made a lot of people happy. I am not saying whole. I do not know that. But we have a long way to go and that is what my people want you to do, is to finish the job, finish it as expeditiously as you can, and do the right thing.

Mr. FEINBERG Thank you, Senator.

Senator SHELBY. That is all I ask you.

Mr. FEINBERG. Thank you.

Senator LANDRIEU. Senator Carper.

Senator CARPER. Thanks. Welcome, one and all. It is very nice to see you. Mr. Feinberg, thank you for taking this on. Sometimes I think you almost need the wisdom of Solomon to be able to do this fair and square, so we appreciate your efforts and those of Mr. Bennett, too, to be fair.

I understand, and this is really a question both to Mr. Bennett and to Mr. Feinberg, but I understand that under current law, if a claim is denied or if it is not handled, by the responsible party within, I think it is 90 days, then that claim can be presented to the Coast Guard for adjudication for payment out of the Oil Spill Liability Trust Fund. Is that correct?

Mr. FEINBERG. That is correct, Senator.

Senator CARPER. OK. Mr. Feinberg, I think you called this sort of a built-in appeals process. I think that is what—is that what you call it?

Mr. FEINBERG. There are two appeals processes. There is the one that you have just described and then there is an additional appeals process that the Gulf Coast Claims Facility has created independent of the Coast Guard.

Senator CARPER. OK. Mr. Bennett, I am told that over 500 claims have been received by your office thus far, but of those reviewed, none have been paid. Let me just ask, what do you believe the chances are that this will continue? That is my first question. What do you believe the chances are that this will continue? And secondly, is your office able to handle what I understand are an ever-increasing number of claims that are being submitted to your office every month?

Mr. BENNETT. Thank you, Senator. That is a good question. You are correct. My office has received to date 507 claims that have all been presented previously to the Gulf Coast Claims Facility and either denied, or in some cases paid before we got to it, or the pay-

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ment did not meet the claimant's satisfaction, so they brought it to us. So that is 507 out of the hundreds of thousands that are on there. We have finished adjudicating——

Senator CARPER. So in a case where they submit their claim to Mr. Feinberg's folks for like, say, $200, they got $100, but they are not satisfied. So they come to you for the second $100? Is that right?

Mr. BENNETT. That is correct, Senator. They can bring it to us. It is not really an appeal of his decision because it is sort of an arm's length relationship between the two of us. But we are an alternate source for adjudicating. So as long as it has been properly presented to the responsible party, in this case the Gulf Coast Claims Facility, if after 90 days or denial, then they can bring it to us and we will take a re-look at it. We have an arm's length relationship, so we try to understand what it was that they did. We want to make sure they have not already paid it, which we found in about 10 percent of the cases the claimant has been paid, so we end up sending a denial. And then we adjudicate it in our own process and get back to the claimants.

We have adjudicated 200 and all of those have been denials to date. I cannot predict that it will continue to go at that rate. I think that is primarily an indication of the fact that the protocols that are out there that BP and GCCF have been able to do have actually been more inclusive than OPA requires. They can pay for personal injury. They can pay emergency advance payments. I cannot pay advance payments. Their final claims protocol will include prospective losses. I cannot pay for speculative losses. So there are a lot of reasons why when they——

Senator CARPER. Let me just ask you this. Stop right there. I want to go back to my second question. Is your office able to handle what I understand to be an increasing claims load demand? Are you able to handle it?

Mr. BENNETT. Senator, that has been a concern of mine for the last 7 months, is what happens if we get a deluge, and so far, we have not seen that deluge. So far, we have been able to scale up. I have stood up a separate staff just for Deepwater Horizon claims and we have been able to keep up with the calls and the claims that have come in. I cannot—it depends on what happens in the future. We will continue to scale as we need to, using the resources that we have. But for right now, we have been able to stay up.

Mr. FEINBER Senator, I just want to say one thing about this. Mr. Bennett has made two—from my perspective, he has made my day. First, the Coast Guard has acknowledged in this testimony that the GCCF is more generous and more open in finding eligibility than OPA requires. I have said that from day one. And second, the Coast Guard has publicly stated today at this hearing that it has received 507 appeals from the GCCF, and about half of those, we have adjudicated and affirmed the decision without exception of the GCCF.

Senator CARPER. Good. Thank you. Last question, if I may. Mr. Feinberg, how are you ensuring that you do not deny a claim the government might pay or that no claims fall through the cracks? If the Coast Guard did pay a claim that you missed, would we be able to be reimbursed for those funds?

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Mr. FEINBERG. I do not understand the question.

Senator CARPER. I will say it again.

Mr. BENNETT. Can I answer that?

Senator CARPER. Please.

Mr. BENNETT. Senator, if I pay a claim that he denied, the responsible party is liable for that expense because it comes out of the trust fund. So I would then bill BP for any and all claims that we pay and we would be reimbursed by BP.

Senator LANDRIEU. And they would probably bill him. He has the $20 billion.

Mr. BENNETT. They would work that out between themselves. Yes, ma'am, that would probably come out of the escrow account.

Senator CARPER. All right. OK. Thanks, Madam Chairman.

Senator LANDRIEU. Senator Carper, good question. Senator Nelson.

Senator NELSON. Thank you, Madam Chairman, and I want to thank you for doing this. I want to thank you, Mr. Feinberg, for coming several times to the Gulf Coast.

Now, I want to go back to your last question. You do not want the appeals process to bog down your process of paying claims, but we would have to worry about that over in the Coast Guard, as well, and we would have to worry about the courts getting clogged. And so if you will go back and reevaluate that, because at the end of the day, what we are trying to do is help people. And so there is some breakdown there. Now, there is some breakdown also—for example, I have seen our staff in my Florida offices work miracles.

Mr. FEINBERG. That is right.

Senator NELSON. People have come to us. They have a claim that is bogged down. We get in touch with your facility and they work it out. But more recently, maybe it is the holidays, the middle of December, I sent to the Facility 40 cases, and it is well over a month and 10 days later. And so I followed up with another letter just recently. If you would attend to that, I sure would appreciate it.

Mr. FEINBERG. I think I have an answer for that. You are right. I will attend to that. I think the reason those 40 claims are sitting, waiting to be processed, is because of the delay that I imposed in the methodology for finalizing payments, final payments in Florida. And as I said, Senator, we are accelerating that. We are going to announce that methodology next Tuesday, and a 2-week public comment period, and then we will be paying all 40 of those claims, and I will keep your staff posted on that.

Senator NELSON. Thank you, Madam Chairman.

Senator LANDRIEU. We are going to wrap this panel, but I want to put a couple of things in the record.

One, 194,000 claimants have filed claims to date in Louisiana. Forty-four percent have been paid. One-hundred-sixty-two thousand in Florida. Sixty percent have been paid. Sixty-eight thousand in Alabama. Sixty percent have been paid. Fifty-two thousand in Mississippi. Forty-two percent have been paid. Texas, 10,000. Thirty percent have been paid. Now, these are quick payments, emergency payments, interim payments. I am not sure that we have even yet to see the final settlements, and we do not have those complete numbers. But it just gives us a rough snapshot.

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But Senator Vitter is absolutely correct that these percentages, while they do tell a part of the story, it is the easier claims, the smaller claims being paid, and some of the businesses that were most affected, particularly in the fisheries and fishing and seafood sector that were the hardest hit have yet to be paid. So I think, Mr. Feinberg and also Mr. Bennett, we should keep our mind on that.

Second, we did go find a claims letter, and I want to read it for the record because, to me, this is insufficient. I am not going to read the whole letter, but the operative is, you are denied. Your claim has been denied. You did not provide sufficient documentation. In this form letter, there is no comment about what documentation you failed to provide. It does not say, you did not provide your birth certificate, or you failed to provide a copy of your fishing license, or you failed to provide the address of your business. No specifics about documentation. And then it says, and if you have questions about your denial, you can call this toll-free number.

So what I am going to do before the next hearing, because I am going to call another one, is I personally, with my staff, am going to get 20 people that have these denial letters, four from each State. That would be 20, is that correct? Four times five? We are going to do 20, four from each State. And I am going to call this number, Mr. Feinberg, and I am going to hope to get on the other end someone that is going to pull up their account and say, Ms. Jones or Mr. Jones, your claim was denied because, your address was bogus, or because you said you were in the restaurant business, but you are actually in the dry cleaning business and we found out about it and we are not paying you, or something.

And then, Mr. Feinberg, I will tell you, the next hearing I have, I am going to have your Chief Operating Officers (COOs) in front of this panel, because you have a good big picture and I think you have a really good handle on the philosophy and strategic elements of this, but I am convinced, getting more and more convinced, unfortunately, that there is something lost between your vision and actually what is happening on the ground. And we just—this is getting to be now fairly desperate for some of our businesses and some of our people.

So let us end this panel on a positive note, but I am going to do another review here in several weeks and give everybody time to recoup. I want to go to the second panel.

And I am also going to submit two other things for the record. Our State submitted industry-specific compensation models for your review, Mr. Feinberg, and they have not received a response, and that is an official submittal from a very high office, maybe not from the Governor himself, but from someone at a very high office. And from the State of Florida, your Chief Financial Officer, Jeff Atwater, sent a letter from Florida to you.[1] They have not been given a response. So we do need—I know you postponed some things, but this February 2 announcement, of course, is an important one. Florida and Louisiana have submitted some specifics to you. So let us please get on that, and we will see you all back here in about 4 weeks, OK?

[1] Item referenced by Senator Landrieu appears in the appendix on page 94.

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Mr. FEINBERG. Thank you, Senator.

Senator LANDRIEU. All right. Thank you.

And if the second panel will come forward, I am going to ask Admiral Broderick to go first. I know he has a tight flight schedule and I am sorry this has been delayed slightly. I really appreciate you all making the effort to be here given the weather conditions outside.

Admiral Broderick is from the Substance Abuse and Mental Health Services Administration (SAMHSA), where he serves as Deputy Administrator. He has served for 34 years with the Department. He is a Commissioned Officer in the U.S. Public Health Service. He has extensive experience as a Clinician and he is here to testify about the oil spill's impacts on the mental health of some of these communities and the stress that has been placed on individuals, families, and businesses throughout the Gulf.

So, Admiral, why don't we start with you and then I will introduce the other panelists in a moment.

TESTIMONY OF REAR ADMIRAL ERIC B. BRODERICK,[1] D.D.S., M.P.H., DEPUTY ADMINISTRATOR, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Admiral BRODERICK. Thank you, Madam Chairman. Thank you for indulging my schedule. If you do have questions of me, if the Subcommittee has questions of me, I would be happy to answer them for the record afterwards.

I am pleased to have this time to share with you a few highlights of SAMHSA's efforts in the Deepwater Horizon oil spill recovery and response. I am joining you today on behalf of SAMHSA's Administrator, Pamela Hyde, who was unable to attend the hearing, yet she has been very involved with SAMHSA's role in the oil spill response.

As part of SAMHSA's mission to reduce the impact of substance abuse and mental illness on American communities, behavioral health is an essential part of health. We know that prevention works, that treatment is effective, and that people recover from mental health and substance use disorders. Traumatic events, such as the Deepwater Horizon oil spill, placed a heavy burden on individuals, families, and communities and create challenges for public institutions and service systems, especially the behavioral health system.

SAMHSA and the behavioral health community know that disasters often precipitate mental and substance use disorders, which can be triggered when hope seems gone, security is threatened, and lives and property are lost. Addressing these behavioral health needs is critical to the recovery for individuals, families, and communities affected by the Deepwater Horizon oil spill and efforts will be necessary for years to come. With appropriate support and intervention, people can overcome adversity and move forward.

As part of the coordinated Department of Health and Human Services (HHS) response, we at SAMHSA worked to help ensure that the immediate behavioral health needs of affected individuals

[1] The prepared statement of Mr. Broderick appears in the appendix on page 53.

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were addressed in the immediate aftermath of the oil spill and we will continue to address these evolving needs over time.

State reports show increased behavioral health needs in the Gulf region in the wake of the oil spill. These reports document an increase in incidents of psychiatric disorders, anxiety and depression, increase in the incidence of substance use, and higher risks of suicide. The rate of family breakdown, including domestic violence, are also on the rise. These outcomes, while troubling, were not unexpected. These increased behavioral health needs are similar to those observed after Hurricane Katrina as well as after the Exxon Valdez oil spill in 1989.

The current situation in the Gulf is exacerbated by the fact that it occurs in the same region impacted by Hurricanes Rita and Katrina in 2005. We know that when multiple events happen over the course of time, individuals in those regions are at heightened risk for behavioral health disorders.

SAMHSA has been engaged in supporting the impacted States since the day after the oil spill. We have provided technical support and assistance to the States to assess and meet the mental health and related substance abuse needs concerning the affected communities. SAMHSA has been in contact with State officials assessing needs and helping States formulate response plans, including the development of a shared template to gather information and address the emergent needs and provide technical assistance to States in their request for funds from BP for behavioral health services.

In addition, SAMHSA immediately began making relevant and useful information available on our website. There are comprehensive resources and information available on behavioral health and the Deepwater Horizon oil spill. An online annotated bibliography continues to provide an extensive list of sources of information. SAMHSA's website also provides links to dozens of other Federal agencies and organizations involved in the response.

At the request of Secretary Sebelius at HHS, Administrator Hyde at SAMHSA, and multiple Gulf States, BP provided $52 million to fund mental health and substance abuse support services. Funds went to SAMHSA and to four States affected most in the region, Louisiana, Mississippi, Alabama, and Florida. Of this $52 million, SAMHSA received $10 million to launch a toll-free crisis counseling hotline for residents of the affected States, to develop behavioral health educational materials for public health information, and to conduct surveillance of ongoing behavioral health needs for individuals affected by the spill.

SAMHSA created and successfully launched the Oil Spill Distress Helpline, 1–800–985–5990. This toll-free helpline provides information, support, and counseling for those affected by the Deepwater Horizon disaster. SAMHSA has also undertaken extensive regional public education campaigns to raise awareness of the potential behavioral health impacts of the spill and to connect those in need with available services. SAMHSA has assisted in the coordination of local and regional outreach activities to promote awareness of the hotline number. We have also disseminated public education and outreach materials on behavioral health among the residents of the affected communities. We have also developed and

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distributed television, radio, and print announcements to the public.

In addition, the $10 million that BP provided to us also provided funds that we have used in coordination with our Federal partners to do surveillance of the mental health and substance abuse needs of the community. This includes collaboration with the Centers for Disease Control (CDC), who is in the process now of conducting a telephone survey in the Gulf. That survey began on the 15th of December and will continue for a year.

We also recently announced the provision of about $650,000 in grants to the four States. They amount to about $162,000 per State to provide States funds to monitor the mental health and substance abuse services being provided to the people that they encounter in those communities. SAMHSA's efforts represent only a part of the Federal Government's comprehensive response to the Deepwater spill.

Despite many hardships, people of the Gulf are doing their best to stay connected with friends of family, take care of themselves and their neighbors. I have to tell you, Senator, the resilience of the folks in your jurisdictions are truly phenomenal. They are very, very resilient people given what they have encountered over the last decade. It is truly amazing to us to see that.

History tells us, however, that the emotional impact of the devastation is going to continue and we need to be very vigilant of that and monitor carefully how those communities are doing. As such, the Oil Spill Distress Line will be operational through 2011. Public Service Announcements (PSAs) and information on our websites will continue to be updated and disseminated. Surveillance will continue. And coordination with State and voluntary providers will persist until such time as the indicators signal that they are no longer needed.

Senator LANDRIEU. Would you wrap up, if you would, please.

Admiral BRODERICK. Sure. Now that the immediate response phase has come to an end, we are shifting our focus to the long-term recovery efforts for the Gulf Coast residents and to help them rebuild their lives.

It has been my pleasure to be here, Madam Chairman, and I would be happy to, as I said, answer any questions for the record that you might have.

Senator LANDRIEU. Thank you, Admiral.

I do have one question, then we will excuse you because I know of your flight, and then we will go to the rest of the panel.

Admiral BRODERICK. OK.

Senator LANDRIEU. Under the total amount of $52 million that BP contributed, and they did this voluntarily——

Admiral BRODERICK. Correct.

Senator LANDRIEU [continuing]. Because I want to say for the record, there is no law requiring them to contribute in any way to social services, mental health. It was not contemplated in the Oil Pollution Act. It is being, of course, thought about now since the repercussions are so clear and widespread.

But SAMHSA was provided $10 million by BP. Did you have any money on hand as an agency prior to the $10 million given to you by this BP contribution to respond as an agency?

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Admiral BRODERICK. We have authority, Madam Chairman, to do SAMHSA Emergency Response Grants, and this was a bit different in that there was no Stafford Act declaration.

Senator LANDRIEU. Right.

Admiral BRODERICK. So FEMA funds were not available. And in those instances when——

Senator LANDRIEU. So what was available?

Admiral BRODERICK. What was available is SAMHSA's general appropriation. And so while we have the authority to provide funds to communities in response to disasters. We do not have a specific budget line item for that, so we would shift funds around in those instances——

Senator LANDRIEU. And how much did you shift around to accommodate this situation?

Admiral BRODERICK. We did not. The $650,000 that we provided to the four States came out of the $10 million that BP provided us.

Senator LANDRIEU. And what did you do with the other——

Admiral BRODERICK. The rest of the $10 million?

Senator LANDRIEU. The rest of the $10 million.

Admiral BRODERICK. Six million goes to surveillance. A hundred-and——

Senator LANDRIEU. Surveillance? What does that mean?

Admiral BRODERICK. Epidemiologic surveillance, monitoring the substance abuse and mental health conditions of Gulf Coast residents——

Senator LANDRIEU. So just reporting it, but not treating it?

Admiral BRODERICK. Correct. It goes to monitoring——

Senator LANDRIEU. Identifying it, reporting it, but not treating it.

Admiral BRODERICK. Right. Epidemiologic——

Senator LANDRIEU. So of the $10 million that went to you, only $650,000 went for——

Admiral BRODERICK. Correct. The responsibility for treatment is the responsibility of the States. In these kinds of situations, our mission is to coordinate a response and to do things that cut across the entire region. The $42 million of the $52 million that was provided was provided to those States, and those States then were the ones that provided treatment to people.

Senator LANDRIEU. OK. And was that agreed to between SAMHSA and the States, that you all would do all of the identification and reporting so that they could use 100 percent of their money for treatment? Do you know if that was ever——

Admiral BRODERICK. Actually, the Administrator convened all five States in Atlanta in June, and I mentioned the development of a common template. Essentially what that was a common format for a claim, if you will, by each of the States to BP. And so we submitted our claim for the things that States would not do, the things that cut across the whole region. For instance, that telephone number is available to anybody in the region. The surveillance occurs across the entire region. The Public Service Announcements occur across the entire region. And the States then submitted their requests, which totaled $42 million, that BP then paid to the States specifically for treatment. We did agree that we would—our request would cover the things that cut across the region and the States would request funds for treatment.

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Senator LANDRIEU. Because I am going to be asking each State to give this Subcommittee a very detailed report of how they spent, in Louisiana, 15, in Mississippi, 12, Alabama, 12, and Florida, approximately 2.4, and we are going to ask you for detail on your $10 million, and then $1 million went to Catholic Charities.

I know that you have to leave, so let me go ahead and excuse you now and thank you for your testimony.

Admiral BRODERICK. Thank you.

Senator LANDRIEU. Mr. Keller, if we can first go to you, I guess, and then we will come back to Mr. Costanza and Ms. West.

Thank you again, Admiral. I appreciate it.

Mr. Keller, go ahead and outline what BP felt under its—you do not have a legal obligation, but you all have made a fairly significant commitment here. There are still some great needs and we will discuss that as you go on, but go ahead and proceed. You have 5 minutes.

TESTIMONY OF ALBERT L. KELLER,[1] EXECUTIVE VICE PRESIDENT, GULF COAST RESTORATION ORGANIZATION, BP AMERICA, INC.

Mr. KELLER. Thank you, Chairman Landrieu. I am Luke Keller, Executive Vice President for BP America's Gulf Coast Restoration Organization (GCRO). I welcome your invitation to share information with you about the process for addressing State and local government claims relating to the Deepwater Horizon accident and BP's contributions to various social services providers.

The Deepwater Horizon accident has profoundly affected all of us. We have deep sorrow for the lives lost, the injuries sustained, and the impacts to the Gulf Coast communities.

The GCRO was formed in the summer of 2010 and manages all aspects of the response to the Deepwater Horizon accident in the Gulf of Mexico. We have offices and dedicated local teams in Louisiana, Mississippi, Alabama, Florida, and Texas. We essentially oversee four functions: Spill response and removal, economic restoration, environmental restoration, and restoring trust.

Within days of the incident, we established a robust claims process to address claims by individuals, businesses, and government entities. Our central focus has been and remains the fair and proper resolution of all legitimate claims. In the GCRO, we work closely with State and local governments to ensure we meet our commitments to the people of the Gulf Coast.

And at the request of State Government leaders, BP has provided advances to cover anticipated response and removal costs even before they were incurred, approximately $291 million to Louisiana, $75 million to Mississippi, $56 million to Alabama, and $50 million to Florida. Advances were also made to governments for alleged losses of tax revenue.

BP has a Government Claims Group within the GCRO that is dedicated full-time to addressing claims filed by government entities. We provide regular public reporting on our government claims process and also send periodic newsletters to government claimants.

[1] The prepared statement of Mr. Keller appears in the appendix on page 59.

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Senator LANDRIEU. Mr. Keller, let me just interrupt you just a minute, and you may want to regroup. We had asked you specifically to come and talk about the mental health, community outreach piece. So you can submit the rest in writing, but we were very, very clear about the subject of this hearing. So why do you not think about what you might want to say about that and I am going to go to Mr. Costanza and Ms. West now and then we will come back to you and you can add some thoughts to what BP is observing in the area about community stress or strain, how the process is impacting people, not so much—I mean, everybody is fairly aware of what you all have set up and we are grateful for what you all have done so far, but we want to really stay focused on the human aspect of this.

Mr. Costanza, let me introduce you so people know who you are. I do, but Tom is the Executive Director of the Office of Justice and Peace for Catholic Charities. He is also the Chair of the Greater New Orleans Disaster Recovery Partnership that has been working, unfortunately, too hard and overtime since Hurricanes Katrina, Rita, Gustav, Ike, and now the BP spill. I just want to compliment you and Catholic Charities for taking a leadership role through all of these storms and disasters with so many different religious organizations and community-based organizations to try to help our people through some difficult times.

So we will start with you, and let me also introduce Ms. West, and then we will go right to you. She serves as Chair of the South Mississippi Voluntary Organizations Active in Disasters. You all have been working very closely together. International Relief and Development (IRD) and the U.S. Gulf Coast Community Resource Center have assisted over 10,000 clients with hurricane recovery and long-term needs since 2005.

So, Mr. Costanza, let us start with you.

TESTIMONY OF TOM COSTANZA,[1] EXECUTIVE DIRECTOR, OFFICE OF JUSTICE AND PEACE, CATHOLIC CHARITIES, ARCHDIOCESE OF NEW ORLEANS

Mr. COSTANZA. Good afternoon, Chairman Landrieu, and thank you for your leadership in all these disasters. We do try to work together as NGOs in partnership and we feel that is the best way to help people effectively recover.

My name is Tom Costanza with Catholic Charities in the Archdiocese of New Orleans (CCANO) and I would like to begin by remembering the families that lost loved ones and for the families impacted by this current disaster.

The anxiety level is high and getting higher in our communities across Southeast Louisiana, and much of this is due, unfortunately, to the claims process and structure. Although the process has paid claims, there is much confusion about its inconsistent methodology, fairness, lack of access to information, lack of local decisionmaking, and lack of concrete, useful information as to why claims were denied and what they can do to correct it.

A real issue right now is a total of 4,230 fishing sector claims have been denied for insufficient documentation at the end of the

[1] The prepared statement of Mr. Costanza appears in the appendix on page 63.

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emergency phase. Some are losing homes and vehicles. There is increased stress and anxiety because of frustration with the claims process and reduced incomes. Many are having difficulty finding other employment. Oystermen are concerned about the long-term loss of the oyster beds, and shrimpers are concerned over price and production levels.

However, the nonprofit sector is responding. Along with many other NGOs, five local Catholic Charities and Second Harvest Food Bank agencies along the Gulf Coast have provided food, relief, and recovery services to people impacted by the disaster.

A simple story is recently one of our case managers helped a fisherman with food, room, assistance, and counseling until he can find some temporary work because he cannot fish anymore. This shows you a human side of this recovery where a case manager is critical and important to develop that relationship and recovery.

We are very grateful to BP for the initial direct assistance and mental health funds which we are using, but without the proven holistic approach to family recovery, including case management, direct assistance, financial counseling, the recovery simply is less effective.

Responding Catholic Charities agencies report a collective total of nearly $2.7 million in resources we have raised and delivered to the oil spill-impacted population. We are asking both the Gulf Coast Claims Facility and the Gulf Coast Restoration Organization staff to sit down with the nonprofit and faith-based organizations and work together in service to the common good of the residents in our coastal communities.

In addition, we recommend the following. We need to absolutely fast track and resolve the 4,200 fishing industry claims that were denied. This is critical. These are the vulnerable families. These are the families that need immediate assistance and cannot wait until the interim claim process is ironed out. We need to restructure the claims process for the fishing community using knowledge and protocols developed by industry experts with special cultural sensitivity to the highly impacted Asian Pacific population. And we must fund the NGO Technical Assistance Providers Network proposal to increase the claims quality and approval rates.

In order to stabilize our families during this critical period, we would like to get the Family Stabilization Grant funded, because this would directly help people with rent, utilities, counseling, job development, so they can make it through this tough time.

We need to be aware of health care and monitoring of toxic exposure, especially for children and the oil spill cleanup workers, and provide primary health care access and services in these coastal communities.

We should pay subsistence claims, fund food banks, and streamline the Food Stamp application to the two-page Disaster Food Stamp Form to alleviate food insecurity.

And in terms of long term, we have brought that up, should dedicate some of the fines from the Clean Water Act to human recovery, to look at the tax policy relative to spreading their final claims over a period of years, and as you mentioned before, to revise the Oil Spill Pollution Act to include human recovery.

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We welcome the opportunity to continue to work together with BP and the Gulf Coast Restoration Organization. We have worked successfully with the Feinberg team in D.C. on some special critical cases and we look forward to building on that relationship.

I would like to end with a quote from Archbishop Aymond. "Many of these same families have rebuilt their lives after Hurricane Katrina and are a sign of hope for us all. They are a vibrant people." Thank you.

Senator LANDRIEU. Thank you, Tom. Ms. West.

TESTIMONY OF LORI R. WEST,[1] CHAIRMAN, SOUTH MISSISSIPPI VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTERS

Ms. WEST. Madam Chairman, I am honored to be here today to provide you testimony to this prestigious Subcommittee on behalf of South Mississippi VOAD, Voluntary Organizations Active in Disasters (SMVOAD), and International Relief and Development.

Since 2005, the members of SMVOAD have been working together to address the effects of Hurricane Katrina, the Nation's largest natural disaster. Members of SMVOAD include the American Red Cross, Catholic Charities, Hope CDA, Interfaith Disaster Task Force, International Relief and Development, Lutheran-Episcopal Services of Mississippi, Salvation Army, STEPS Coalition, the United Way of South Mississippi, and I have attached a complete list to this testimony.

Since June 2010 and continuing through January 2011, SMVOAD and IRD have held frequent meetings with British Petroleum to try and address the effects of the Deepwater Horizon oil spill on the residents of the Gulf Coast. We have submitted multiple humanitarian proposals to BP and have revised the proposals in response to BP's feedback. The time and effort expended by SMVOAD members on this issue has been significant because we believe the problems faced by the people of Mississippi and those along the Gulf Coast are considerable.

I would like to draw your attention to an August 2010 study by the National Center for Disaster Preparedness (NCDP) at Columbia University's Mailman School of Public Health. I believe this study is important because it has identified some of the key findings which clearly show the impact the spill has had on our local populations. More specifically, the study states the following.

More than 40 percent of the population living within 10 miles of the coast have experienced some direct exposure to the spill. One in five households has seen their income decrease as a result of the spill, and 8 percent have lost jobs. More than one-quarter of the coastal residents think they may have to move from the area because of the spill. The oil spill had the greatest impact on those with the fewest economic resources, much like Hurricane Katrina. Coastal residents earning less than $25,000 a year were more likely to report having an income loss than those earning more.

In the summer of 2010, the United Way of South Mississippi and the United Way of Jackson and George Counties, the Gulf Coast Business Council, and the Mississippi Center for Nonprofits con-

[1] The prepared statement of Ms. West appears in the appendix on page 81.

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ducted a survey of health, education, employment, finances, arts, and tourism to measure the impact of the oil spill on the residents. The survey found that the top six issues facing residents were stress, loss of job or income, increased need for food assistance, problems meeting car, rent, or mortgage payments, problems purchasing prescription drugs, and loss of health insurance or other benefits.

Also, nearly 70 percent of the nonprofit organizations that reported a decrease in fundraising since May 1, 2010, indicated that the oil spill was a significant or moderate reason for that decrease. More than 80 percent of all the nonprofits surveyed expected a decrease in fundraising for the next 90 days.

Despite these negative impacts on our community and the heroic efforts put forth by SMVOAD and other nonprofit agencies, BP has not yet provided the funding necessary to address the multiple social service needs of the Gulf Coast residents. I have been asked by our members to provide a copy of our major VOAD proposals, including proposals to address the various aspects of the spill's impact on our community, including housing, finances, job and vocational training, and livelihood means. Our members believe that ongoing conversations with BP have provided some feedback regarding the proposals, but BP has stated that any funding of these types of urgent programs will indicate culpability or indirect or tertiary effects of the oil spill, and thus, they seem to have made a decision not to fund these critical programs.

There was some hope among SMVOAD members when BP agreed to award $52 million for mental health services to the Gulf Coast residents in 2010. SMVOAD worked with several agencies to present BP with a comprehensive program to address both mental health and basic social service needs for at least 1,300 residents affected by the spill. It remains unclear to our members why the bulk of the proposal was not funded, and no funds were allocated for victims with urgent social service or real day-to-day needs, such as food, rent, transportation, and other critical financial needs. Based on our members' experience serving tens of thousands of Hurricane Katrina victims, SMVOAD and IRD member organizations can say with confidence that offering mental health and case management services without also providing critical housing and vocational needs is largely ineffective.

We would like the Subcommittee Members to note that many organizations have expended their own resources to assess and address the impact of the spill on low- to moderate-income families. Between May and September 2010, my organization, IRD, enrolled 976 clients into its case management and direct services program, compared to 266 clients the previous year. Requests for rental assistance also increased, from 236 during the first 4 months of 2010 to 678 in the 5 months between May and September 2010. And in addition, IRD's YouthBuild program, a program that provides job training and GED preparation to at-risk youth in the Gulf area, saw its applicant pool rise from 142 in 2009 to 314 in 2010, immediately after the spill.

IRD and members of SMVOAD are addressing the needs of those affected by the spill through a range of direct referral services.

Senator LANDRIEU. Wrap up, if you can.

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Ms. WEST. OK. In closing, I know the Subcommittee recognizes that many nonprofit organizations in the Gulf Coast region need additional resources to deliver effective services that will help the residents who have been affected by the oil spill recover, both in the short- and long-term. But today, I am also representing South Mississippi VOAD to ask for more direct support and engagement on this critical issue with BP and its various representatives. Thank you.

Senator LANDRIEU. Thank you.

Let me begin with you, Mr. Costanza and Ms. West, to just try to get a handle on the money that has been allocated and how it has been spent. Of the $15 million that went to Louisiana and the $12 million that went to Mississippi, did any of that portion go to the networks that each of you represent, and if so, how much?

Mr. COSTANZA. Of the $15 million, $6.7 went to Catholic Charities and other organizations that are developing the model implementing the comprehensive—it is a comprehensive outreach, treatment, and community resiliency model.

Senator LANDRIEU. And so do we know where the other non——

Mr. COSTANZA. The State had the remainder.

Senator LANDRIEU. OK.

Mr. COSTANZA. The State had the remainder.

Senator LANDRIEU. So about $6 million went to the network of organizations, and then we will find out about the remainder.

And how about with you, Ms. West——

Ms. WEST. It was a similar percentage. The majority went to the State and then a smaller percentage went to local organizations, mental health specific.

Senator LANDRIEU. OK. Mr. Keller, several of the witnesses directly said or indicated that, potentially, BP feels that if you compensate along these lines, that you think that puts you in either a disadvantage in a case that you would be responsible for all of these mental health issues or social service challenges. Is that true, and did that come into your thinking, and if so, why, and if not, what has prevented you from maybe stepping up and helping a little more?

Mr. KELLER. Senator, I am unaware of any statement like that has been made, and in fact, we have encouraged our staff on the ground to bring any proposals or requests that come to us forward so we can take a look at those and evaluate them on their merits.

Senator LANDRIEU. OK, because I am aware and have been for months, and it is part of why we wanted you all to come, I think the Catholic Charities has asked BP several times. There are 53 Louisiana NGOs that have come together to talk about a second tranche, if you will, for some direct services, because as you can tell from the testimony in the previous panel, we are going to be at this for another 6 months, a year, or a year and a half—I hope not much longer than that—until all of these claims are paid and settled, but who knows. As I said, 40 percent, 60 percent of claims have been paid, but those have been the low-hanging fruit, the easier claims. Some of these are more difficult claims, so who knows how long this is going to go on and the need is immediate.

So there have been, I understand, several proposals from Louisiana, Mississippi, and potentially other States. Will you consider

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them? Is there something that we should know in your corporate governance that prevents you from at least considering their request, and if not, will you consider them?

Mr. KELLER. We will consider those, and I do not believe there is anything that prevents us from doing that.

Senator LANDRIEU. OK. Now, I know there is nothing that requires you to do it. I am clear about the law, and I want the petitioners here to understand that BP is under no legal obligation.

Now, in addition, BP was not under any legal obligation to set up any fund of relief for rig workers put out of work because of the moratorium. You are not responsible, in my view and many people's view, for people put out of work by the moratorium. The government is. But yet, BP stepped up and you made a special arrangement and we are very grateful, to help with some of those rig workers.

And I am thinking that perhaps, because this need is as immediate and as clear as that, in this case, this is directly related to the spill, these families, not necessarily related to any indirect, like the slow down or shutdown of some of the work related to oil and gas in the Gulf, but more so fisheries and people who really saw their livelihoods curtailed. So if you could look at that, it would be very, very helpful. I know that $52 million sounds like a lot of money, but as these numbers are going, it is $20 billion-plus for claims. It does not seem like a lot of money when you think about it relative to all the other money that is being spent, and it is such an important need.

Let me, Tom, just ask you to just hit again how you all are working together, because I know you are fairly organized in Louisiana and Mississippi, but what about Alabama? What about Florida? Do you all have any communications with the social groups on the ground there?

Mr. COSTANZA. I am aware of Catholic Charities' disaster response is for the Catholic Charities USA (CCUSA) having conference calls with Mobile in Alabama, but we could do a better job of coordinating a Gulf region response.

Senator LANDRIEU. Ms. West.

Ms. WEST. We have called together the regional VOADs and New Orleans VOAD has joined in a meeting, Louisiana VOAD has come together with South Mississippi VOAD, Mobile VOAD, Baldwin County VOAD, and Alabama VOAD, and we have all come together and have experienced similar situations requesting for this direct assistance and not prevailing.

Senator LANDRIEU. Well, it is clear to me, and we are going to have to wrap up in a minute, that the law is deficient and can be and hopefully will be corrected so that the next time there is an environmental spill of a significant magnitude where there are impacts, not just environmental, not just economic, but community impacts or human service impacts, that the polluter, the violator in this case be held accountable.

But in the meantime, I think BP would show a great deal of faith to the community, and as has been stated in many of your hundreds of advertisements, that you are going to really meet your obligations to really consider these proposals. I know that officials from the State of Louisiana have written to Bob Dudley, and that

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letter was sent on November 18. I am assuming some of the other leaders of the other States have also weighed in. And, of course, I met with Lamar McKay; who I do not see him here, but he was with me to discuss this some weeks ago and I gave him a copy of the State's letter and Catholic Charities proposal. So again, you are under no obligation, but it clearly is a need in the aftermath of a disaster to try to provide some direct assistance for social services.

But I will say this, because BP has stepped up in many ways. I am dismayed the Federal Government itself did not have any monies readily available to respond through our own agencies, and I am going to be asking the States in the Gulf Coast what emergency funds they have established in advance so we are not having to scramble for funds just to respond to people's immediate needs every time there is a major natural disaster, or in this case a man-made pollution event. And sometimes, we get there too late and it is tragic.

Do you all want to end—Mr. Keller, I would like maybe one more minute from you each as we end. We will start with you and we will close out the panel.

Mr. KELLER. So I will be very brief. Again, thank you for having me here. I apologize for the misunderstanding, I was under the understanding you wanted me to talk about both our government claims process as well as social services.

In a brief minute, I would just close out by saying that we have taken our responsibility very seriously. I understand and appreciate the distinction you make between those things we are obligated to do and those things that we do voluntarily.

Just a nugget of information I would add is that, including the rig workers' fund, and other things, such as the $52 million, in behavioral health grants and other contributions; of the total of a little over $1 billion that we have paid into the individual States in response to removal costs, lost revenue, and that sort, we have also, over and above our obligation, for every dollar spent there, have spent somewhere on the order of 30 cents in voluntary contributions.

Senator LANDRIEU. We appreciate that, and just continue to in my view, I would encourage you to live up to your public statements that you are going to make the region whole. There are clearly some gaps, particularly in this area.

Mr. KELLER. And we take these things very seriously and will certainly look at that.

Senator LANDRIEU. Thank you. Mr. Costanza.

Mr. COSTANZA. Well, first of all, thank you, Senator Landrieu, for your leadership in bringing this human side of this tragedy to the forefront once again. It is critical for our people to recover and our communities will then recover.

Simply, the simple task would be to continue to dialogue with BP and engage in conversation with NGOs, VOADs. We bring expertise, compassion. We leverage resources. We are effective. We can bring in the private dollar leverage with the other dollars. We, unfortunately, know how to do this well because of Hurricane Katrina, but we have developed relationships with other NGOs. We know each other. We work well. And we really think we could work

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together. We will really help people at this critical time so that they can recover and get on with their lives.

Senator LANDRIEU. Thank you. Ms. West.

Ms. WEST. Thank you, Senator Landrieu. I want to bring it to Mr. Keller's attention that when resources are limited, folks go to their local community organizations for assistance. And so the requests are demanding right now and our resources are limited. So we would appreciate the opportunity to continue engaging in conversation and take another look at these proposals. So thank you for the opportunity.

Senator LANDRIEU. Good. And thank you all. And as you all know, we are drafting a piece of legislation to address some of these issues for future events, so we look forward to your input and we appreciate what you have already given us. And if anyone has any additional information or suggestions, please get that to us in the next couple of weeks.

With that, the meeting is adjourned. Thank you.

[Whereupon, at 3:48 p.m., the Subcommittee was adjourned.]

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APPENDIX

Statement of Chairman Mary Landrieu
Subcommittee on Disaster Recovery
Gulf Coast Recovery: An Examination of Claims Administration & Social Services in the Aftermath of the Deepwater Horizon Oil Spill
January 27, 2011

Introduction

Good afternoon, and thank you all for making a special effort in these weather conditions to join us for this important hearing on Gulf Coast recovery efforts in the wake of the Deepwater Horizon oil spill.

Last week, the Graham-Riley Oil Spill Commission released its report on the technological and regulatory failures that caused the Macondo Well to explode on April 20th last year, taking the lives of 11 men and creating the largest environmental catastrophe in American history. It's important that we thoroughly investigate the incident, and implement new measures to ensure a robust and competitive offshore energy industry that operates as safely as possible.

However, the report does little to address the human side of this disaster though! Approximately 483,000 people in the Gulf have filed claims so far for lost wages and revenues, and they are currently experiencing severe challenges getting timely payments or even accurate information about their claim. Roughly 194,000 of these claimants are located in Louisiana, 162,000 are in Florida, 68,000 are in Alabama, 52,000 are in Mississippi, and 10,000 are in Texas. The Commission report does not address claims, except to say we should do an after-action review several years from now to evaluate the effectiveness of the current process. That is insufficient. Fishermen, deckhands, and restaurant workers put out of work by the oil spill, and the small business owners struggling to make payroll and keep their doors open, are each entitled to just compensation under the law, but the system is not working for far too many of them.

Thousands of Gulf Coast residents who have lost their jobs or businesses and are now fighting to feed their families, keep their homes, and preserve their way of life. Five months have passed since the well was capped. Cleanup jobs and emergency payments are no longer available, and the seafood and tourism markets have not recovered to pre-spill levels.

Hearing Overview

We are here today to discuss the payment system established by Mr. Feinberg, under authority from the White House and BP, to compensate people for lost earnings, property damage, and subsistence losses resulting from the oil spill. We will also learn about the work that nonprofit organizations are doing along the Gulf and the continued challenges they face in providing assistance to spill-affected communities.

Frequent visits to coastal communities and dozens of conversations with constituents and local leaders, lead me to believe that claims determinations have not been consistent or transparent, and that people have

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struggled to obtain information about their claim on a timely basis. NGOs have been marginalized and under-resourced throughout the recovery process, and it seems that we're repeating the mistakes of the not-too-distant past by leaving them on the sidelines. Correcting these problems is essential.

Mental health issues including domestic violence and suicide have become an increasing challenge in the region as a federal official from HHS will testify today. A study released last July by Ochsner Clinic revealed that 30% of interviewees in Louisiana, Mississippi, Alabama, and Florida suffered from serious psychological distress, and cited disproportionate impacts among children and low-income households.

We'll hear the harrowing tale of a Vietnamese oysterman who piloted a boat of refugees out of Vietnam and made a new life for himself fishing the waters off Louisiana's coast for decades, until the oil spill suddenly caused him to lose his business and his livelihood. Roughly half the commercial fishermen in the Gulf region are Vietnamese-American. 80% of the Vietnamese-Americans in the Gulf region are connected to the seafood industry, and there are an estimated 25,000 in Louisiana alone.

We'll also hear from NGO representatives that were asked by BP to present social service proposals last summer and have never received a response, despite backing from 53 organizations and the state government in Louisiana, and another 32 organizations in Mississippi. BP's executive in charge of Gulf Coast recovery is with us here today to hopefully shed some light on this issue.

Claims Overview

Mr. Feinberg handled claims for victims of 9/11, the Virginia Tech shooting rampage, and Agent Orange before agreeing to take on the challenge of administering payments for this disaster, and it *is* a momentous challenge. BP has made an initial pledge of $20 billion to cover legitimate claims and placed a portion of those funds in escrow under Mr. Feinberg's control. The function of the Claims Facility is to compensate people fairly for their losses, to discharge BP's fiduciary obligations under the Oil Pollution Act of 1990, and to offer a simpler and speedier alternative to prolonged litigation, which continued for 20 years after the Exxon Valdez spill in 1989.

Claims Successes

The Gulf Coast Claims Facility took over individual and business claims from BP on August 23rd, and has paid $3.3 billion to 168,000 claimants since then. Mr. Feinberg has traveled extensively to the Gulf Coast to hear from people affected by the spill. He has also made commendable program changes along the way, by agreeing not to subtract Vessels of Opportunity earnings from people's checks, and deciding to provide "interim payments" to claimants uncertain what the future will hold and not yet ready to accept a final settlement.

Claims Failures

But there are still problems with the GCCF process. Only 35% of claimants have been paid (168k out of

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483k). Business owners receive reduced payments without an explanation of the calculation formula or a breakdown of their eligible losses. Claimants no longer have access to an adjuster at local claims centers, and they're unable to get information about whether specific documents may be missing. The threshold for appeals has been set at $250,000 for individuals and $500,000 for businesses, meaning the vast majority of claimants won't have access to this option. The State of Louisiana's network of Technical Assistance Providers has not been meaningfully engaged by GCCF despite their hard-won trust, their ongoing contact with thousands of claimants, and their great ability to assist Mr. Feinberg in doing his job. There is also significant concern in the Vietnamese-American and Native American communities about subsistence losses and the small number that have been paid thus far.

Social Services

53 NGOs in Louisiana and 32 NGOs in Mississippi submitted consolidated social service proposals to BP last summer, but the company hasn't funded them. BP *did* provide $1 million to Louisiana charities for emergency relief and $52 million for mental health services across the Gulf. But without case management, financial counseling, claims assistance, and direct aid for food, rent, mortgage, and utilities, recovery gaps will be exacerbated, and people with spill-related needs will not get the help they require.

Acknowledgements & Conclusion

I am pleased to be joined today by several distinguished members of this committee and the Gulf Coast delegation. I'd also like to thank Feeding America and the Louisiana Association of Nonprofit Organizations for submitting written testimony for this hearing. I would also like to acknowledge the White House staff in attendance today, Congressman Scalise for his continued efforts to improve the claims process on behalf of his constituents, Daryl Tate with the United Methodist Church in Louisiana, and everyone else who has joined us for this important hearing. We have a great deal of business to cover this afternoon, and we're looking forward to receiving testimony from our witnesses. Before I call on the first panel though, I'd like to invite my colleagues to make a brief opening statement.

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U.S. Senate Homeland Security and Governmental Affairs
Ad Hoc Subcommittee on Disaster Recovery

Opening Statement
Senator Richard C. Shelby
January 27, 2010

Madame Chairman and Ranking Member Graham, thank you for allowing me to testify before the committee today.

While the Deepwater Horizon rig has been capped, the boom recalled, and the media on to the next story, many may think this disaster is over. This is not true. Like many Alabamians, I remain extremely concerned regarding both the short and long term effects the oil will have on the Gulf Coast's economy and ecosystem. Alabama's Gulf Coast region may take decades to recuperate, and downstream effects could cripple the region for years to come.

Since the oil started pouring into the Gulf last April, Alabama has seen a nearly 50 percent drop in tourism-generated dollars and substantial loss of jobs. Tourism revenues lost to Alabama's coastal economies as a direct result of the oil spill are estimated at between $850 million and $1 billion, a figure that does not include the additional losses to the fishing industry and shipyard repair and maintenance operations.

The federally-mandated fishery closures have resulted in a significant loss of income for the entire seafood industry – fishermen, shrimpers, bait & tackle shops, and processors.

Alabama's fishing industry represents one of the largest economic engines in the State – accounting for more than $800 million in sales annually and nearly 18,000 jobs. The economic impact on the commercial and recreational fishing industry already is severe and extensive.

We must ensure that individuals and businesses are compensated now, but also put in place mechanisms to assist them with rebuilding and restoration efforts as the Gulf continues to recover from this disaster.

I have met with Mr. Feinberg several times since the Gulf Coast Claims Facility was created. Yet I continue to have serious concerns regarding the claims determinations made by this organization.

Like the entire Gulf Coast, Alabama is at a critical juncture. The Gulf Coast Claims Facility is not acting with appropriate urgency.

Nine months since the oil spill, 57 percent of claims in Alabama remain unpaid. This amounts to 38,604 individual and business claims that have not received one penny in funding. That is a startling statistic.

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Further, from January 12 to January 24 in Baldwin County, the hardest hit region in Alabama, only 28 claims were processed. That is less than 3 claims a day.

Let me reiterate – Alabama has 38,604 outstanding claims, and the Gulf Coast Claims Facility is currently only processing 3 Alabama claims a day.

Moreover, there is no distinction given by the Gulf Coast Claims Facility in their statistics between how many claims were paid and how many claims were underpaid. I am sure that this is not an insignificant figure.

When Mr. Feinberg and I met in both November and December, I relayed this issue to him – that one of the largest issues that needed to be addressed was the lack of a clear formula on how a claim is determined.
Filers deserve clarification as to why their claims were denied or why their payments were less than expected.

On December 16th, Mr. Feinberg told me the formula for claim payments would be made publicly available on the Gulf Coast Claims Facility website. Six weeks later, this information is still not available. This is unacceptable. Those affected by the spill need to know that there is transparency, clarity, and consistency in the payment process.

Finally, as we continue with the recovery efforts along the Gulf Coast, Congress needs to swiftly address the allocation of the Clean Water Act fines from the BP oil spill.

The entire Gulf Coast faces an enormous ecological and economic disaster – with an estimated impact of as much as $3 billion in Alabama alone. Under the Act, BP could be liable for penalties up to $20 billion.

Congress needs to ensure that all five affected Gulf States are treated equitably when these fines are dispersed. Each State should have the ability to use these funds how they see fit to restore the economic and ecological damage caused by the spill. The impacts to each State are unique and there needs to be flexibility in spending the Clean Water fines in the manner which best meets their needs.

While the national press has moved on, the Gulf Coast continues to face the challenges from one of the largest disasters in our nation's history. The damages caused by the oil spill could last years. Our residents and businesses are severely hurting and we need a commitment by all stakeholders to the Gulf Coast's full recovery. In particular, it is my expectation that the Gulf Coast Claims Facility will uphold and follow through on its obligation to the people of the Gulf Coast.

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

United States Senate
Ad Hoc Subcommittee on Disaster Recovery

January 27, 2011

Madam Chairman:

I thank this Subcommittee for the opportunity to testify concerning the design, implementation and administration of the Gulf Coast Claims Facility ("GCCF"), with a mandate to compensate all eligible claims arising out of the oil discharges from the Deepwater Horizon Oil Spill on April 20, 2010 (the "Spill"). 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 repeatedly assured by both the Department of Justice and BP that the Facility is, in fact, totally independent, and I have exercised my discretion since becoming Administrator last July, 2010, free from any undue interference by either BP, the Department of Justice or any other interested parties.

I believe that the objective statistics demonstrate the success of the GCCF. Since the GCCF assumed operation on August 23, 2010, the Facility has distributed approximately $3,327,811,603 to some 168,542 claimants -- individuals and businesses located throughout the Gulf region. Madam Chairman, in your state of Louisiana alone, in just five months, the GCCF has distributed $1,133,601,371 to 60,073 residents. The Facility is working as intended. It is paying eligible claimants, who, through no fault of their own, have been victimized by the worst environmental disaster in American history.

It should be pointed out that the GCCF received over 481,508 claims. In excess of 100,000 claims lacked adequate documentation; and, over 49,000 were submitted with no supporting documentation at all! These claims were denied with an offer being made to the

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claimant that, if the claimant could secure sufficient documentation, the GCCF would reconsider its denial decision. In addition, over 7,575 submitted claims have been deemed by the GCCF to be multi-claimant scams or even efforts at criminal fraud. When appropriate, and after internal investigation by the antifraud unit of the GCCF, these questionable claims have been referred to the Department of Justice for further investigation.

Next week the GCCF will publicly announce a draft proposal governing 1) additional payment options to eligible claimants, 2) eligibility criteria and 3) payment methodologies to be used in calculating additional final payments. The GCCF will invite two weeks of public comment in an effort to secure the opinions of those citizens of the Gulf impacted by the Spill. Only after completion of the two week public comment period will the GCCF finalize the Rules and Regulations governing this next phase of the Payment Program. I anticipate that Final and Interim Payments will commence on or about February 18, 2011.

Meanwhile, I note that in less than two months, over 81,000 individuals and businesses located in the Gulf region, who previously received Emergency Advance Payments, have already accepted the additional "Quick Payment Option" of $5,000 for individuals and $25,000 for businesses. These payments total $693,710,000.

The GCCF will remain in place to process any and all eligible claims until August 23, 2013. All claimants have until August, 2013 to decide whether to select a Final Payment, Interim Payment or Quick Payment. The choice resides with the claimant based upon his/her own particular circumstances and documented evidence of damage caused by the Spill.

Despite my opinion that the GCCF has been a success in helping to alleviate at least some of the financial hardship of so many individuals and businesses adversely impacted by the Spill, I acknowledge that the procedures and eligibility criteria used by the GCCF in implementing its mandate can and should be improved. Much of the problem stems from the huge volume of claims (over 481,508 claims to date), which is unprecedented in its scope and complexity. A

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certain degree of inconsistency is inevitable when so many claims are processed and such vast amounts of money are distributed in such a relatively short period of time. Nevertheless, the concerns expressed by you and others – particularly from citizens of the Gulf region themselves – are recognized as constructive criticism aimed at trying to improve the efficiency and fairness of the GCCF process.

With this constructive criticism in mind, I offer the following modifications designed to improve how the GCCF operates, and how it will process all eligible claims governing a Final Payment, Interim Payment or Quick Payment:

1) *Transparency* – Much of the criticism directed at the GCCF concerns allegations that the procedures by which the GCCF determines both eligibility and the calculation of individual and business compensation are enveloped in mystery, leading to inconsistency and a perception that the process is too often arbitrary and capricious. The GCCF has taken two steps designed to deal with this criticism: a) at your request, as well as that of others, the GCCF has retained the services of local professionals, including lawyers and claims processing experts in each impacted Gulf state, to assist claimants in responding to individual inquiries about their respective claims and the reasons underlying GCCF eligibility and calculation determinations. These local individuals are now in place throughout the Gulf Region and are located in the most heavily visited GCCF Site Offices in the following locations: in Louisiana (Houma, Gretna, New Orleans East); in Florida (Panama City, Naples, Pensacola, Santa Rosa Beach, Ft. Walton Beach); in Alabama (Foley and Mobile); and in Mississippi (Biloxi, Pascagoula, and Bay St. Louis). Claimants now have various options for contacting a GCCF representative for assistance with filing a new claim or providing information on the status of an existing claim. Claimants may visit a site office and meet with one of our local liaisons; claimants may call the call

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center and ask for help from an "escalation team" that includes trained individuals with experience with claims in each Gulf State; claimants may email our information box and receive a written response; claimants may log onto the secure website and receive the status of their claims as well as copies of any letters and payment information that were sent by the GCCF concerning that claim. In addition, we continue to enhance the information regarding notices and other important information on the GCCF website in order to alert claimants about issues regarding the claims process. We continue to work to improve the process. I believe these steps will go a long way in alleviating much of the frustration and anger of claimants who cannot get answers to their claims questions.

b) As already indicated, the GCCF is becoming much more open and transparent in posting its rules and regulations governing eligibility criteria and the methodologies being used to calculate Final and Interim Payments. These postings will also include specific examples of how the rules governing eligibility and compensation will be applied in different circumstances. Upon the finalization of the Rules for Final Payments, the GCCF will post industry-specific samples of acceptable required documentation for eligible claims. The GCCF will, next week, announce a two week public comment period concerning these draft rules and intends to post all comments which are received on the GCCF website for the public to examine. Only thereafter, will the GCCF adopt its Final Rules and Regulations. Final Payments and Interim Payments will begin to be issued immediately thereafter next month.

2) *GCCF Appeals Process* – Under the existing Federal Oil Pollution Control Act, any GCCF claimant seeking lost income, who is dissatisfied with the GCCF's determination of eligibility or the amount of compensation awarded, may appeal

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directly to the United States Coast Guard within 90 days after presenting a claim to the GCCF. There is, therefore, an inherent appeal right automatically built into the GCCF process itself. Nevertheless, the GCCF decided to include an additional appeal right for those claimants who were awarded compensation in excess of $250,000; in addition, the GCCF decided to give BP an appeal right (which it currently does not have under existing federal law) but only in those individual cases in which the GCCF awarded a claimant an amount in excess of $500,000. This right to appeal will permit the claimant and BP – in a limited number of cases involving a limited number of claims – to seek review from the Administrator's determination of compensation. The appeal will be before three "claims appeals neutrals" to be selected by a distinguished citizen recognized by all in the Gulf to be credible and above reproach. I will select this individual in the next few weeks; but I will have no role whatsoever in selecting the three "neutrals" who will review these limited appeals. Finally, it is very important that this additional right to appeal be restricted in both scope and amount. Since there is already a right by law to appeal to the Coast Guard, and since there is a real concern that the GCCF claims process be both efficient and timely in sending money to eligible claimants, the claims process must not become bogged down in excessive appeals involving potentially thousands of claimants. I believe the GCCF proposal is a sound compromise.

3) *Subsistence Claims* -- The GCCF Final Protocol recognizes the eligibility of subsistence claims – claimants who may bring claims to the GCCF alleging that their ability "to live off of Gulf Coast resources" e.g. fish, game, natural habitat, etc. has been adversely impacted as a result of the Spill. But although these claims are eligible for compensation, the GCCF has not yet concluded that mere statements of subsistence loss are sufficient to document these claims. We are working with

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interested claimants in finding a way to assure that such subsistence claims can be proven so that compensation can be awarded. The GCCF has received thousands of individual subsistence claims (as opposed to claims submitted by Native American tribes) in which the claim is not documented at all. Instead, there is simply a written statement: "I live off the Gulf and can no longer fish in order to eat. So, now I must buy fish at the grocery store. Pay me." These claims must be denied. But I will be returning to Louisiana this week in an effort to meet with individuals and others interested in advancing the subsistence claim approach and am confident that some accommodation concerning documentation and proof of damage will be achieved.

4) *Technical Assistance Providers* – The GCCF welcomes the opportunity to coordinate with any of the community based non-profit technical assistance providers contracted by the State of Louisiana. Specifically, the GCCF has established a relationship with Catholic Charities. Our liaisons in the field -- the Long Law Firm, Hammerman and Gainer and others in the claim site offices -- have engaged in ongoing direct communications with Catholic Charities. It is my understanding that there is a network of twelve non-profit organizations operating in Louisiana that are making themselves available to claimants to help complete applications by offering technical assistance. I believe this network is funded by a grant from BP and it is my understanding that each of the twelve non-profits operates independently. Recently, liaisons from our site offices attended a meeting with members of the South Louisiana Economic Council located in Thibodaux, Louisiana. In addition, members of the GCCF staff have been invited and have participated in the most recent weekly update conference calls sponsored by this group.

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5) *GCCF Infrastructure and Employees* – The GCCF has a complex system in place to receive, review, maintain data and process claims, review the necessary accompanying documentation, calculate appropriate compensation, and issue checks. The success of this system is demonstrated by the statistics themselves and the fact that over $3.3 billion has been distributed in just five months. Nevertheless, the GCCF remains open to any other suggestions that will improve the efficiency and integrity of the claims process. The GCCF employs, directly and indirectly some 3,600 individuals to help process hundreds of thousands of claims and inquiries. It is a huge undertaking. A general breakdown by employees by subcontractor and task is as follows:

Worley Company: 943 employees

The Worley team staff serves two functions: 1) staffing the various Gulf regional GCCF site offices and 2) during the Emergency Advance Payment stage, the Worley staff was responsible for performing the initial review of certain Emergency Advance Payment claims.

Garden City Group: 1,700 employees

Garden City Group is responsible for all claim intake, all supporting documentation, the maintenance and programming of data, and preparation of programming reports, operation of the call center, review of claims, payment of all claims, and many other tasks involved with the processing of almost 500,000 claims. Garden City has staff working for the GCCF project at their Dublin, Ohio; Melville, New York; and Seattle, Washington offices.

BrownGreer Firm: 715 employees

BrownGreer is responsible for the design and programming the claims evaluation system, reviewing claims and evaluating supporting documentation.

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BrownGreer assists the GCCF in all of the evaluation and issue determinations for all claim types for approval by Feinberg Rozen . BrownGreer's offices are located in Richmond, VA.

Guidepost Investigations: 189 employees

Guidepost Investigations employs Gulf Coast residents to carry out it duties with regard to the investigation of potentially fraudulent claims submitted to the GCCF.

Cowheard and Assurance:

Accounting firms: 52 employees

Cowheard and Assurance Accounting firms work in the Worley Hammond Facility in Louisiana and perform accounting reviews of business claims for the GCCF.

Price Waterhouse Coopers: 20 employees

Price Waterhouse Coopers employees are forensic accountants working in the Washington, DC Office of Feinberg Rozen, working with me and my colleagues in the final review of pertinent individual and large business claims in which potential award amounts are of such precedential importance, they require review at the highest level of the program.

Madam Chairman, you and other members of Congress have recently learned that the GCCF plans to eliminate 150 jobs (of the 943 total mentioned above) from the Worley Hammond, Louisiana facility. These jobs were staffed by individuals on detail by the Worley Company who are residents of many states throughout the country, not just Louisiana. The next phase of the GCCF Program allows for the filing of Interim Payment, Full Review Final Payment and Quick Payment Final Claims. Quick Payment claims require no claims review. The first level of review by the Hammond staff is not necessary as part of this final process. The GCCF is

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consolidating the initial review process performed by the Hammond Claims Evaluators into the review performed by existing staff at BrownGreer who are responsible for the second round of claims review and evaluation. Many on the Hammond staff will continue to be employed, but will be reassigned to the Site Offices in the Gulf to work with claimants. The jobs in Hammond will be eliminated. BP, and, thereafter, the GCCF, have been processing claims for some nine months; it is time to begin to downsize the massive infrastructure which has been part of the payment program since the oil rig explosion. We now know enough about the quality and quantity of the claims to deal with the claims process in a more efficient manner. I assure you that the downsizing will be done with care so as not to adversely impact the ability of the GCCF to process claims efficiently and effectively. There will be no employment reductions designed merely "to save costs."

* * *

Madam Chairman, I thank you for this opportunity to testify before your Subcommittee. I wish to assure you personally of my ongoing efforts to make the GCCF process work so as to benefit those individuals and businesses in Louisiana and the Gulf most in need. I appreciate the financial uncertainty that confronts thousands of citizens in the Gulf. This uncertainty breeds anger and frustration which I am trying to address. I believe that this unprecedented payment program – initially agreed to by both the Administration and BP – is achieving its objective. I will continue to work with you and others to make sure that the GCCF is as efficient, effective and fair as possible. And, I will always make myself available to you and your staff to address any aspects of the GCCF program.

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 you and other members of this distinguished Subcommittee.

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Good Afternoon Members of the Ad Hoc Subcomittee on Disaster Recovery and honored guests

My name is Ve Nguyen and I have been harvesting oysters in the Gulf of Mexico for 29 years. On behalf of the United Louisiana Vietnamese American Fisherfolks, thank you Senator Landrieu for calling this hearing and special thanks to your staff for inviting me to present today.

I would like to take this opportunity to do 3 things – share my story, present a request to the Subcommittee, and ask a question of Mr. Feinberg.

My story is a common story in the Louisiana Vietnamese American fishing community. As of Spring 2010, approximately 30 to 50 percent of all commercial fishers living in the Gulf of Mexico region are Vietnamese Americans while more than every other Vietnamese American in the region are connected to the seafood industry. In my neighborhood in Plaquemines Parish, 100% of the Vietnamese American homes are fishermen. Louisiana fishermen of all ethnic backgrounds are independent and hardworking people.

As refugees to the United States after the end of the Viet Nam War, we all chose to build our lives anew in in the fertile waters of the Gulf Coast and carry on the fishing traditions and customs of our ancestors. I was raised on my father's fishing boat in Viet Nam. During the Viet Nam War, I used my naval skills to help the south Viet Nam democratic government fight communism. At the end of the war, I carried dozens of people on my boat to escape the communist regime. In the United States, my people continued to carry on the fishing tradition of our ancestors despite hate crimes by the KKK.

We taught our children to love the water and appreciate its creatures. My daughter is a marine biologist and my son helps me on the boat. After I was forced to flee my country and the United States took me in, I pledged an allegiance that included paying my taxes. Unless I have no other choice, I do not seek government assistance. But with the oil spill, like many of my fellow fishermen, I have had to stand in line for handouts and food stamps.

Before the BP Deepwater Horizon Oil Spill, my wife and I would be out at sea by 6am every morning and return in the late evening. Like all over fishermen in Louisiana, we typically hold back a portion of our catch – 5-10 percent - to bring home for personal consumption in the family, to contribute to community events, and to barter with other fishermen for other seafood.

I face many challenges in the GCCF process, but I would like to take this opportunity to highlight one in particular. Mr. Kenneth Feinberg received over 16,000 emergency payment claims for subsistence use, including mine, and Mr. Feinberg only paid one claim for $3,000.00. Mary Queen of Viet Nam Community Development Corporation, a Louisiana contracted Technical Assistance Provider, helped me package my subsistence use claim. Mr. Feinberd denied my neighbor's emergency payment loss of subsistence use claim that was almost identical to mine.

REQUEST TO Ad Hoc Subcommittee on Disaster Recovery

And therefore, I would now like to make our request to members of the Senate here today. The United Louisiana Vietnamese American Fisherfolks, in solidarity with fourteen Gulf Coast grassroots organizations and associations, requests that members of the Ad Hoc Subcommittee on Disaster Recovery and Congress clarify and reaffirm the definition of subsistence use in the Oil Pollution Act of 1990 - fully acknowledging and recognizing the local non-taxable practice of bartering, community gifts, and family consumption by commercial fishing communities of all ethnic background. This definition was clearly intended by Congress in 1990 and comports fully with the Department of Wildlife and Fisheries definition.

Moreover, the calculation for emergency compensation for loss of subsistence use should be based on the quantity of seafood that commercial fishermen subsisted on before the spill multiplied by the current market retail value of the seafood. This formula has been summarized and defended in the White Paper submitted by the United Louisiana Vietnamese American Fisherfolks and MQVN Community Development Corporation. One of the authors of the paper, May Nguyen, is seated behind me today and is prepared to defend our community's claim for subsistence use and the formula.

QUESTION FOR MR. KENNETH FEINBERG

Finally, on behalf of our alliance of 14 grassroots organizations from across the Gulf Coast, I would like to ask a question of Mr. Feinberg. Throughout the height of the Oil Spill, you promised a GCCF Appeal Panel. But now you are setting a $250,000 minimum total payment requirement that effectively takes away the GCCF appeal panel for all low-income victims. Low-income victims are oyster shuckers, shrimp peelers, deckhands, dockhands, and the vast majority of captains - the backbone of the Gulf Coast seafood industry and direct victims of the BP Oil Spill. We relied on your promise for an appeal panel that you would be fair and just in your compensation. So then, Mr. Feinberg, why are rich people the only people that can access your GCCF appeal process, but us working class fisherfolks can not?

Good afternoon Chairman Landrieu and Members of the Subcommittee. I am Eric B. Broderick, D.D.S., M.P.H., Deputy Administrator of the Substance Abuse And Mental Health Services Administration (SAMHSA) within the Department of Health and Human Services (HHS) and Assistant Surgeon General.

I'm pleased to have this time to share with you a few highlights of SAMHSA's efforts and important role in the Deepwater Horizon oil spill recovery response. I am joining you today on behalf of SAMHSA Administrator Pamela J. Hyde, who is unable to attend the hearing, yet has been very involved with SAMHSA's role in the oil spill response. Administrator Hyde attended several public forums with Surgeon General Dr. Regina M. Benjamin in areas of the Gulf affected by the disaster, and remains deeply committed to serving the region's behavioral health needs.

As part of HHS, SAMHSA's mission is to reduce the impact of substance abuse and mental illness on America's communities. Behavioral health is an essential part of health. Prevention works, treatment is effective, and people recover from mental and substance use disorders.

Traumatic events such as the Deepwater oil spill place a heavy burden on individuals, families, and communities, and create challenges for all public institutions and service systems—especially the behavioral health system.

SAMHSA and the behavioral health community know that disasters often precipitate mental and substance use disorders, which can be triggered when hope seems gone, security is threatened and lives and property are lost. Addressing these behavioral health needs is critical to the recovery of the individuals, families and communities affected by

the Deepwater Horizon oil spill, and efforts will be necessary for years to come. With appropriate support and intervention, people can overcome adversity and move forward. As part of a coordinated Department of Health and Human Services response, we at SAMHSA worked to help ensure that the immediate behavioral health needs of affected individuals were addressed in the immediate aftermath of the oil spill, and will continue to address these evolving needs over time.

State reports show increased behavioral health needs in the Gulf region in the wake of the Deepwater Horizon oil spill. These reports document an increase in the incidence of psychiatric disorders, including anxiety and depression, an increase in the incidence of substance abuse and dependence, higher rates of suicide, and increased rate of familial breakdown, including domestic violence. These outcomes, while troubling, were not unexpected. These increased behavioral health needs are similar to those observed after Katrina as well as after the Exxon Valdez oil spill in 1989 (Psychological Impacts of Oil Spills: The Exxon Valdez Oil Disaster, Lawrtence A. Palinkas, Ph.D.)

The current situation in the Gulf is exacerbated by the fact that it occurred in the same region impacted by Hurricanes Rita and Katrina in 2005. The experience of more than one traumatic event (e.g., flood, hurricane, fire, oil spill) is known as re-traumatization. Studies suggest that experiencing trauma heightens vulnerability to other traumatic events. With these disasters occurring in the same region within a five-year period, the people of the Gulf are at increased risk of facing even greater difficulty due to repeated trauma. (After the Crisis Initiative: Healing from Trauma after Disasters Resource Paper: Trauma and Retraumatization , Nina Kammerer and Ruta Mazelis)

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SAMHSA has been engaged in supporting the impacted States since the day after the spill. We have provided technical support and assistance to States to assess and meet the mental health needs and related substance abuse concerns of affected communities. SAMHSA has been in contact with State officials, assessing needs and helping States formulate response plans, including the development of a shared template to gather information, assess and address emergent needs, and provided technical assistance to States in their request for funds from BP for behavioral health services. Moreover, SAMHSA immediately began coordinating with disaster relief officials, public health authorities, and behavioral health service providers in each of the affected States: Alabama, Mississippi, Louisiana, Florida, and Texas.

In addition, SAMHSA immediately began making relevant and useful information available on the Agency's website. The SAMHSA website is a comprehensive resource for information on behavioral health resources and the Deepwater Horizon oil spill. An online annotated bibliography continues to provide an extensive list of sources of information. The SAMHSA website also provides links to dozens of Federal agencies and other organizations involved in the response as well as brief descriptions of what can be found on the sites.

At the request of HHS Secretary Sebelius, SAMHSA Administrator Hyde, and multiple Gulf Coast States, BP paid $52 million to fund mental health and substance abuse support services. Funding went to SAMHSA and the four States most affected in the area: Louisiana, Mississippi, Alabama, and Florida.

Of this $52 million, SAMHSA received $10 million to launch a toll-free crisis counseling hotline for residents of the affected States, develop behavioral health educational materials for public health information, and conduct surveillance of ongoing behavioral health needs for individuals affected by the oil spill.

SAMHSA created and successfully launched the Oil Spill Distress Helpline (1-800-985-5990). This toll-free helpline provides information, support, and counseling for those affected by the Deepwater Horizon disaster.

SAMHSA has also undertaken an extensive regional public education campaign designed to raise awareness of the potential behavioral health impacts of the spill, and to connect those in need to available services. SAMHSA has assisted in the coordination of local and regional outreach activities to promote awareness of the hotline number. We have also disseminated public education and outreach materials on behavioral health among residents in affected areas, including information about recognizing signs and symptoms of distress and self-management techniques. We have posted a number of resources on our website, including tip sheets on topics such as grief, stress management, and support for response workers, as well as consumer-friendly information regarding news and events related to recovery and resilience-building efforts. We have also developed and distributed television, radio, and print public service announcements

In addition to overseeing the $10 million BP paid to fund behavioral health efforts in the region, SAMHSA has coordinated with HHS partners including the Office of the

Assistant Secretary for Preparedness and Response, the Centers for Disease Control and Prevention (CDC), the Administration for Children and Families, and the Surgeon General, to support their efforts related to the oil spill. Notably, through an intra-agency agreement, SAMHSA is working closely with the CDC to conduct a telephone survey in selected Gulf coast counties affected by the oil spill. The Gulf States Population Survey is designed to monitor the mental and behavioral health status of this affected population and will be conducted monthly for a one-year period, from December 15, 2010 to December 14, 2011. The survey questionnaire was developed by CDC in partnership with SAMHSA and State public health and mental health departments from Louisiana, Mississippi, Alabama, and Florida where the survey is being conducted.

In addition, SAMHSA is working with CDC to expand the dissemination of public health information to communities in the Gulf affected by the Deepwater Horizon oil spill. SAMHSA's Facebook and Twitter sites posted relevant messages and updates daily not only on SAMHSA's own content on behavioral health messages, but also related content from other Federal agencies working in the area.

Additionally, SAMHSA has recently announced a total of $648,404 in SAMHSA grants to Gulf Coast States to augment State surveillance infrastructure to permit the timely distribution of behavioral health care and other social services to people affected by the Deepwater Horizon oil spill disaster. To date, funding to each State includes $162,500 to Louisiana; $161,404 to Florida; $162,500 to Alabama; and, $162,000 to Mississippi through SAMHSA's Emergency Response Grant program.

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SAMHSA's efforts represent only part of the Federal Government's comprehensive response to the Deepwater Horizon oil spill. Despite many hardships, people in the Gulf are doing their best to stay connected with friends and with family, take care of themselves, and help their neighbors. Their resilience is phenomenal. Yet history tells us that the emotional impact of the devastating losses experienced by individuals and families as a result of the oil spill will be ongoing, and we remain committed to helping States address the mental health and substance abuse needs of Gulf Coast residents stemming from this disaster.. As such, the Oil Spill Distress Line will be operational through 2011, PSA's and informational websites will continue to be updated and disseminated, surveillance will continue and coordination with state and voluntary service providers will persist until such time as indicators signal they are no longer being used.

Now that the immediate response phase has come to a close, we are shifting our focus to the long-term recovery needs of Gulf coast residents as they work to rebuild their lives. Chairman Landrieu and Members of the Committee, thank you for the opportunity to appear today. I will be pleased to answer any questions you may have.

United States Senate
Committee on Homeland Security and Governmental Affairs
Subcommittee on Disaster Recovery
Albert L. Keller
Executive Vice President, BP America
January 27, 2011[1]

Chairman Landrieu, Ranking Member Graham, members of the Subcommittee, I am Luke Keller, Executive Vice President for BP America's Gulf Coast Restoration Organization (GCRO). I am here to share information with you about the process for addressing state and local government claims relating to the *Deepwater Horizon* accident and BP's contributions to various non-governmental social services providers.

The *Deepwater Horizon* accident has profoundly affected all of us. We all have deep sorrow for the lives lost, injuries sustained, and the impacts to the environment. Since the incident, we at BP have worked tirelessly, together with dedicated public servants from federal, state, and local government, to respond to the spill and honor our legal obligations, including obligations for environmental cleanup and restoration and the payment of legitimate claims. This effort has involved tens of thousands of people and remains underway today.

I have worked for BP for more than 30 years. I have held various engineering, operations, and management positions and led the division of the company responsible for environmental remediation in the United States. This past summer, I was appointed Executive Vice President, Gulf Coast Restoration Organization, the organization within BP responsible for long-term response to the spill. The GCRO, formed in the summer of 2010, manages all aspects of the response to the *Deepwater Horizon* accident and the oil and gas spill in the Gulf of Mexico to help BP meet its commitment to the people of the Gulf Coast.

One critical element of our response has been the establishment of a robust claims process to address claims by individuals, businesses, and government entities. This process was initiated within days of the incident. Our central focus has been and remains the fair and prompt resolution of legitimate claims. On June 16, 2010, BP and the federal government agreed that the process for individual and business claims would be transitioned to an independent claims facility administered by Mr. Kenneth Feinberg. The transition to the independent claims facility, known as the Gulf Coast Claims Facility (GCCF), occurred on August 23, 2010.

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[1] The data described throughout this testimony is accurate to the best of my knowledge as of 9 a.m., Wednesday, January 26, 2011, when this testimony was prepared. The information that we have continues to develop as our response to the incident continues.

The GCRO has offices and dedicated local teams in Louisiana, Mississippi, Alabama, Florida, and Texas. As one of the senior leaders of the GCRO, I work closely with state and local governments and work daily to ensure we meet our commitment to the people of the Gulf Coast. Indeed, from the outset, we have worked closely with federal, state and local government leaders. At the request of state government leaders, BP provided hundreds of millions of dollars of advances to cover anticipated response and removal costs, even before such costs were incurred. Advances were made in the following amounts: approximately $291,000,000 to Louisiana; $75,000,000 to Mississippi; $55,640,000 to Alabama; and $50,000,000 to Florida. Advances were also made to governments for alleged losses of tax revenue.

BP has a government claims group within the GCRO that is dedicated full time to addressing claims filed by government entities. Government entities may file claims in a number of different ways, including online, by mail, by fax, and by phone. BP has issued a Protocol for the Submission of Claims by Government Entities that describes the types of claims covered, as well as the types of information necessary to document a claim. In addition, the website contains, for ease of reference of claimants, a Microsoft Excel "workbook" form for submitting a claim.

Government claims typically require the submission of detailed data by the claimant. Depending on the type of claim being made, the necessary data may include, among other things, information about cleanup efforts and expenses; tax and other revenue collection information; and/or the costs of providing certain public services. BP's claims team has held numerous meetings with government claimants throughout the Gulf Coast and seeks to maintain open channels of communication. Toward this end, BP provides regular public reporting on its government claims process and also sends a periodic newsletter to government claimants.

Whether a given government claim is legitimate is determined by the Oil Pollution Act ("OPA"), which governs liability for the discharge of oil into navigable waters. OPA specifies six main categories of damages (exclusive of natural resource damages, which are governed by a separate process):

- Response and removal costs
- Property damage
- Loss of subsistence use of natural resources
- Lost income/profits
- Loss of certain government revenue
- Increased costs of providing certain public services

Three of these categories are particularly relevant to state and local governments: response and removal costs, loss of certain government revenue, and increased costs of providing certain public services. Under OPA, government claimants may recover reasonable and necessary response and removal costs that comply with the

requirements of the statute. In addition, state governments and their political subdivisions may recover damages equal to the net loss of taxes, royalties, rents, fees or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources resulting from the spill. Furthermore, states and their political subdivisions may recover damages for the net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil.

Legitimate state and local government claims are paid from the Deepwater Horizon Oil Spill Trust (Trust). BP has committed to fund $20 billion to the Trust over a period of three-and-a-half years. BP has secured its commitments to the Trust while funds are building by granting, conveying, and/or assigning to the Trust first priority perfected security interests in production payments pertaining to certain Gulf of Mexico oil and natural gas production. During 2010, BP made payments to the Trust totalling $5 billion and is committed to making additional payments of $1.25 billion, in one or more installments, during and prior to the end of each calendar quarter commencing with the first calendar quarter of 2011 and continuing through the last calendar quarter of 2013. The fund is available to satisfy legitimate state and local claims, as well as claims adjudicated by the GCCF, final judgments in litigation and litigation settlements, and natural resource damage claims and related costs. The establishment of this Trust does not represent a ceiling or floor on BP's liabilities and BP does not admit to a liability of any amount in the Trust.

To date, BP has made payments to government entities totaling more than $1 billion, of which more than $500,000,000 has been paid to state and local governments. This includes claims payments, advances, grants, and certain other payments. With regard to claims, BP has paid approximately 608 state and local government claims. In some instances, BP has been able to reach a partial final settlement with a government entity.

In addition to responding to formal OPA claims, BP has also provided for a number of grants to state and local governments. For example, BP has provided $52 million in behavioral health grants to the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration and the States of Louisiana, Mississippi, Alabama, and Florida. BP provided $87 million in grants to Louisiana, Mississippi, Alabama, and Florida for the promotion of tourism. BP also is providing $48 million to Louisiana and $20 million to Florida for three-year seafood testing and marketing programs. An additional $30 million in grants was awarded to Gulf States for research as initial, fast-track grants from the $500 million Gulf Research Initiative.

BP also has provided funding to a number of non-governmental organizations for various social services. This includes grants for food pantry and food delivery

programs, health programs, educational services, emergency shelters, children's recreation programs, school supplies, and others.

Let me assure you that my colleagues and I have pledged to ensure that we meet our commitments in the Gulf of Mexico, and working closely with federal, state and local governments is key to this process.

Tom Costanza, Executive Director of the Office of Justice and Peace
Catholic Charities Archdiocese of New Orleans

Testimony Before the

Senate Ad Hoc Subcommittee on Disaster Recovery

On

An Examination of Claims Administration and Social Services

January 27, 2010

Introduction

Good afternoon, Chairman Landrieu, Ranking Member Graham, and members of the Subcommittee, thank you for inviting me to discuss the Social Services and Claims Administration in the Aftermath of the Deepwater Horizon Oil Spill. My name is Tom Costanza, Executive Director of the Office Justice and Peace of Catholic Charities Archdiocese of New Orleans.

Today, I appear on behalf of Catholic Charities Archdiocese of New Orleans. In addition to the insight that I bring from Catholic Charities Archdiocese New Orleans, my testimony also includes information from other Catholic Charities agencies along the Gulf Coast that provide help and create hope for families in crisis due to the oil spill. I also offer recommendations based on our collaborative work with the fishing industry associations and other non-profit organizations that have been assisting families to recover since the oil spill began.

I would like to begin by remembering the families that lost loved ones and for the families that continue to struggle to recovery from this disaster. I would also like to highlight the resiliency of coastal residents and their spirit to work together toward recovery once again.

I've been asked to discuss the current social services delivery system and case management as well as the current situation facing the fishing industry as the claims process moves into interim and final claims decision points. In particular, I would like for the committee to know that from our perspective the BP claims process is deficient in at least two ways: First, the process is cumbersome, takes too long, and requires excessive paperwork thus failing to fulfill its goal of getting adequate funds to people in need and to the agencies that are working directly with those adversely affected by oil spill. Secondly, the process fails to take into account the unique and special needs of the impacted people from the Gulf area and in particular, the needs of the fishing industry.

Finally, this was never declared a federal disaster; therefore, no coordinating structures are in place. Subsequently, there is no federal funding for disaster case management, disaster unemployment, disaster food stamps, disaster mental health or individual assistance. It is the responsibility of the private party to provide these basic disaster human recovery services and recommendations to change the Oil Spill Pollution Act to include human recovery are offered.

Catholic Charities Response

Since July 2010, the Deepwater Horizon oil leak has been capped but the clean up and the recovery of the Gulf Coast continues. To-date, five local Catholic Charities agencies along the Gulf Coast have provided relief and recovery services to people impacted by this disaster. These agencies include: Houma-Thibodaux, New Orleans, Biloxi, Mobile and Northwest Florida. These agencies have provided the full range of social services, specifically counseling, case management, and direct assistance (utilities, food, housing, medicine, etc.).

Even with the closure of the leaking oil well, the social and economic impact continues and necessitates continued services by the Catholic Charities network. To-date, the responding

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Catholic Charities agencies report a collective total of over $2.77 million in resources delivered and leveraged for the oil leak impacted population.

Overview of Current Environment

"The anxiety level is high and getting higher as we move forward. We are dealing with a double issue of continued recovery from Hurricane Katrina and devastation to our employment opportunities. Those who were able to be employed during the oil spill recovery operations are now out of work again and added to the roles of those who were not able to get employment. We lost an entire season of fishing, savings are gone, and the cost of living is on the increase." *Benny Puckett, Human Services Plaquemines Parish*

CCANO received an early grant of $1,000,000 from BP, which was used almost exclusively for food and other family services. That money was quickly expended, mainly for food and other forms of family emergencies. In the meantime, a coalition of social agencies banded together to request $12 million from BP to continue provide direct assistance and case management. This coalition chose CCANO as its representative agency and its fiscal agent. Currently, CCANO is providing assistance from its own reserves and has launched a broad appeal for funds from individuals, and from philanthropic and commercial sources. Recently CCANO re-structured and re-submitted the VOAD Family Stabilization request to BP for $18,000,000.

New Orleans

The Archdiocese of New Orleans continues to respond to the needs of the fishing families and communities affected by the oil spill through the direct services of Catholic Charities and its affiliated ministry, Second Harvest Food Bank of Greater New Orleans and Acadiana. Together, Catholic Charities and Second Harvest have partnered with Church parishes, local governments, state agencies (DSS and DHH), United Way of Greater New Orleans, other area non-profits and the New Orleans Saints. CCANO continues to operate five "Oil Spill Relief Centers," where families can receive direct assistance, case management services, crisis counseling and emergency help.

New Orleans Service Information

Type of Service	# of People/Families Served	Value of Services Provided ($)	Description
Crisis Counseling	12,976		
Case Management	9,902		
Emergency Assistance	38,569/15,243		

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Food Vouchers		$852,500	Vouchers to community grocery stores
Meal Distribution	610,785 (meals)	$1,368,158	
Direct Assistance		$344,059	Rent, utilities, mortgage, medication
Baby supplies		$31,267	Diapers and formula

In addition, Catholic Charities Archdiocese of New Orleans was awarded a grant from BP for behavioral health, but this grant did not include resources for wraparound services, such as direct assistance or case management. This resource gap challenges the holistic delivery of services to meet people's needs related to the oil leak that extend beyond behavioral health needs.

Houma-Thibodaux

Catholic Charities, Diocese of Houma-Thibodaux continues in its work to assist oil leak victims. On October 31 CC Houma-Thibodaux ended its provision of casework services as casework services began through another agency. This case management agency continues to refer client families to CC Houma-Thibodaux for rent/mortgage payments, utilities and medicine assistance. CC Houma-Thibodaux has received no additional BP assistance since the first and only payments in April. Continued funding for the work of CC Houma-Thibodaux has been provided through private donations and the Greater New Orleans Foundation. From the beginning of services in April after the spill through December, Catholic Charities Diocese of Houma-Thibodaux has provided services according to the following:

Houma-Thibodaux Service Information

Type of Service	# of Families Served	Value of Services Provided ($)	Description
Case Management	364		
Information and Referral	668		
Food	404	$63,100	Includes grocery store certificates

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Electric	160	$38,505	
Water	97	$ 6,339	
Gas	14	$ 600	
Rent/Mortgage Payment	54	$19,950	
Medical/Prescriptions	5	$ 1,389	
School Uniforms	200	$ 6,650	

Biloxi, MI: *Information as of November 2010*
Catholic Charities-Diocese of Biloxi continues to provide case management, financial assistance, food, baby items, and community referrals to all those that walk through our doors, including those directly and indirectly affected by the Gulf Oil Crisis. As the crisis has continued, CC Biloxi has seen increased anger from those affected and people who were working for BP but have now been laid off. Claims are not being approved in a timely manner and many of their clients cannot provide sufficient documentation to receive a claim.

The amount of assistance that the agency provides depends on the funding available and the availability of case managers to provide the assistance. Currently, their offices are overwhelmed with people requesting services. In order to serve more people, the agency's priority need is funding to hire more case managers. Three additional case managers would allow us to expand the number of people served in our coastal offices. The cost for three full-time case managers for one year is approximately $119,223.00. This amount includes salary and benefits.

"CC Biloxi is blessed to have received the Homelessness Prevention and Rapid Rehousing grant for two years (2010 and 2011). This grant has allowed us to prevent the homelessness of renters in our service area, as well as, house persons who were already homeless. These funds have allowed us to help many people affected by the Gulf Oil Spill by preventing eviction. We have also been blessed to receive Mississippi Power grants totaling $48,930 and a Wachovia grant of $12,500.00 for those in the affected area. We received those funds via the local United Ways based on our proven case management process. While these grants have been a blessing and have allowed us to serve people in need, we could serve so many more people if we were able to provide more staff to each office."

Mobile, AL:

Catholic Social Services of Mobile response to the oil leak is ongoing and expanding. CSS Mobile has provided ongoing emergency financial assistance to those individuals and families who have suffered a loss of income as a result of the oil spill. CSS Mobile continues to provide services and direct aid, and has so far provided $39,000 in direct assistance for those client households struggling economically due to business collapse, job loss and financial hardship. In addition, CSS Mobile has started a disaster case management program modeled on the program

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developed by CCUSA to begin the process of recovery from the oil spill. The CSS Mobile Disaster Case Management Program (DCMP) expects to be able to successfully case manage 50-60 client households in South Mobile County.

Mobile Service Information			
Type of Service	**# of People/Families Served**	**Value of Services Provided ($)**	**Description**
Direct Assistance	454/150	$ 39,000	Rent, utilities, mortgage, medication

Our agency recently submitted a grant proposal to the Governor's Office of Faith Based and Community Initiatives that requested $59,407.00 in operating costs, and $10,000 for direct aid to clients, for our disaster case management program. Because clients are not receiving compensation in a timely manner, many still struggle with day to day financial obligations, as well as the emotional impact of the oil spill.

Northwest Florida: ***Information updated as of November 2010***

Catholic Charities of Northwest Florida continues to provide direct assistance and related services to people impacted by the oil leak. The agency has reported increased requests for assistance and provides approximately $10,000 per week in emergency assistance (rent, utilities, food, etc.). The agency is participating in coordination with other agencies provided social services and support to response efforts in order to leverage resources and share information. The local coalition is working to assess the long term economic impact of the oil leak so that they may plan for and provide an effective response for the long haul.

Catholic Charities New Orleans and Mobile report the following regarding the continuing need of the impacted population and the status of the BP claims process.

New Orleans:

- Port Sulphur, LA: *Clients are* ***experiencing hours reduced or they have been laid off****. Client that are self employed have indicated that businesses are slow. They are not having as many contracts as they had before the oil spill. Clients are* ***losing homes, vehicles*** *and are having difficulty finding other employment opportunities.*
- St. Anthony: *Clients are feeling under paid. There are some cases were the deckhand received more than the captain.* <The issues clients face include :> *Financial problems,*

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emotional issues, substances abuse, depressions, anger, mood swings, unemployment, ***lack of other job opportunities.***

- St. Thomas: <Clients are reporting the following issues :> ***Depression, anxiety, anger, insomnia****; uncertainty about financial situation present day as well as future; lack of job opportunities;* ***unable to meet basic household needs*** *(i.e. utility payments, food, clothing); many of the fisherman do not see the claims process as user friendly;* ***lack of trust in the claims process****.*
- St. Bernard: <Clients are reporting the following issues:>***Nobody is buying the seafood that clients catch****; they can't sell to the factories because they are currently closed;* ***hours are cut in half*** *at some businesses in the lower part of St. Bernard....****uncertainty*** *about financial situation present day as well as future; unable to meet basic household needs (i.e. utility payments, food, clothing).*

Mobile:

"Those families and individuals we've served, who have been impacted by the oil spill, report lost income, utility cutoffs, food insecurity and in some cases homelessness. Many of the businesses that thrived prior to the oil spill remain closed or on reduced production. As our clients continue to languish in unemployment and lost wages, their bills and expenses continue to mourn."

Family Stabilization Grant Timeline and Re-Structured Proposal and Human Recovery System:

In July 2010, upon the request of BP, an intermediary grant was requested of the VOAD by BP for six months. This grant for $24,000,000 was submitted shortly thereafter and the response was to re-submit for three months. The request for $12,000,000 for three months was resubmitted in July. We have not had a formal response to this application as of yet. The informal verbal response was that the BP claims process had taken care of this. We were told at that point that we would receive a formal response, which we have not yet received. Also, on August 16, 2010 at a Press Conference in Grande Isle we were told that we would have a response within a week from Mr. Dudley of BP.

Later in the month, Witt and Associates interviewed us as part of their information gathering requested by BP in order to structure their Gulf Coast Restoration Organization. This was a very detailed review with recommendations from various NGO's in the community.

The State of Louisiana then asked us to re-structure the grant based on lessons learned from working in the field and dealing with this particular disaster. A re-structured VOAD grant was submitted with a well designed level system of care that would identify vulnerable families and provide the necessary direct assistance and case management support until the claims process improved. This was submitted to Mr. Dudley of BP in November 2010, with no response as of yet.

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The re-structured VOAD application is necessary to incorporate all the lessons learned from the past eight months and to have a model that is more responsive to the "stabilization" phase of recovery over the next six months. This stabilization phase will last from the Spring of 2011 until the Fall of 2011. At that point, we may have more information on the status of the fisheries and when the Feinberg process yields better results in terms of just payments. A long term recovery application will then be needed to cover years two through five of the human recovery process.

We have learned over the last six months the necessary components of a comprehensive human recovery model following an oil spill disaster. The following includes a brief overview of the process, structure and outcomes necessary to stabilize families during this transition phase to move us effectively to the long-term human recovery phase.

Case Management Process

The following is a brief review of the process elements that are needed during the stabilization phase. All these elements need to be coordinated by a case manager that will add value by providing a human contact point and a personal relationship in a very complex and culturally confusing system, defining the unmet disaster-related needs, identifying the most vulnerable and most impacted, and leveraging resources to maximize the recovery dollars granted to those adversely affected.

Intake and Screen:

- Intake will be accomplished through the Client Track System which has an Intake Form and is able to be modified to include fields for long term case management. This will include a brief Mental Health screen called a PQH2.

Assessment

- This process includes developing a comprehensive assessment including health exposure assessments that are relevant to the oil spill. This model follows the FEMA Sequence of Delivery Approach.

Disaster Recovery Plans (See Attachment)

- The disaster recovery has core elements that need coordination and capacity building to respond to this stabilization phase.

Interventions:

- The interventions below outline the comprehensive model that is required to support stabilization of families.

Frustrations with BP Claims process:

CCANO counselors in the Oil Spill related Parishes working for the past nine months report those affected are experiencing increased feelings of stress and hopelessness. Frustrations with the claims process as well as reduced funds available to assist them with basic needs are the main precipitators. Many do not have funds even for gas to go to the community sites to seek what assistance is available. Families are being

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adversely affected in all aspects of their ability to function as a unit." *Marilyn Shraberg, LCSW, Catholic Charities*

The following agencies in New Orleans, LA and Mobile, AL report the following regarding the status of the BP Claims Process

New Orleans

- *Port Sulphur, LA: Many clients have not received any assistance at this point (emergency payment, interim payment or final payment). Their <Gulf Coast Claim Facility (GCCF)> claim is currently pending or they are requiring additional documentation that they are having difficulty obtaining. Another portion of clients that I have seen have received denial letters for Emergency Payment assistance reason indicating that clients have not proven a loss of income. On the other hand,* ***about 30% of my case load has received assistance from GCCF....*** *The majority of my clients are waiting on their claim to be processed.* ***GCCF is asking for additional information to process the claim and the client cannot provide this information*** *(For example w-2 forms). Some of my clients received cash for work and cannot provide these documents. This is causing the claim process to move slower.*
- St. Anthony: Reports that 82% of client claims have been paid (59 of 73 claims).
- St. Thomas: Reports that 31% of client claims have been paid (23 paid, 12 denied, 39 waiting on outcome).
- St. Bernard: Reports that 46% of client claims have been paid (12 received six-month payment and awaiting further compensation; 10 awaiting payment and 6 denied).

Mobile

- *Anecdotally the clients we have been serving are reporting that they received compensation from BP, and then applied for continued assistance through the Gulf Coast Claims Facility (GCCF) program.* ***Many clients are just now beginning to report that their original claims have been denied, after waiting nearly six months for a determination.*** *Our clients who have received GCCF compensation have been in the minority, and have received one (1) check last quarter (Oct-Dec) and expect one this quarter (Jan-Mar). By and large our clients were depending upon some compensation, and as a result have chronic financial needs as a result.* ***The lack of employment coupled with the client expectation that they would receive something from the fund, has left many clients in limbo.*** *They can't find a job to support their families, and they're not receiving compensation to pay their existing bills and obligations.*

NGO's Providing Claims Assistance

By June 2010 the State of Louisiana committed to developing a network of community-based organizations trained to provide claims-related technical assistance to individuals, businesses, and non-profits, which were to be funded with some of the initial BP grant funds awarded to the

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state. By August 2010, twelve organizations were identified along with a literacy organization to provide translation and conversion services. This network of claims' technical assistance providers were quickly trained and provided tools for assembling comprehensively documented claims packets.

From August 2010 through January 15, 2011, this claims' TA network has served an estimated 3,037 clients across 22 parishes, two-thirds of which are individuals and one-third businesses. Over 3,900 direct encounters have been provided to people largely working in fishing or shrimping (901 encounters), restaurants/food services (377), processors (184), retailers/ wholesalers (240) and other types of service jobs (215). These TA providers also conduct outreach and education events – 483 to date – and have connected with over 19,000 people affected by the oil spill event.

The claims' TA network is able to help claimants better understand the GCCF documentation requirements and has encouraged additional industry-specific information be provided to assist the GCCF adjusters during their claims review. Network members regularly communicate and undergo training so that they are consistent in their messaging to clients and also maintain dialogue on successes and changes within the GCCF claims processes. Sadly, to-date, the claims' TA network has had little success with sustained, open communication with GCCF; such communication would benefit both entities by way of more effective problem solving and claims resolution.

As GCCF has shifted to the interim and final claims protocols, the ongoing need for objective assistance with the claims process is critical to our citizens. Not only is the claims submission process itself more complex and confusing than when BP handled the claims, but also the settlement options now available present our citizens affected by the oil spill with a complex and confusing decision-making process.

The claims TA network is currently funded through mid-spring 2011, with efforts underway to ensure the network can maintain its work through June 2011. It is our recommendation that this claims TA network be funded annually to coincide with the GCCF longevity.

Status of Claims in the Fishing Sector- A Process in Peril

Statewide fishing industry payments for 3,919 individuals averaged $15,717 for their Six Months Emergency Payment. A total of 4,250 Fishing Sector Claims were denied as the Emergency Phase ended on November 23, 2010. This is coupled by the fact that no Interim or Final Claims have been paid in the new phase of payments. For the thousands of individual fishermen faced with unknowns of returning to fishing, little employment opportunities, and uncertainty of receiving an interim payment, the small emergency claim amount - if they even received it - may be their only source of income for a while.

Status of Improvement Projects for Claims Assistance and Results

Report on Pilot Project with Feinberg in Point a la Hache and with Long Law Firm (Personal story of St. Bernard Deckhand): The pilot project started in Pointe a la Hache, which is Ground Zero in many respects for this disaster. Together, with good communications with the State, we were able to identify 30 fishermen who had not received their emergency payments. We worked

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together with the Feinberg team in DC and were able to determine that five fishermen had all documentation and should have been paid and another ten to twelve could have been paid with a little more assistance and documentation. We began a process of fishermen signing consent forms to give us better access to information from the Garden City and Greer evaluators. We are receiving better information from Garden City that is explaining why particular claims were denied and what is needed to file Interim Claims.

The Feinberg team also referred us to the Long Law Firm in Baton Rouge. We have had initial conversations and they will visit our sites this week and attend our Case Management Training Institute. They can take cases we identify as vulnerable and high risk and hopefully get the specific claims resolved.

Success Story with Feinberg Team-Coordination of Care:

> The Mental Health Team reported to us that one fisherman and his wife were seeing our counselors. The wife broke down crying in the office because she did not understand why their claim had been denied. The day before, the Feinberg team had asked us to refer any dire cases directly to them. We did so and the team determined that the deckhand had filed a model application and the decision to decline the claim was made in error. They had rejected the claim because the application did not include a fishing license. However, since the gentleman was a deckhand, he did not need a fishing license to work. Immediately, the Feinberg team contacted the fisherman and resolved his claim request. This story illustrates the structural failure and a lack of the evaluators' understanding of the industries affected by this disaster that is causing undue stress. This anecdote also indicates the need to increase the scale and scope of these kinds of collaborations.

Non-Profits Facing Barriers to Recovery

In the aftermath of the oil spill, non-profits were integral to the immediate and subsequent relief efforts, meeting both individual and community needs, and addressing key social, economic and environmental concerns. However, nonprofits are being asked to provide more services with less than adequate funding, and this will not be sustainable over the long-term.

The aftermath of the oil spill was financially difficult for the non-profit sector and impacted the revenue streams of many organizations. Throughout last year, nonprofits experienced a dearth of foundation support because a "responsible party" was present to pay for damages, individual donations were stagnant or diminished due to the state of the economy, and a higher than usual number of citizens that needed services led to increased costs. Compounding these financial challenges, the GCCF claims process is designed to align only with the financial structure of small businesses and individuals and does not offer a third category for non-profits. As a result, non-profits are not recognized as a separate group which is leading to substantial barriers for the sector to receive claim awards. As of today, CCANO is not aware of one non-profit organization that has received a claim award.

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Since the disaster occurred last April, social service funding from all stakeholders to support the human side of oil spill recovery has been insufficient to meet the extent of client needs. In addition to non-profits not being able to secure a GCCF claim award, other avenues of funding has simply been inadequate to reimburse the work nonprofits have done thus far. Further compounding the lack of reimbursement funding is the issue of how non-profits will be able to support their work over the long-term to deal with the steady stream of clients that are asking for case management, job placement and mental health assistance. Therefore, plans must be put into place soon for how to give the sector the means to fully implement their resources now and into the future.

While non-profits are known for being innovative, resilient and nimble when times are tough, they cannot continue to extend themselves beyond their organizational capacity. If they do, then the ability to fund staff and operations will be at risk and whole organizations could be in jeopardy. Non-profits must be able to strike a balance between maintaining their operational excellence and maximizing their service delivery. Our sector is known for finding the best ways possible to meet this challenging balance, but it cannot do so without adequate support from all stakeholders including BP, foundations, major funders, individual donors, government, the business community and policymakers.

Recommendations

In closing, while Catholic Charities and other nongovernment organizations continue to work to meet the need, more funding is needed to continue to assist families adversely impacted by the BP Oil Spill and claims process. In addition to more funding, we recommend the following:

Immediate Recommendations for Claims Assistance Improvement

- Prioritize the over 4,000 Fishing Sector claims denied in the Emergency Phase and fast track resolution of these claims.
- Create a "Fishing Industry Specific Fair and Consistent Claims Process" that will allow fishermen to present documentation according to industry standards with alternatives to the quarterly reporting system currently in place
    - Designate a group to work with LA Department of Wildlife and Fisheries, Local Government, Fishermen Associations, Industry experts, and the local fishermen/business owners on the ground to understand their culture and way of doing business.
    - Create and design a separate protocol and list of required supporting documents that make sense for the fishing industry. Due to the nature of their business, a typical fisherman only has the following documents: Personal identification; Corporate Bylaws and Operating Agreement (if applicable); Business licenses/Boat registration; Tax Returns; Fishing Licenses; Trip Tickets; Expense Receipts. All of which should be taken into consideration to figure out a formula to be utilize across the board to pay fishermen's claims.

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- Improve Access to Information: Return decision-making to local community (GCCF/Worley) and allow fishermen real time immediate access their claims information
- Fund Continuation NGO TA Network Proposal and Re-structure NGO claims process

Immediate Recommendations Concerning Family Stabilization

- Fund Short Family Stabilization Grant Funds for $18,000,000 so that the families will remain stabilized during the transition to Interim and Final Claims
- Award Subsistence Claims and Declare Emergency Food Stamps in highly impacted communities
- Ensure diligent and consistent monitoring of the physical health of the workers especially those who directly worked in the oil spill clean up.
- Support development of a primary care network with emphasis on integrating behavioral health services in the primary care setting
- Prioritize job development and create training opportunities will help to mitigate the psychological impact of the oil spill in cooperation with the NEG funds from the Department of Labor that will keep fisherman in their communities

Longer Term Policy Framework Recommendations:

- We agree with Federal legislative recommendations that have been introduced that at least 80% of Clean Water Act penalties and fine funding be dedicated to the Gulf Coast and a Gulf Coast Ecosystem Restoration Fund. While the conservation, protection and restoration of coastal areas and wetlands is and remains the #1 priority for the use of Clean Water Act fine funding, the Mabus Report also clearly recommended and concluded that "the nonprofit sector is an important component of the long term restoration and recovery effort on the Gulf Coast."
    - For these reasons and the continued need, we recommend that any Federal legislation or Federal agency implementation plans, regarding the use of the Clean Water Act fine funds resulting from the Deepwater Horizon Oil Spill, include specific language that funding be specifically directed for voluntary not for profit non-governmental organizations that have already provided and will continue to provide comprehensive case management and direct assistance to individuals and families in the coastal areas impacted by the Deepwater Horizon oil spill. At least $50 million in funding for this important assistance

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should be dedicated out of a potential Clean Water Act penalty fund total that most authorities estimate will be at least $5 billion or more.

- Revise Oil Spill Pollution Act to include Human Recovery
- Mandate Regional Planning for Human Recovery to create a coordinating structure to improve recovery outcomes.
- Amend Tax Policy for Final Claims that spreads taxes over a period of years

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Additional Updates

The following provides an update on other Social Services and Family Stability:

Update on SNAP/Department of Children and Family Services

As of December 2010, a total of 1186 households with 2428 members in 21 parishes received $343,076 in SNAP benefits solely because of the oil spill. However, these numbers may be underreported according to DCFS officials.

Update on Mental Health Grant Findings

The majority of clients seen by the Spirit of Hope Program report feelings of anxiety and stress due to the loss of income and the lack of compensation from the claims process. In the cases where they have received some compensation, clients are still stressed because the amount given is not comparable to the losses that they have endured as a result of the oil spill. Many of the clients enter the program reporting feelings of hopelessness, stress and anxiety.

Based on previous disaster experiences, substance abuse issues and domestic violence issues occur about 18 months after the initial disaster takes place. As a result, Spirit of Hope has placed some funding in reserve to address those needs as they arise.

Update on Physical Health (Report from La. Bucket Brigade)

The Louisiana Bucket Brigade conducted door-to-door surveys (report forthcoming) in seven coastal Louisiana communities that recorded self-reported health impacts potentially related to the Deepwater Horizon Oil Spill. Some key findings of this survey were that 46 percent of nearly 1,000 participants believed they had been exposed to crude oil or dispersants. In total, 71.5 percent of respondents who believed they had been exposed *also* reported an unusual increase in symptoms that included headaches, eye irritation, difficulty breathing and nausea. These self-reported health impacts of chemical exposure recall the plight of the 9/11 first responders who were not required to wear respirators. From the exposure they experienced, many of them developed complex illnesses that require treatments the individuals cannot afford. Our main concern, based on those voiced from the affected communities during the surveys, is that the same will potentially happen to coastal residents and first responders on the Gulf Coast. They were also not required to wear respirators and will not be provided with insurance to cover the long-term health effects that we will begin to see transpire. We are additionally concerned at the lack of health facilities in coastal communities and the number of consistently available health care professionals who are appropriately trained and qualified to diagnose or treat chemical exposure.

US Department of Labor National Emergency Grant

Millions of barrels of oil have idled commercial and sport fishing operations throughout our coastal waters. Businesses that serve the fishing industry or buy their harvests have similarly been affected. Among them are tackle shops, net makers, gas stations, restaurants, truckers, and seafood processors and distributors. Such is also the case for the travel and tourism sector. The

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moratorium on deepwater oil drilling will have an even greater economic impact. Rig workers and oil service operations will see fewer and smaller paychecks and thus will inject less money into our coastal economies. It is safe to say that nearly every business in coastal southeastern Louisiana will feel some effect of the oil disaster.

The primary occupational areas from which workers have been dislocated include:

- Fisheries (oystering, shrimping, crabbing, recreational charter boats, marina operations, seafood processing and distributing, marine supply and sales, net makers)
- Related industries (transportation, restaurants, travel, tourism, retail, oilfield exploration and production, oil service operations)

The chart below indicates the population, unemployment and poverty rates of the three parishes. It also shows the number of claims paid by BP and the total amounts of those claims. Employment in the fishing industry, which is very important to the economies of Plaquemines and St. Bernard, is heavily undercounted because fishermen are typically self-employed. The unemployment rates will not include these individuals.

	Population	Unemployment Rate June '10	Poverty Rate 2008	# of BP Claims	Amount of BP Claims
Plaquemines	23,000	6.7%	15.1%	6,290	$16,274,946
St. Bernard	37,000	8.0%	20.3%	3,817	$ 7,270.811

Skills gaps in this dislocated worker population will be significant. Although these workers have been able to function effectively and operate what is in effect small family businesses, their work skills have basically been acquired from growing up in a traditional culture and could be compared to a long term OJT setting. What is known is that literacy and its subcomponents (English, math, reading, etc.) are going to surface as significant gaps regardless of what new occupations are selected. These individuals are gifted with an entrepreneurial spirit, a desire to provide for family, and what perhaps may be best described as elevated levels of mechanical aptitude and construction type skills.

While literacy levels will be low for many of these individuals, they also possess many skills that could easily be transferable to other occupations, which will need to be taken into consideration when matching them to alternative potential employment opportunities.

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Fishing Licensure Numbers

For

Tri-parish Area

Parish	Resident Commercial Fisherman	Resident Oyster Harvester	Resident Shrimp Gear	Resident Crab Trap	Total Fisherman
Plaquemines	771	512	140	26	1,449
St. Bernard	501	169	294	279	1,243
St. Tammany	385	24	249	204	862
Total	2,970	776	1,671	927	6,344

Case Managers Report Unemployment Skyrocketing Affecting Family Stability:

St. Patrick's

"Fishermen are experiencing reduced hours or they have been laid off. Clients that are self employed have indicated their businesses are slow. Clients are losing homes, vehicles and are having difficulty finding other employment opportunities. Most of the clients mortgages or rent are months behind. Some clients are facing foreclosure. Many say they cannot pay bills and their bills are delinquent due to the oil spill. No jobs no money. Employment is real bad and most clients do not hold high school diplomas or other job skills since fishing has been their only way of life in this parish. "

St. Bernard

"The overall impact is that even though some of the fishermen are able to go out it cost them more to go out than they will catch and be able to sell. Clients are complaining that they are unable to work in the industry because it is just not productive as it used to be, less hours in restaurants and seafood houses, and less pay for what they are able to catch."

St. Thomas

"There is depression, anxiety, anger and insomnia being exhibited in this community. There is uncertainty about their financial situation today as well as into the future. There is a tremendous lack of job opportunities. They are unable to meet their basic household needs (utility payment, food and clothing. Many fishermen do not see the claims process as user friendly and lack basic trust in the process."

Mary Queen of Vietnam Testimony

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"As I was a Customer Support Rep for SBA, I was providing assistance to the fishermen or businesses relating to fishing industry to apply for Disaster Assistance Loans. During those months, I came across a large number of people, especially Vietnamese, who were directly or indirectly impacted by the oil spill. For some reason, their claims got denied. These are the people who have fallen through the cracks who did not get any compensation by Gulf Coast Claim Facilities. Because of that, these people have encountered hardships in taking care of their families. I know a lot of them have to borrow money from their family members and friends to survive.

Many of them cannot find jobs because they live too far from the major cities where they can get training to allow them to change careers; furthermore, their age, language barrier are factors contributing to the difficulties of their job search. Not only has the fishing industry suffered, I have seen lots of businesses closed their doors because of losing customers. Along with that, the Moratorium has caused some difficulties to the Off Shore drilling businesses before the Moratorium got lifted."

Update on case manager successes stories (personal stories)

Case managers are providing the key link to recovery for the fishing community. They provide compassion and knowledge of a very complex and confusing system. Fishermen are developing their recovery plans and the case managers are connecting them with employment, food, rent and utility assistance – all of which are scarce. However, there are success stories.

A client came in seeking assistance with food. She is a single mother of two residing in Buras, LA. She was employed as a cook for BP but was laid off. Since she does not speak English well, it has been difficult for her to apply for government assistance alone. With the assistance of a case manager and a translator, the client was able to apply for food stamps and register with the food bank. She is scheduled to come back with her job history so that the case manager and the translator can assist her in writing a resume to enhance her job search experience. The case manager will continue to identify resources that will accommodate the client's needs of food and employment.

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STATEMENT OF LORI R. WEST, GULF REGION DIRECTOR OF INTERNATIONAL RELIEF AND DEVELOPMENT AND CURRENT CHAIR OF SOUTH MISSISSIPPI VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER (SMVOAD)

BEFORE THE DISASTER RECOVERY SUBCOMMITTEE
SENATOR MARY LANDRIEU CHAIR
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
UNITED STATES SENATE

GULF COAST RECOVERY: AN EXAMINATION OF CLAIMS ADMINISTRATION AND SOCIAL SERVICES IN THE AFTERMATH OF THE DEEPWATER HORIZON OIL SPILL
JANUARY 27, 2011

Madame Chairwoman and members of the Subcommittee, I am honored to be here today to provide testimony to this prestigious Subcommittee on behalf of the South Mississippi Voluntary Organizations Active in Disaster or SMVOAD. I would ask that my formal statement be submitted for the record.

I am the current chair of the Board of SMVOAD, a coalition of nearly 30 human service organizations that develop disaster response plans and respond to citizen needs following a natural or man-made disaster. I am also a principal in International Relief and Development (IRD), a global, non-profit organization which conducts humanitarian and development programming in more than 40 nations around the world including programming here in the United States. We are based in Arlington, Virginia. IRD is dedicated to improving the lives and livelihoods of the world's most vulnerable people wherever they may be.

Since 2005, the members of SMVOAD have been working together to address the effects of Hurricane Katrina, the nation's largest natural disaster. Members of SMVOAD include the American Red Cross, Catholic Charities, Hope CDA, Interfaith Disaster Task Force, International Relief and Development US, Lutheran Episcopal Services of Mississippi, Salvation Army, the STEPS Coalition, and United Way South Mississippi. A complete list of members is attached to my written statement. SMVOAD is affiliated with Mississippi VOAD and with the National VOAD organization headquartered in Virginia. The VOAD mission is to respond proactively to disasters that affect US residents anywhere in the United States.

Since June of 2010 and continuing through into January 2011, SMVOAD and IRD have held frequent meetings with British Petroleum (BP) to try and address the effects of the Deepwater Horizon oil spill on the residents of the Gulf Coast. We have submitted multiple humanitarian proposals to BP and revised those proposals in response to BP's feedback. The time and effort expended by SMVOAD members on this issue has been significant because we believe the problems faced by the people of Mississippi and those all along the Gulf Coast are considerable.

I would like to draw your attention to an August 2010 study by the National Center for Disaster Preparedness at Columbia University's Mailman School of Public Health. I believe this study is important because it has identified some key findings which clearly show the impact the spill has had on our local populations. More specifically, the study states the following:

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- More than 40 percent of the population living within 10 miles of the coast had experienced some direct exposure to the oil spill.
- More than one-third of parents reported that their children had experienced either physical symptoms or mental health distress as a consequence of the oil spill.
- One in five households has seen their income decrease as a result of the oil spill, and eight percent have lost jobs.
- Only five percent of coastal residents reported having received any cash or debit cards from BP, although more than 15 percent believe they may be eligible for compensation from BP for health consequences of the oil spill.
- More than one-quarter of coastal residents think they may have to move from the area because of the oil spill.
- The oil spill had the greatest impact on those with the fewest economic resources, much like Hurricane Katrina. Coastal residents earning less than $25,000 a year were more likely to report having lost income than those earning more.

In the summer of 2010, the United Way of South Mississippi, United Way for Jackson & George Counties, Gulf Coast Business Council, and the Mississippi Center for Nonprofits conducted a survey of nonprofit organizations, including those that provide assistance for housing, shelter, food, clothing, health, education, employment, finances, arts, and tourism, to measure the impact of the oil spill on residents. The survey found that the top six issues facing residents were stress, loss of job or income, increased need for food assistance, problems meeting car, rent or mortgage payments, problem purchasing prescription drugs, and loss of health insurance or other benefits. Also, nearly 70 percent of the non-profit organizations that reported a decrease in fundraising since May 1, 2010 indicated that the oil spill was a significant or moderate reason for that decrease. More than 80 percent of all the non-profits surveyed expected a decrease in fundraising the next 90 days.

Despite these negative impacts on our community and the heroic effort put forth by SMVOAD and other nonprofit agencies, BP has not yet provided the funding necessary to address the multiple social service needs of Gulf Coast residents. I have been asked by our members to provide a copy of major VOAD proposals including proposals to address various aspects of the spills impact on our community including:

- Housing;
- Finances;
- Job and vocational training; and
- Livelihood needs.

These proposals have also been included herein for the record.

Our members believe that ongoing conversations with BP have provided some feedback regarding these proposals. But, BP has stated that any funding of these types of urgent programs will indicate culpability for indirect or tertiary effects of the oil spill and thus they seem to have made a decision not to fund these critical programs.

There was some hope among SMVOAD members when BP agreed to award $52 million for mental health services for Gulf Coast residents in August 2010. SMVOAD worked with the Boys and Girls

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Clubs of South Mississippi to present BP with a comprehensive program to address both mental health and basic social service needs for at least 1,300 residents affected by the spill. It remains unclear to our members why the bulk of the proposal was not funded, and no funds were allocated for victims' urgent social services or real day-to-day needs such as food, rent, transportation, and other critical financial needs.

Based on our members' experience serving tens of thousands of Hurricane Katrina victims, SMVOAD member organizations can say with confidence that offering mental health and case management services without also providing for critical housing and vocational needs is largely ineffective.

We would like the Subcommittee members to note that many organizations have expended their own resources to assess and/or address the impact of the oil spill on low to moderate income families. Between May and September 2010, my organization, IRD, enrolled 976 clients in its case management and direct services programs, compared to 266 clients during the same period in 2009. Requests for rental assistance also increased from 236 during the first four months of 2010 to 678 in the five months between May and September 2010. In addition, IRD's YouthBuild program, a program that provides job training and GED preparation to at-risk youth in the Gulf area, saw its applicant pool rise from 142 in 2009 to 314 in 2010, immediately after the oil spill.

IRD and the members of SMVOAD are addressing the needs of those affected by the oil spill through a range of direct and referral services. In addition, the VOAD organizations in Alabama, Louisiana and Mississippi will hold a tri-state conference in November 2011 in Jackson, Mississippi, to address the unmet social and human service needs of Gulf Coast residents and to create greater regional collaborations to address this current disaster as well as future events. We urge members of this Subcommittee to come to our meeting and participate with us in this conference.

In closing, I know this subcommittee recognizes that many nonprofit organizations in the Gulf Coast region need additional resources to deliver effective services that will help residents who have been affected by the Deepwater Horizon oil spill recover both in the short and long term. But, today, I am also representing the SMVOAD to ask for more direct support and engagement on this critical issue with BP and its various representatives.

I am pleased to answer any questions about the experiences of SMVOAD and IRD in responding to the Deepwater Horizon oil spill. I thank the Subcommittee for holding this hearing and giving us a chance to give voice to those who need your help. Thank you.

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South Mississippi Voluntary Organizations Active in Disaster: Member List
American Red Cross
ARC South Central MS Chapter
Bay Area Food Bank
Catholic Diocese of Biloxi
Coastal Family Health
Gulf Coast Community Foundation
Habitat for Humanity Bay Waveland
Hancock Housing Resource Center
Hancock County Retired and Senior Volunteer Program
Hands On Gulf Coast
Hijra House
Hope CDA
Interfaith Disaster Task Force
International Relief Development
Lutheran Episcopal Services of Mississippi
Mental Health Association of MS
Meridian United Methodist Church
Mississippi Emergency Management Agency (MEMA)
Mississippi Interfaith Disaster Task Force
Presbyterian Church of America
Presbyterian Disaster Response
Southern District LCMS Recovery Assistance
The Salvation Army
United Jewish Communities
United Methodist Committee on Relief (UMCOR)
United Way of South Mississippi

South Mississippi Voluntary Organizations Active in Disaster: "Friends of" Organizations List	
American Red Cross, New Orleans	Mississippi Department of Mental Health
ARC South Central MS Chapter	Mississippi State University Extension
Back Bay Mission	Money Management International
Humane Society of South Mississippi	Pass Road to the Future
Immaculate Heart CDC	Save the Children
Meridian Institute	Women in Construction
Mississippi Center for Volunteer Services	

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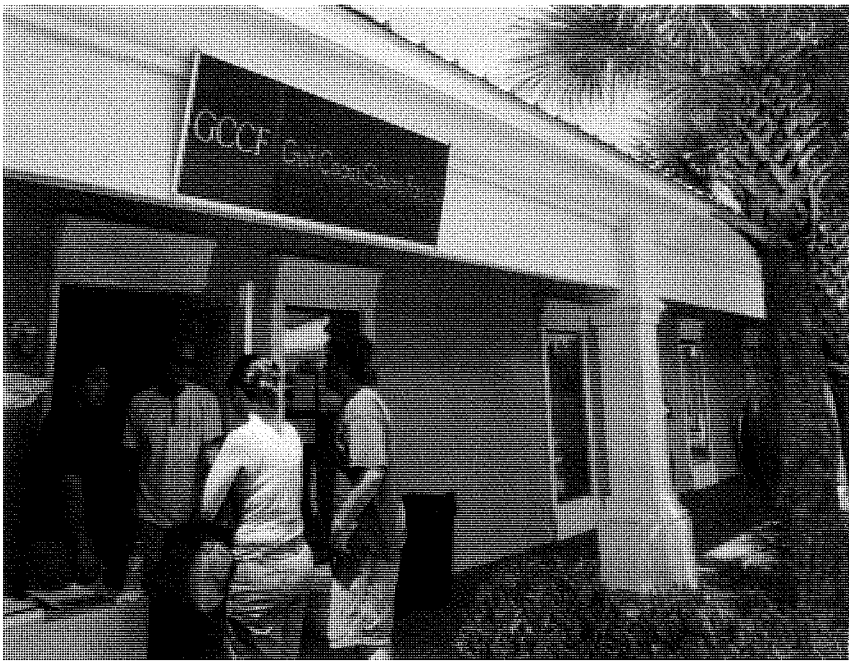
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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

August 5, 2010

Mr. Bob Dudley
Chief Executive Officer
British Petroleum
501 Westlake Park Boulevard
Houston, TX 77079

Dear Mr. Dudley:

I am writing to urge that BP provide grants to Gulf Coast states and qualified organizations to support the coordinated delivery of mental health services to individuals and families impacted by the Deepwater Horizon Oil Spill.

This disaster has wreaked havoc upon the lives of Gulf Coast residents. Fisheries closures throughout the region have disrupted the livelihood of thousands of people who depend upon the water to feed their families and keep their homes. They must now grapple with severe economic uncertainty and threats to self-identity and emotional well-being that result from watching their way of life disappear. In addition to the deckhands, truck drivers, waitresses, and seafood processors, scores of other laborers and small business owners are struggling with the impacts of decreased tourism and environmental damage. For many, this calamity will be the turning point in their lives. BP must be mindful of the psychological consequences of this disaster and provide resources to mitigate its toll upon the residents of the Gulf Coast, who are at severely increased risk of post traumatic stress, anxiety, depression, and alcohol and substance abuse. Recent reports of suicides and domestic violence linked to the spill underscore the need for immediate action.

A study released August 3rd by Columbia University's National Center for Domestic Preparedness in conjunction with the Children's Health Fund, revealed that 19.2% of the children surveyed in Louisiana and Mississippi were experiencing some form of mental distress. Another study released on July 29th by Ochsner Health System indicated that 30% of people interviewed in Louisiana, Mississippi, Alabama, and Florida suffered from serious psychological distress, and that the rate of mental illness among residents of South Louisiana had doubled since July 2007. Both studies confirmed disproportionate impacts among the youngest and most financially vulnerable people in the affected communities.

Deputy Assistant Secretary Lisa Kaplowitz with the Department of Health and Human Services stated on June 15th that "states are reporting spreading anxieties, frustrations about the ongoing nature of the spill and its economic impact, and fears that more severe psychological and social issues will emerge. The State behavioral health agencies have also reported to us that they are anticipating that the longer-term stressors and economic consequences of this disaster could lead to an increase in depression, substance use and abuse, family violence, high-risk behavior, suicide, and even a resurgence of trauma symptoms from previous events."

Studies conducted after the Exxon Valdez spill demonstrated the long-lasting psychological impact of this kind of technological disaster, particularly on those who rely on the ecosystem for their livelihoods, as many coastal families do. The Prince William Sound Regional Citizens Advisory Council wrote that "results of Exxon Valdez oil spill studies indicate that mental health impacts still persist 10 years post-spill. These impacts include disruption of family structure and unity, family violence, depression, alcoholism, drug abuse and psychological impairment." In addition, the Institute of Medicine identified mental health as its principal concern in this disaster during a recent meeting in New Orleans.

Addressing mental health needs is no less important than the removal of oil from marshlands and beaches or the compensation of people who have lost wages and income because of the spill. I was very disappointed to learn that BP denied the State of Louisiana's previous request for funding to support mental health services. The link between disasters and mental health impacts is clear, and as the Responsible Party for this manmade incident, BP has a moral and ethical responsibility to immediately tackle what is quickly emerging as a regional crisis.

My staff and I have met with officials from the National Incident Command, Integrated Services Team, Department of Health and Human Services, Catholic Charities, Louisiana State University Department of Psychiatry, Ochsner Health System, and the Children's Health Fund to discuss this important issue. I understand that the Substance Abuse and Mental Health Services Administration (SAMHSA) has provided a template and technical support to Gulf Coast states in the development of comprehensive plans to address the emotional and psychological needs of people affected by the spill, and that Louisiana, Mississippi, Alabama, and Florida each submitted funding proposals to BP on July 30th for outreach, public education, prevention, mental health and substance abuse services through October 2011.

I strongly urge BP to review the states' proposals and award funding in an expedited manner to support their efforts to meet the mental health needs of the people impacted by this unfortunate disaster.

Sincerely,

Mary Landrieu
Chairman
Subcommittee on Disaster Recovery

Cc: Admiral Thad Allen, National Incident Commander, Deepwater Horizon Oil Spill
Secretary Kathleen Sebelius, U.S. Department of Health and Human Services
Administrator Pamela S. Hyde, SAMSHA
Governor Haley Barbour
Governor Charlie Crist
Governor Bobby Jindal
Governor Bob Riley

MARY L. LANDRIEU
LOUISIANA

United States Senate
WASHINGTON, DC 20510-1804

January 20, 2011

Mr. Kenneth Feinberg
Administrator
Gulf Coast Claims Facility
Feinberg Rozen, LLP
1455 Pennsylvania Avenue Northwest
Washington, DC 20004-1004

Dear Mr. Feinberg:

I hope this note finds you well. I want to acknowledge the hard work that you and the whole Gulf Coast Claims Facility (GCCF) operation have done to help people affected by the Deepwater Horizon Oil Spill, having paid over $3.2 billion to more than 168,000 individuals and businesses thus far. I am concerned however that significant problems remain. The claims appeal threshold remains incredibly high, subsistence claims have not been adequately reviewed, and better coordination with technical assistance providers is required.

In the course of processing over 470,000 claims during the past five months, you have adjusted your model along the way to better serve claimants. For example, I appreciate recent announcements that the GCCF has created quarterly interim payments as an alternative option to a lump-sum final settlement. Many Gulf Coast residents do not feel comfortable filing for a lump-sum settlement right now while future harvests cannot be predicted, and I am sure that this interim payment option will be helpful in allowing more time to accurately determine losses. In addition, the new one-time "quick payment" option should appeal to claimants who wish to expeditiously close their claims and forego a lengthy review for their final settlement. After visiting Worley Catastrophe Response's Intralox claims processing center in Hammond, Louisiana with Mayor Mayson Foster last week, I was pleased to learn that claims are being evaluated by "industry clustering." I am also glad that the GCCF has engaged the Long Law Firm, L.L.P. and Hammerman & Gainer, Inc. to provide information and assistance to claimants at local GCCF intake facilities in Louisiana, along with other firms to provide support in other Gulf Coast states.

However, in its first five months, the GCCF has struggled to provide adequate customer service and communication. When claimants visit local intake facilities or call the GCCF hotline, they often cannot obtain updated or actionable information about the status of their claim. The usual vague response is that their claim is "Under Review," but they are unable to learn whether specific documents are missing or incomplete or where their claim is in the review process. This is unacceptable. Hopefully representatives from the Long Law Firm and Hammerman & Gainer will have better access to information and the ability to provide specific details to claimants. The firms whom the GCCF has hired to operate intake facilities along the Gulf, such as Worley Catastrophe Response, should also have access to better information, and empowered claims adjusters should be deployed to work at the ground level. If a claimant is lacking required documentation, he or she should have rapid and direct access to someone within the GCCF who can explain which particular document is missing. I have previously mentioned to you the need for a matched point of contact for

each individual claimant. This was one aspect of the pre-GCCF claims process that many claimants wish was carried over. I sincerely hope this problem will be solved through the engagement of support personnel from these Louisiana firms.

Constituents have often relayed their frustrations to me about a lack of transparency and perceived underpayments to employers. Individual claimants seem to be generally satisfied with their Emergency Advance Payment award amounts and processing times, while business claimants seem disgruntled about long waiting periods as well as receiving only a fraction of what they expected. This confusion may be ameliorated by the inclusion of an invoice with the payment or denial letter explaining which claimed losses were determined eligible or ineligible for compensation. I do hope that the interim and final payments will be issued in a more transparent fashion and accompanied by more detailed information about award calculations.

I also appreciate your recent assurance that the Garden City Group representatives who make up your Congressional Inquiry Team will be granted greater access to claimant information in order to provide better constituent service in response to elected officials' inquiries and requests. Constituent service is at the foundation of public service, and I pride myself on providing effective assistance to those constituents that request my office's help. By way of comparison, all Federal agencies employ dedicated staffs who, upon receipt of a completed Privacy Act Release, respond directly to my office with a detailed explanation of the case, including the challenges ahead. While the Garden City Group representatives who handle such inquiries for the GCCF have been responsive to my submissions, they are not able to provide the depth of information my constituents are accustomed to. The Congressional Inquiry Team always responds immediately after my staff submits the inquiry; however, the average time for resolution is 10 to 14 days, and 16 of our requests for expedited reviews have taken over 30 days to resolve. As you know, my office is not alone in this complaint.

The appeal threshold is unreasonably high for claimants who disagree with their award decision. In order to submit an appeal to the GCCF's three-judge appeals panel, individual claims must exceed $250,000 and business claims must exceed $500,000. This threshold will prevent the vast majority of claimants from presenting their case before the GCCF appeals panel. According to the data on your website, only 101 paid business claims have exceeded $500,000 and only 33 paid individual claims have exceeded the lesser threshold of $100,000 out of all 168,000 claims that have been paid thus far. Gulf-wide, there are certainly more than 134 eligible claimants dissatisfied with their award decision. The qualifying threshold for the GCCF appeals panel should be reduced dramatically if not eliminated completely. I understand that the Coast Guard National Pollution Fund Center (NPFC) is designated by the Oil Pollution Act of 1990 to review claims appeals regardless of size; however, this fact has been woefully under-advertised. All claimants should receive clear written notification of this appeals option along with their award decision letter from the GCCF.

I have also heard numerous concerns about subsistence claims. Subsistence fishing was prevalent in many communities along the Gulf Coast before the spill, especially among the Vietnamese-American and Native American tribal communities in South Louisiana. While subsistence claims may be difficult to document, there were certainly more than 11 legitimate subsistence fishers hurt by the Deepwater Horizon Oil Spill. The GCCF website data shows that only 11 subsistence claimants have been paid to date, but according to data compiled by Mây Nguyễn and Mary Queen of Viet Nam Community Development Corporation, Inc. (MQVN CDC),

over 16,000 subsistence claims have been submitted. You received a white paper entitled, "Loss of Subsistence Use Claim Framework & Template," on December 16, 2010 from MQVN CDC. The GCCF must adopt a single method for fairly evaluating subsistence claims, which as you know are eligible for compensation under the Oil Pollution Act, whether that methodology be the one proposed by the white paper, one used for previous spills by the NPFC, or one developed by the GCCF. I hope you will review the white paper and its recommendations and take steps to augment payments for legitimate subsistence losses.

Finally, to comprehensively help you address all of these listed concerns, the GCCF must coordinate with the 12 community-based technical assistance (TA) providers contracted by the State of Louisiana. These 12 nonprofit organizations have the capacity to provide claimants with program information, financial analysis, and assistance in preparing and submitting claims. On September 24, 2010 and on behalf of the Louisiana TA Network, the State of Louisiana sent you a proposal outlining the extensive track record of these organizations and the services they can provide with a complete budget of less than $2.2 million. Of the $20 billion BP set aside for the escrow account you administer, I believe $2.2 million is a reasonable administrative expense, consistent with the GCCF's mission and authorities, and eligible under the Oil Pollution Act. Perhaps personnel from the Long Law Firm, Hammerman & Gainer, and other intake facility staff with access to precise claimant information could devote a certain number of office hours to TA providers each week to help them more effectively manage their caseloads. Funding the State of Louisiana's request and structuring better outreach and coordination with the Louisiana TA Network will make the claims process run more smoothly, reduce the GCCF's workload, and help a great many claimants who have come to trust and rely on these community-based organizations over the past six years. These organizations have been valuable partners in helping people navigate other recovery programs and application processes after the four major hurricanes that have struck the state during that period.

The changes you have already made to improve customer and constituent service and enhance award transparency are a good start, but lowering the appeals threshold and explaining the NPFC's role, paying legitimate subsistence claims, and funding and coordinating with the Louisiana TA Network will together yield a stronger and more effective GCCF. You promised an efficient, fair, and transparent process, and the people of the Gulf Coast expect you to uphold that pledge to the greatest extent possible. Thank you for your hard work and sincere determination to administer the claims process justly and honestly. I look forward to discussing these issues with you next week in an open Congressional setting at our hearing, "Gulf Coast Recovery – An Examination of Claims Administration and Social Services in the Aftermath of the Deepwater Horizon Oil Spill," before the Ad Hoc Subcommittee on Disaster Recovery, and continuing to work with you to ensure that individuals and businesses negatively affected by the Deepwater Horizon Oil Spill are fairly compensated.

Sincerely,

Mary Landrieu
United States Senator

MLL:abj

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

January 20, 2011

Mr. Kenneth Feinberg
Administrator, BP Claims Fund
Willard Office Building, Suite 390
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1008

Dear Mr. Feinberg:

Yesterday you had the opportunity to meet with several hundred business owners and residents of North Florida who have been adversely affected by the Deepwater Horizon Oil Spill. They are very fearful not only for the future of their families and businesses, but for the survival of their communities and way of life.

At today's meeting, you announced your intention to establish and publicize the methodology the Gulf Coast Claims Facility will use to determine final and interim claims payments. I am writing to formally request that a member of the Florida Department of Financial Services participate in the creation of that methodology.

Our office has been working and is in regular contact with hundreds of business owners and families who have lost, or are on the verge of losing, their businesses or homes due to financial losses directly stemming from the oil spill. In some cases, we have helped dozens of claimants get full or partial payments. With others, we have helped get a re-evaluation of their claim. Direct feedback from the claimants we have worked with, or are currently working with, reveal that clear guidelines on documentation required to prove a claim are desperately needed, and that the claims process has been a nightmare to navigate and completely lacks transparency.

Moreover, many claimants have been waiting months for information on their claims. These are family, friends and neighbors losing not only the businesses they worked hard to build but also their homes and other assets. We have been on the phone with business owners facing eviction that same day, or who could not put food on their families' tables that night because their bank accounts had dwindled as they patiently waited for their promised claim payments.

DEPARTMENT OF FINANCIAL SERVICES
THE CAPITOL, TALLAHASSEE, FLORIDA 32399-0301 • (850) 413-2850 FAX (850) 413-2950

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Mr. Kenneth Feinberg
Page Two
January 20, 2011

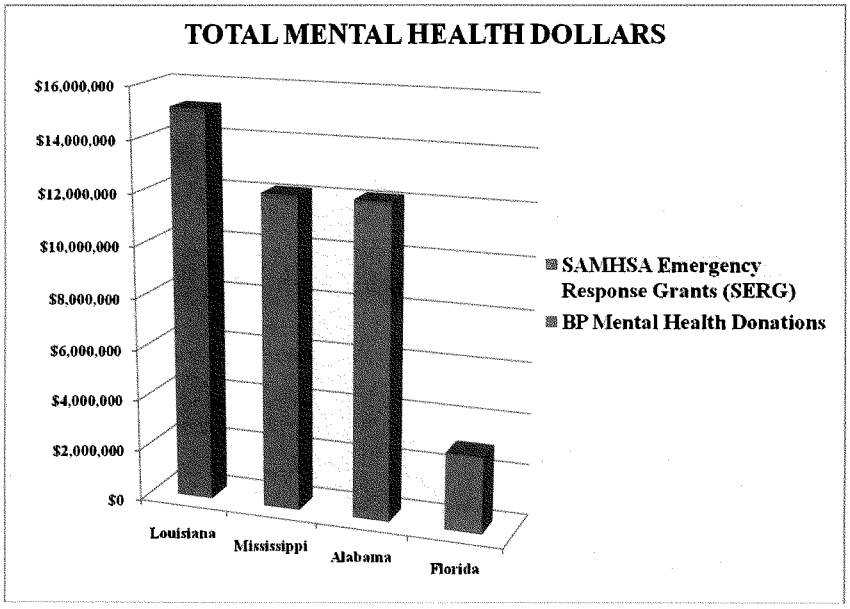
As Florida's Chief Financial Officer, I am committed to ensuring that every business and every resident negatively impacted by the oil spill is immediately compensated for rightful losses and made whole. To that end, we want to offer our insight for improving and expediting the claims process. We must work together to get Florida's families and businesses back on their feet.

I look forward to your prompt response.

Sincerely,

Jeff Atwater
Chief Financial Officer

c: Governor Rick Scott, State of Florida
Attorney General Pam Bondi, State of Florida
Commissioner of Agriculture Adam Putnam, State of Florida
Members of the Florida Legislature


TOTAL MENTAL HEALTH DOLLARS
$16,000,000
$14,000,000
$12,000,000
$10,000,000
$8,000,000
$6,000,000
$4,000,000
$2,000,000
$0
Louisiana
Mississippi
Alabama
Florida
SAMHSA Emergency Response Grants (SERG)
BP Mental Health Donations

The Louisiana Technical Assistance (TA) Network Needs Funding

Funding Runs Out	NGO	Service Expertise	Parishes Served
February 2011	**ASII** - A Shared Initiative Inc.	Mortgages, loans, taxes, financial literacy	Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard
	VIET - Vietnamese Initiatives in Economic Training	Asian communities across the impacted parishes plus in MS & AL	Orleans, Jefferson, Plaquemines, Lafayette, Iberia, St. Mary, Vermilion, St. Tammany, Cameron
	LANO - Louisiana Association of Nonprofit Organizations	Organizational claims assistance	Statewide assistance for nonprofit organizations
	Seedco Financial Services, Inc.	Small business financing and commercial fishing	Fishermen in Orleans, Plaquemines, St. Bernard
March 2011	**CCC** - Coastal Communities Consulting	Financial expertise specific to commercial fishing; largely serves Vietnamese-Americans	Jefferson, Orleans, Plaquemines, St. Bernard
	Operation Hope	Small businesses & individuals	Jefferson, Orleans Westbank, Plaquemines, St. Bernard
	MQVN CDC - Mary Queen of Vietnam Community Development Center	Vietnamese- & African-American clients	Jefferson, Orleans East, Plaquemines, St. Bernard
	SLEC - South Louisiana Economic Council	Small businesses in Assumption, Lafourche, St. Mary, & Terrebonne parishes	Assumption, Jefferson, Lafourche, St. Mary, Terrebonne
	VLA - Volunteers of America, Acadiana Region	Focused on individual needs; behavioral health issues	Iberia, Lafayette, St. Mary, Vermilion, Cameron, Calcasieu
April 2011	**GNO Inc.** - Greater New Orleans, Inc.	Broad economic development	9-parish region in SE Louisiana
	CCANO - Catholic Charities, Archbishop of New Orleans	Provides individuals broad range of needed social services & resources	Jefferson, Orleans, Plaquemines, St. Bernard
June 2011	**TEDA** - Terrebonne Economic Development Authority	Focused on large businesses in Terrebonne Parish	Terrebonne

The Louisiana TA Network Provides Direct Assistance to Claimants that Helps Victims of the Oil Spill & the GCCF.

The GCCF Appeals Threshold is Too High

Individual Claims – $250,000
Business Claims – $500,000

Only 33 of the 185,000 total paid Individual Claims even meet the lesser $100,000 threshold.

Only 101 of the 60,000 total paid Business Claims meet the $500,000 threshold.

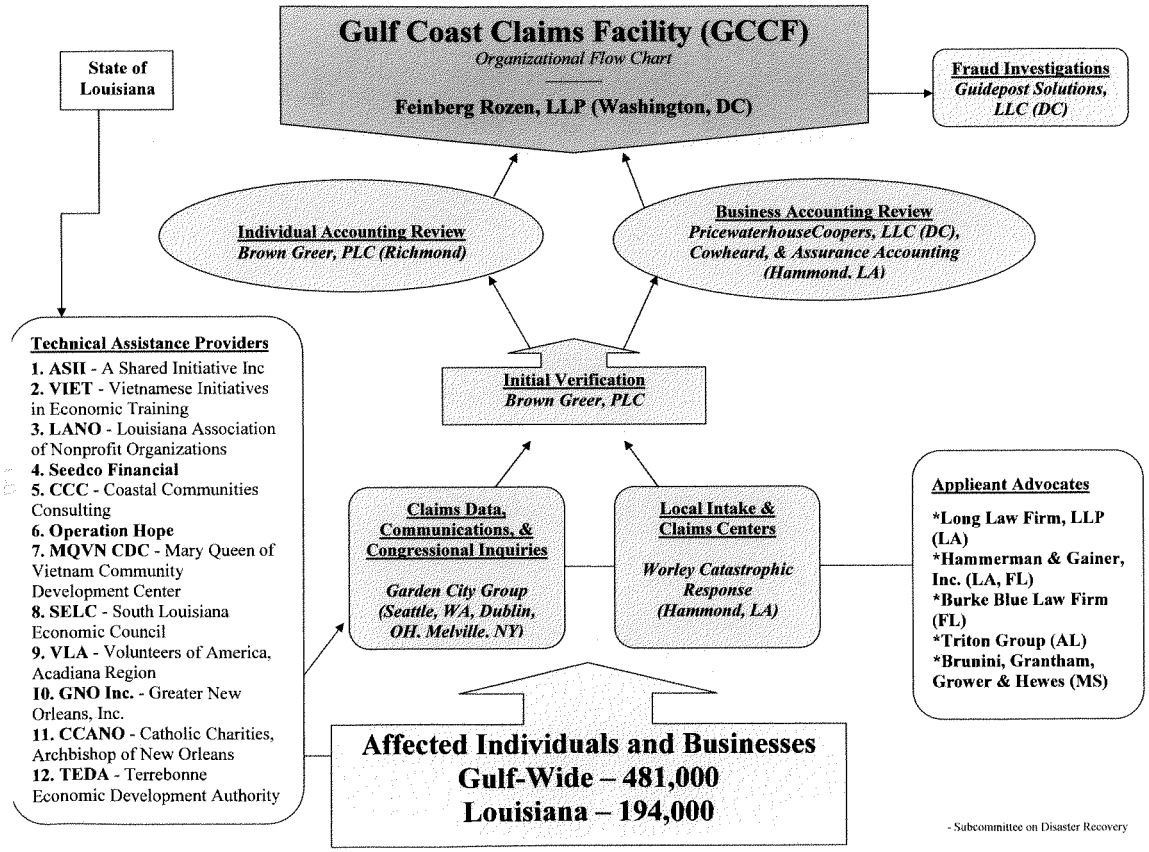
OVERALL GCCF CLAIMS DATA

Gulf-Wide

TYPE OF CLAIMANTS	CLAIMANTS	PAID CLAIMANTS
Individuals	397,000	185,000 - $1.370 Billion
Businesses	86,000	60,000 - $1.905 Billion
TOTAL	483,000	245,000 - $3.275 Billion
Separate Fund for Real Estate Agencies		$60 Million
TOTAL PAID *(1/25/2011)*		$3.336 Billion

By State

STATE	CLAIMANTS	PAID CLAIMANTS
Louisiana	194,000	85,000 - $1.136 Billion
Florida	162,000	98,000 - $1.308 Billion
Alabama	68,000	41,000 - $633 Million
Mississippi	52,000	22,000 - $290 Million
Texas	10,000	3,000 - $107 Million



- Subcommittee on Disaster Recovery

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

[redacted]

[redacted]

Re: GCCF Claimant Identification Number [redacted]

[redacted]

You submitted a claim to the Gulf Coast Claims Facility ("GCCF") for an Emergency Advance Payment for damages relating to the Deepwater Horizon Incident on April 20, 2010. Your submission did not provide sufficient documentation to support your claim and consequently, your request for an Emergency Advance Payment has been denied.

This decision is based on criteria that apply to all claimants seeking payments from the GCCF. This denial applies to your request for an Emergency Advance Payment only and does not affect your right to submit claims for Interim or Final Payments. Specific information and instructions related to the Interim and Final Payment claim submission processes will be made available on the GCCF website and copies of all materials will be mailed to you. You will not have to resubmit any of the documentation previously provided to the GCCF. You will be required, however, to submit additional documentation to support your claim for an Interim or Final Payment.

If you have any questions about the denial of your claim, or about how to submit a claim for an Interim or Final Payment, contact the GCCF toll-free at 1-800-916-4893 (you will be prompted for multilingual telephone assistance), or visit www.GulfCoastClaimsFacility.com. For TTY assistance call 1-866-682-1758. Please be sure to provide your Claimant Identification Number, as well as your full name, your address and the last four digits of your Social Security Number or Taxpayer ID in all correspondence with the GCCF.

Sincerely,
Administrator
Gulf Coast Claims Facility

P.O. BOX 9658 | Dublin, OH 43017-4958 | Toll-Free: 1-800-916-4893 | Fax: 1-866-682-1772 | info@gccf-claims.com

BOBBY JINDAL
GOVERNOR

PAUL W. RAINWATER
COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration
Office of Community Development
Disaster Recovery Unit

November 18, 2010

Mr. Robert Dudley
Group Chief Executive
BP P.l.c.
Government Claims and Funding Requests
1905 W. Thomas Street
Suite D-358
Hammond, LA 70401

Dear Mr. Dudley:

I ask that BP immediately fund the attached six-month proposal from Catholic Charities Archdiocese of New Orleans (CCANO) to support families impacted by the Deepwater Horizon oil spill for the amount of $18,234,765.

CCANO represents members of the Greater New Orleans Volunteer Organizations Active in Disaster (VOAD), which provide direct social service assistance, financial counseling and case management to families in the most impacted parishes of Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Mary, St. Tammany, Terrebonne and Vermilion. While BP recently funded the mental health portion of the proposal previously submitted by CCANO, mental health services are not as effective if done without other direct social service assistance, financial literacy and case management. If the attached proposal that includes these services is not immediately funded, nonprofit organizations will be forced to continue to rely on their pre-oil spill operating budgets and will be at risk of no longer being able to provide critical services to families whom are now living at or near the poverty level.

Since the Deepwater Horizon oil spill on April 20, 2010, it is estimated that more than 13,000 Louisiana families have struggled to pay utility and housing bills and to provide basic items like food, prescriptions, transportation and clothes. These families could either not find alternative work, or the work they found did not provide as much as they earned in fishing, tourism or the oil and gas industry. Restrictive eligibility requirements – part of the two claims processes established by BP and Gulf Coast Claims Facility – made it difficult for families to receive funds for basic needs.

Using the Louisiana Table supplied by GCCF as of October 16, 2010, of the 76,890 claims filed, more Louisiana claimants require additional documentation than have been paid (22,457 paid v. 34,677). An additional 17,580 claims from Louisiana residents are under review for advance payment. While emergency advance payments total $520.5 million, over 40 percent of Louisiana claimants who have filed are having trouble navigating the GCCF claims process. With 65,344 of the state's 76,980 claims filed by individuals, it is easy to see how the slow pace of obtaining a payment, along with the low amount of the six-month emergency lump sum payments, is making it so that families can no longer provide for their basic needs.

150 North 3rd Street, Suite 700 • Baton Rouge, Louisiana 70801 • (225) 219-9600 • 1-866-272-3587 • Fax (225) 219-9605

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Mr. Dudley
Page 2
November 18, 2010

The need for the social services outlined in the CCANO proposal will continue to rise until households and businesses are back to pre-oil spill employment and salary levels and are adequately reimbursed for their claims and losses. As a result, it is anticipated that another request will be made to support a longer-term social service initiative.

I look forward to being in touch and providing any other information you may need to immediately fund the attached proposal. You may also contact Kris Van Orsdel at 225-333-1455 or kris.vanorsdel@la.gov.

Best regards,

Robin Keegan,
Executive Director, Office of Community Development

cc: Kenneth R. Feinberg, Administrator, Gulf Coast Claims Facility
James R. Kelly, Co-President & CEO, Catholic Charities Archdiocese of New Orleans
Gordon R. Wadge, Co-President & CEO, Catholic Charities Archdiocese of New Orleans

Catholic Charities
Archdiocese of New Orleans

Restructured

GNO Voluntary Organizations Active in Disaster (Greater New Orleans VOAD)

"Family Stabilization: Transition to Long Term Human Recovery"

Six Month Application

Deepwater Horizon Oil Spill

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Healthy Worker

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Introduction

Since April 20 2010, when the oil spill occurred, the NGO community has responded, as best it can, to the challenges of human recovery without a federal declaration. The emergency phase consisted of working directly with BP with food and emergency assistance. Major gaps in the human recovery system existed then and continue to exist six months later. There has been the introduction of the Mental Health Initiative and the DCFS Claims Assistance Initiative, and this adds critical pieces of the comprehensive services that are needed to have a holistic and effective response to recovery.

Current Context

The current situation is worse than it was several months ago. The Vessels of Opportunity Program is winding down, relegating fishermen as out of work when they can afford it least. The BP claims process continues to keep thousands at poverty levels and the Feinberg process has yielded poorer results, in terms of levels of payment, than the BP process. As of Oct 6, 1,801 fishermen in the State of Louisiana have not been paid through the Feinberg process, although they have filed a claim. The shrimp and oyster fisherman are still having trouble with the low prices of shrimp and quantities of oysters. Major language barriers still exist, with not enough staff skilled in language interpretation. Some are fishing just to document their losses for the final BP claim. The fishermen are faced with uncertainty in employment and uncertainty with the claims process, in terms of adequate funds to sustain them for six months, and then the uncertainty of their final claims.

Initial VOAD Application

In preparation for the initial full proposal to be presented to BP, a call for concept papers was issued by the GNO VOAD (Greater New Orleans Voluntary Organizations Active in Disaster) in May of 2010. The concept papers were two page narratives and budgets that describe proposed recovery and assistance services each agency is able to undertake. Twenty-seven proposals were submitted. The proposals focused primarily on case management, financial literacy, children, and behavioral health services. Catholic Charities Archdiocese of New Orleans (CCANO) was named the fiscal agent of this proposal to BP. This proposal was submitted to BP in June, 2010 and included agencies from the following parishes: Orleans, Jefferson, Plaquemines, St. Bernard, St Tammany, Lafourche, Terrebonne and St. Mary. Acadiana VOAD submitted a separate proposal to BP and has currently not heard a response back from BP.

In August 2010, BP announced that it would fund $15 million to LA for behavioral health services. BP allocated $6.7 million to Catholic Charities and VOAD partners, and the remainder went to the Dept. of Children and Family Services (DCFS). While CCANO and its NGO partners were grateful that BP provided funding for behavioral health services they did not fund the request for case management and direct assistance to affected clients with unmet needs, financial literacy, or children services. These all represent areas of unmet needs that the NGO community lacks resources to provide effective services.

In order to evaluate objectively proposals and services needed, Catholic Charities has convened an advisory board. Members of the advisory board are as follows:

- **Peter Brown,** Executive Director of National Behavioral Health Institute
- **Byron Harrell**, CEO of Baptist Community Ministries Foundation
- **Chatrian Kanger,** LA Public Health Institute
- **Elmore Rigamer,** Medical Director, Catholic Charities Archdiocese of New Orleans

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- **Bill Salmeron**, Chair of the Greater New Orleans VOAD
- **Beth Terry**, Executive Vice President of the United Way of Greater New Orleans
- **Kay Wilkins**, CEO of American Red Cross, Greater New Orleans

Based on the information yielded from the Catholic Charities community needs assessments, and the work done to date on the ground, it was told the following are the most pressing areas of need in the next six months:

1. **Case Management and Direct Assistance (food, rent, utilities)**
2. **Food (boxes/pantries)**
3. **Mental Health and Health Services**

Need for Re-Structured VOAD Application

The restructured VOAD application is necessary to incorporate all the lessons learned from the six months and to have a model that is more responsive to the "stabilization" phase of recovery over the next six months. This stabilization phase will last from fall of 2010 until spring 2011, when we may have more information on the status of the fisheries and when the Feinberg process yields better results in terms of equitable payments. A long-term recovery application will then be needed to cover years two through five of the human recovery process.

We have learned, over the last six months, what components of a comprehensive model are needed for oil spill human recovery. The following includes a brief overview of the target population, process, structure and outcomes necessary to stabilize families during this transition phase to move us effectively to the long-term human recovery phase.

Geographic Areas Targeted in Restructured Proposal: Services covered by this grant will be rendered in the following parishes: Orleans, Jefferson, Plaquemines, St. Bernard, St Tammany, Lafourche, Terrebonne, St. Mary, Iberia and Vermilion Parishes. For purposes of the restructured proposal, Iberia and Vermilion Parishes have been added to encompass a statewide approach.

Process

The following is a brief review of the process elements that are needed during the stabilization phase. All these elements need to be coordinated by a case manager who will add value by providing a human contact and human relationship in a very complex and culturally confusing system, defining the unmet disaster related needs, identifying the most vulnerable and most affected, and leveraging resources to maximize the recovery dollar.

Intake and Screen:

- Intake will be accomplished through the Client Track System which has an Intake Form and is able to be modified to include fields for long-term case management. This will include a brief Mental Health screen called a PQH2.

Assessment

- This process includes developing a comprehensive assessment, including health exposure assessments that are relevant to the oil spill. This model follows the FEMA Sequence of Delivery Approach.

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Disaster Recovery Plans (See Attachment)

The disaster recovery has core elements that need coordination and capacity building to respond to this stabilization phase.

Interventions:

The interventions below outline the comprehensive model that is required to support stabilization of families:

- Direct Assistance The next need is for direct assistance for utilities and rental/mortgage payments. Former BP payment levels were keeping the fishermen and their families just above subsistence poverty levels. Public documents available show that the oystermen, shrimpers, crabbers and fishermen received average payments of $2,143 per month ($25,724 annualized)[1] since the disaster occurred on April 20, 2010 and transitioned to Feinberg and the GCCF on August 15, 2010. An unemployed head of household relying on the claims process to substitute one year's loss of income would earn just above the federal poverty level of $22,050.00[2]. In the current GCCF system, 44.1% are making an average of $5,818 over six months as of October 8 for an average of $969.00 per month[3], placing them below the federal poverty level. Thus, NGOs are experiencing an increase in the request for services to fill the void and are operating on very limited resources.

- Supplemental Nutrition Assistance Program (SNAP): The NGO community has worked hard with the state on improving the process for access to SNAP. However, since we do not have a federally declared disaster, there are no disaster food stamps. We have worked hard to increase the levels of participation; however, levels still remain at 45% participation instead of almost 90%, if this were a federally declared disaster. The case management system still needs to work with families to secure basic food resources since the Emergency Payments are extremely low compared to what they were making.. Over 90% of the 2,088 families surveyed showed food as the No. 1 priority need… yet only about 45% are using the SNAP program. The SNAP program is not easily accessible to the Vietnamese and Cambodian populations due to language barriers, with follow-up letters that many times come back written in English to communicate status of application.

- Claims Assistance: This is most critical to the income stabilization of the family. Currently, there are 12 NGOs in the field beginning to learn the system and assist with claims. This presents challenges, with over 36,000 claims in Louisiana stalled because of lack of documentation. The priority should be on the fishing industry as these claims are the most complex but most necessary for family stabilization. At present, GCCF is processing claims that are less complicated and putting those that are more complicated to the side. Continued integration with the NGOs and the case management system is necessary. There are 1,005 fishing claims stalled in the Jefferson, Orleans, Plaquemines and St. Bernard, civil parishes.

- Interpretation Services: With 48% of the affected population of Asian Pacific decent, this presents specific problems for this disaster. BP is pulling all the interpreters from the sites and this leaves a tremendous void for the NGO community to fill. Fishermen stated that lack of effective

[1] Event Summary, BP oil spill 6866 Louisiana August 14, 2010

[2] Number based on the Federal Poverty Guideline for a household of four.

[3] October 8', 2010Program Statistics Gulf Coast Claims Facility

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interpretation services is causing unnecessary stress in the Vietnamese community. Both the DCFS Technical Assistance grant and the Mental Health Initiative are addressing this issue through limited funds as best they can.

- Transitional Employment: There is a $10 million National Emergency Grant (NEG) about to be available in the field through the local Workforce Investment Boards. It will be imperative to keep the fishermen, especially the deckhands, apprised of employment or possible re-training opportunities. At the same time, innovative programs aimed at the older fishermen to keep them in their communities and on the water are needed until the fisheries come back. These programs are essential for family stability and cultural sensitivity. This will necessitate flexible funding of the NEG training programs in these highly affected communities.

- Adult Education: With this particular population having a history of working on the water and not engaging necessarily in formal education beyond high school, and sometime less, the focus on basic literacy and workplace literacy will be important. This presents problems with lack of training programs in these isolated communities with many lacking adequate transportation. Connection and creation of adult education systems in these areas are necessary for full recovery.

- Physical Health and Health Surveillance Integration: This will be an important and unique component of this oil spill disaster. Since the fishermen who worked in the clean up had direct contact with oil on the water with no respirators, this aspect needs vigilant monitoring by a holistic system that recognizes the health of the worker as primary. In Louisiana, there have been 415 reports of health complaints, with most frequent symptoms that include headaches, dizziness, nausea, vomiting, weakness, fatigue and upper respiratory irritation. In addition, 18 workers have had short hospitalizations. [4] The integration of health care with the case management system in these remote areas will be critical based on lessons learned from Exxon-Valdez.

- Mental Health: We are fortunate to have the Mental Health funds now being utilized in the community. This will utilize a comprehensive model with primary interventions with the fishermen in addition to building community resiliency. The addition of this element enhances the full spectrum of services that are needed for recovery and complements the direct services.

- Emotional and Spiritual Care: The emotional and spiritual care of the community is an important element of recovery. The Vietnamese community holds the clergy in high esteem and will confide in them but not always traditional mental health professionals. Creative ways to connect the Mental Health with the Emotional and Spiritual Care programs will enhance recovery for many individuals.

- Financial Planning: Operation HOPE and CCANO have partnered to apply to the Center for Financial Service Innovation Fund to provide The Gulf Coast Financial Empowerment Program ["GCEFP"], which aims to improve the financial capability of individuals living in Louisiana's Coastal communities that were affected by the BP oil spill. It is unknown at this time if this program will be funded. The GCEFP will provide services to lower-income individuals living and or working in Port Sulphur, Lafitte, and St. Bernard in Louisiana. CCANO is requesting an additional $500,000 for the stabilization grant to expand these services to Iberia, Lafourche, Orleans, St. Mary, Terrebonne and Vermilion Parishes to encompass a statewide approach to the affected coastal communities of LA. In addition, the restructured proposal will also include areas of

[4] CDC oil spill Surveillance Report: Sept 19-25(Week 38)

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Jefferson and Plaquemines Parish that are not covered in the proposal to the Center for Financial Service Innovation Fund.

These coastal Louisiana communities were directly affected by the BP oil spill and will need our aid to provide financial literacy training and counseling to get their finances back in order. Their traditional income streams have disappeared. At the same time, they are receiving lump payments from BP. GCFEP will provide free case management, one-on-one coaching, and seminars that train clients to budget, increase credit scores and bank savings, and make smart decisions about financial products. Additionally, GCFEP will teach clients how to use free online tools to improve their finances.

Though 87% of Gulf waters have been reopened to fishing, many individuals working in the fishing, food service, and other support industries are struggling with greatly reduced demand for Gulf seafood, and therefore are still reeling from the effects of this economic crisis. In the future, many of these individuals will receive large claims payments from BP. GCFEP aims to help these individuals navigate through these unstable economic times and make smart financial decisions in the future.

The GCFEP aims to connect low-income populations in Louisiana's Coastal Communities with the financial education, tools, and resources needed to build healthy and stable financial lives. Specifically, GCFEP seeks to help clients build budgets, increase savings, open bank accounts, improve credit scores, meet local bankers and learn how to assess financial products. GCFEP will leverage online technologies while also providing in-person case management services.

Operation HOPE has an established track record of providing economic empowerment to underserved communities. GCFEP will leverage HOPE's expertise in order to provide high-quality resources to its clients. GCFEP will also capitalize on Catholic Charities Archdiocese of New Orleans' (CCANO) established presence in its target communities. GCFEP will provide case management services and one-on-one financial coaching to help clients identify trouble areas, connect them with relevant resources and monitor their success. In addition, GCFEP will offer:

1.) The FDIC's Money Smart Computer-Based Instruction: Clients will receive a certificate upon completing this easy-to-use 10-module financial literacy curriculum. Each module takes between 20-30 minutes to complete and provides students feedback along the way.

2.) Free Workshops: Workshops will be taught by an Operation HOPE counselor as well as leaders in the local financial community, including vetted bankers, accountants, insurance agents, and non-profit financial institutions. Workshop topics will be relevant to the lives of GCFEP's target population. They will include:

- HOPE Financial Goals Budget
- Budgeting in Unstable Economic Times
- Building Emergency Savings Accounts
- Managing a Large Claims Payment / Settlement
- Planning for Retirement
- Saving for College
- Budgeting for a Baby

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- Making Smart Spending Decisions
- Earned Income Tax Credits
- Identifying Well Designed Financial Products
- How to Talk To Your Banker
- How to Improve Your Credit Score
- How to Use Online/Mobile Banking Tools

3.) Tax Assistance: Each Center is an approved VITA site and will offer free tax preparation to qualifying clients.

4.) Budget Building: GCFEP will help clients build and utilize a personal budget. Clients will be introduced to free online platforms such as Intuit's Mint.com.

GCFEP expects to improve the financial stability and long-term health of individuals in Louisiana's coastal communities affected by the BP oil spill. It will help them increase their emergency funds and long-term savings, open bank accounts to hold these funds, improve their credit scores, and identify and manage well-designed financial products to preserve savings and BP Claims payments that will replace lost income in one lump sum.

The first month of GCFEP will be dedicated to informing CCANO's current clients and the greater community about the launching of GCFEP. Staff will pass out flyers at local community meetings, church meetings, and community events. Staff will also contact local newspapers and radio stations. In the first month, staff will vet local financial institutions and identify workshop leaders. In the second month, GCFEP will begin client intakes and launch its workshop program. By the end of six months, GCFEP will have served 500 clients.

- 211 Social Service Referrals: Louisiana 2-1-1 is an easy to remember telephone number that connects callers to information about assistance with food, utilities, rent, employment, domestic violence support and other critical health and human services available in their community. A targeted, four week television and radio marketing campaign is needed to advertise Louisiana 2-1-1 to those families economically affected by the BP oil spill so they can access the services available to them. Louisiana 2-1-1 has created a modest budget of $69,210, utilizing nearly $45,000 in in-kind donations from media outlets.

Structure:

Case Management and Direct Assistance

i. **Projected Numbers Served:** 10,000 families

ii. **Services Offered:** Assessments, Disaster Recovery Plan and interventions and referrals along with direct assistance to include food vouchers, utility assistance, rent/mortgage assistance, insurance assistance, employment assistance, child care, prescription assistance and transportation assistance.

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iii. **Key Partners Include:** Catholic Charities Archdiocese of New Orleans and , Diocese of Houma-Thibodaux, Kingsley House, St. Bernard Project, Lutheran Social Services, Mary Queen of Vietnam CDC, RAI Ministries, Episcopal Community Services of Louisiana and Bayou Grace and Volunteers of America.

CCANO has developed a Case Management Institute which will provide the overall training of the case managers to deliver the services effectively. A project manager will be assigned to provide and ensure oversight and adherence to all agreed upon benchmarks and outcomes. The case management process will seek to address needs as identified by the client and case manager to restore and sustain the overall financial, emotional and physical well-being of the client and community. Food vouchers, in combination with food boxes and food pantry service, will be coordinated with Second Harvest.

The levels of case management define the CCANO - Disaster Case Management Model to be used in all oil spill service sites. It should be noted that each level of intervention begins with a client intake, screening (including the PHQ2), and assessment. This model is based on the VOAD Disaster Case Management Model and guidelines of Council of Accreditation (COA).

LEVEL I - Information & Referral

- Acceptable claim payments
- No unmet, unidentified needs
- Information & Referrals only need
- Client needs cannot be served through case mgmt. program
- Has adequate support system in place
- Financially stable
- Employment
- No language/legal barriers
- Client declines case management
- Case closed after assessment

Case Management Role

- Provide Information & Referrals
- Close case after initial assessment

LEVEL II - Case Management

- Inadequate claim payments or have not filed claim
- Have identified unmet needs
- Information and Referrals and case management needed and requested
- Coordination of services required to address needs
- Has limited or gaps in support system
- Limited financial stability
- Underemployed or unemployed
- Some language or legal barriers

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- Client agrees to participate in case management

Case Management Role

- Available for Telephone Consultation
- Complete Disaster Recovery Plan
- Services take place at sites
- Provide information and referrals
- Face to Face follow-up required at least once a month
- Eligible for limited direct assistance
- Provide support counseling to strengthen 'support system'
- Case closed when goals are met or if in violation of Service Agreement

LEVEL III – Case Management

- No claim payments, claim under appeal or have not filed a claim; below $1000 per month in emergency claims
- Has identified 'special needs' to be addressed (disabled, child care, etc.)
- Information and Referral may require case manager to telephone for client to set up appointments or go with client to appointments. (Advocacy role)
- Coordination of services required to address needs
- Little or no support system
- Financially unstable
- Unemployed with limited skills or other barriers to employment
- Language and legal barriers – requires the services of an interpreter
- Client agrees to participate in case management

Case Management Role

- Disaster Recovery Plan complete
- Services at site or at outside locations
- Case manager acts as 'Advocate" for participant
- Follow-up – Minimum face to face two times per month
- Consultation/staffings maybe necessary to move case forward
- Assist participants to develop/identify support system
- Eligible for direct assistance
- Secure 'interpreters' and coordinate meetings with participant

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LEVEL IV – Case Management

- No claim – will not receive payments – no documentation for claim processing or appeal denied; below $1,000 per month for the next six months
- Multiple 'Special' unmet needs
  - Client in Crisis – impaired in some way, domestic violence, etc.
  - Need "Crisis Counseling" – '211' can handle domestic violence and suicide
  - Need 'Crisis Intervention'
- Strong Advocate role
- Same as Level II – Coordination of services required to address needs
- Little or no support system
- Financial Literacy and Planning
- Unemployed – Unable to work
- Language barriers and legal issues – no soft skills, low literacy or no literacy
- Interpreters and legal counselors

Case Management Role

- Disaster Recovery Plan complete
- Services at site or at outside locations
- Case manager advocates for participant
- Support system assistance
- Secure interpreters and/or counselors
- Follow-up once a week or as needed until they move out of Level 4
- Eligible for direct assistance
- Consultation/Staffings may be necessary to move case forward
- Consultations with Director or other parties

Levels	Number	Per Claimant	Total Amount for Six Months
Level 1	3000	0.00	0.00
Level 2	4000	$500	$2,500,000.00
Level 3 and 4	3000	$2500	$7,500,000.00
Total	**10,000**		**$10,000,000.00**

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Food

i. **Projected Numbers Served:** 54,798 individuals (9,133 per month)

ii. **Services Offered:** the purchase of food for food pantries and supplemental food boxes.

iii. **Key Partners Include:** Second Harvest Food Bank of Greater New Orleans and their member agencies.

It is antieipated that the need for emergency food distribution will increase during this next phase of response given the reduction in work and the uncertainty of fishing and the claims process. As the only agency delivering services of its kind, Second Harvest will continue to take the lead on food service. They plan to deliver additional food from its 200,000 square foot warehouse in Harahan, and its branch warehouse in Lafayette, to its member agencies in the affected areas to meet the increased need. Second Harvest serves 23 parishes in South Louisiana.

Second Harvest member agencies go through a rigorous application and orientation process to ensure that they can safely store and distribute food. They are fully trained on the verification of need they must obtain from clients requesting assistance and are required to keep detailed records of how often a client/family receives assistance, the number of members in the household, whether children or seniors are present in the household, etc. Second Harvest monitors all 240 member agencies on a regular basis. They will also pack emergency boxes of nonperishable food and deliver them to Catholic Charities, DCFS, other service centers and case management sites as requested.

Project Management: Planning and Evaluation; Fiscal Oversight and Reporting

Evaluation will be monitored and tracked by the Catholic Charities Department of Planning and Evaluation and the Catholic Charities Department of Finance. Data reports will be aggregated and compared to projected outcomes. All those who are not reporting services, or in compliance with their respective service area budget, will be taken off of the grant.

Catholic Charities' Planning and Evaluation Department will be monitoring services on a daily basis. Statistics will be turned in daily to Catholic Charities, and evaluations will be made both by sites and services as a whole. We will be fluid in our response to the community and adjust our services based on the feedback we receive – from needs assessments, mental health screenings, field work and word of mouth.

Catholic Charities Department of Finance will monitor financials to ensure spending is in line with the overall budget. Catholic Charities will adhere to general accounting principles and policies and procedures approved by the Finance committee of the Board of Directors.

Outcomes

1. Assessment of 10,000 families within the first six month to determine the most vulnerable with unmet needs.
2. Disaster Recovery Plans and recovery progress for 7,000 families in the highly affected communities.
3. Five Hundred (500) families provided with intensive individual financial planning support leading to financial stability during this six month transition period and 2000 attend seminars and workshops

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4. It is important that we keep, as primary, the health of the worker as the recovery progresses. A fundamental and necessary outcome is a healthy worker and family with no or minimal oil spill related health impacts. Accomplished through referrals for 500 individuals for further assessment

5. The overall economic outcome is a return to fishing or transitional employment that will enhance the stabilization of the family until the fisheries provide sustainable living. The aim of this phase is to stabilize the family until the final claims or some fishing and related industries return.

    a. It is very important to keep the family stabilized during the transition to long-term recovery. The outcomes are either for individual fishermen to return to fishing or businesses to stabilize. Accomplished through 2000 Level II families stabilized and 1000 Level III and IV families stabilized.

6. In some cases, the outcomes will involve transitional employment so that the workers can remain in their communities and on the water until the fisheries return to sustainability. Accomplished through 200 enrolled in further training either in the fishing and related industries.

7. In other cases, the outcomes may include alternatives to fishing, especially for the younger fishers, who might want to re-engage in other careers. Accomplished through 200 younger fishers enrolled in alternative career paths.

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CCANO Disaster Recovery Plan

Client Name: _____ Case Manager Name: _____

Date of Recovery Plan: _____ Level of Contact: ☐ Weekly ☐ Every Two Weeks ☐ Monthly ☐ Other:_____

DISASTER RECOVERY GOAL: Maintain/Attain Stability While Pursuing Disaster Recovery

FIN	**FINANCIAL**	**OBJECTIVE: Manage Finances while Obtaining/Sustaining Resources**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **File Claim Under GCCF (Gulf Coast Claims Facility)**	_____	☐_____
		☐ File at Claims Office (http://www.gulfcoastclaimsfacility.com/facility) ☐ File On-Line (https://cert.gulfcoastclaimsfacility.com/icf/fs/claim) ☐ File through mail (http://gulfcoastclaimsfacility.com/mail)	_____	☐_____
_____	Case Mgr Client	☐ **Check Status of Claim**	_____	☐_____
		☐ https://cert.gulfcoastclaimsfacility.com/icf/fs/status		
		☐ **Maintain current budget if income is currently sufficient to meet expenses**		
		☐ **Obtain Benefits, IF Eligible:**		
	Case Mgr Client	• https://aarpkb.benefitscheckup.org/index.cfm	_____	☐_____
	Case Mgr Client	• Social Security http://ssa.gov/ :_____	_____	☐_____
		• TANF/ Welfare (http://doa.louisiana.gov/tanf/faq.htm): _____	_____	☐_____
		• SNAP (http://www.dss.louisiana.gov/ : _____		
		☐ **Decrease expenses client has identified for:**	_____	☐_____
_____	Case Mgr Client	• _____	_____	☐_____
		• _____	_____	☐_____
		• _____		
		• _____		

_____	Case Mgr Client	☐ **Establish local bank account** ☐ Checking ☐ Savings ☐ **Referral to Consumer Credit Agency for debt reduction and/or credit advice:** • Consumer Credit Counseling (http://www.cccs-la.com/): _____	_____	☐_____
_____	Case Mgr Client	☐ **Save $_____ per month. Put in savings account:**		
		☐ **Other Financial Action Step:**_____	_____	☐_____
		☐ **Other Financial Action Step:**_____	_____	☐_____
		☐ **Other Financial Action Step:**_____	_____	☐_____
		☐ **Other Financial Action Step:**_____	_____	☐_____
		☐ **Other Financial Action Step:**_____	_____	☐_____
EMP	**EMPLOYMENT**	**OBJECTIVE: Obtain/Maintain Employment to Increase/Maintain Income and Sustain Resources**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Maintain current employment to support recovery**	_____	☐_____
_____	Case Mgr Client	☐ **Access Job Skills Training:** • Employment Resource: _____ • Employment Resource: _____	_____	☐_____
_____	Case Mgr Client	☐ **Access Career Counseling/Job Retraining Program(s):** • Job1 - Orleans Parish (http://www.cityofno.com/pg-56-1-job1.aspx) : _____	_____	☐_____
_____	Case Mgr Client	• Workforce Connection – Jefferson Parish (http://www.jeffparish.net/index.cfm?DocID=1164 : _____ ☐ **Engage in Active Job Search Activities:** • Resume Resource - http://jobstar.org/tools/resume/index.php	_____	☐_____

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____	Case Mgr Client	____ • Job Search Resource - www.laworks.net: ____	____	☐ ____
____	Case Mgr Client	• Job Search Resource - www.employmentguide.com ____		☐ ____
____	Case Mgr Client	☐ **Other Employment Action Step:** • ____	____	☐ ____
____	Case Mgr Client	☐ **Other Employment Action Step:** • ____	____	☐ ____
____	Case Mgr Client	☐ **Other Employment Action Step:** • ____	____	☐ ____
____	Case Mgr Client	☐ **Other Employment Action Step:** • ____	____	☐ ____
		☐ **Other Employment Action Step:** • ____	____	☐ ____
		☐ **Other Employment Action Step:** • ____		☐ ____

HWB	HEALTH & WELL BEING	OBJECTIVE: Obtain Medical and/or Mental Health Services to Stabilize and/or Maintain Health and Well Being		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain/Maintain Insurance Benefits**		
		• Medicaid - http://www.dhh.louisiana.gov/offices/?ID=92 :_____	_____	☐_____
		• Medicare - http://www.louisiana-medicare.com/:_____	_____	☐_____
_____	Case Mgr Client	• LaCHIP - http://bhsfweb.dhh.louisiana.gov/LaCHIP/_____	_____	☐_____
		• LaMOM - http://www.dhh.louisiana.gov/offices/?ID=137_____		
		• New Orleans Faith Health Alliance - http://www.nofha.org/_____	_____	☐_____
		☐ **Access local community services for Mental Health and Medical Services:**		
_____	Case Mgr Client	☐ Counseling Solutions (CCANO) 504-835-5007: _____		
		☐ LA Spirit - http://www.dhh.louisiana.gov/offices/?ID=231 :_____		☐_____
_____	Case Mgr Client	☐ LA DHH - http://www.dhh.louisiana.gov/offices/?ID=62:_____	_____	
		☐ Prescription Assistance Program - http://www.pparx.org/:_____		☐_____
_____	Case Mgr Client	☐ Local Council on Aging Agency:_____	_____	
		☐ **Disability Related Referral:**_____	_____	☐_____
		☐ **Disability Related Referral:**_____		☐_____
		☐ **Other Unmet Medical/Mental Health Need:** _____	_____	
		• **Referral/Resource:** _____	_____	☐_____
		Referral/Resource: _____	_____	☐_____
FO	**FOOD**	**OBJECTIVE: Obtain Food for the Household in the Community**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Access local Resources for supplemental food in the community:**	_____	☐_____
		• Local Second Harvest Food Bank -http://no-hunger.org/ :		

____	Case Mgr Client	☐ **Apply for benefits for ongoing food assistance:** ☐ WIC -http://www.dhh.louisiana.gov/offices/?ID=320 _____	____	☐ _____ ☐ _____
____	Case Mgr Client	☐ School Lunch Program -http://www.doe.state.la.us/lde/nutrition/1972.html _____ ☐ **Pre-apply for disaster food stamps** ☐ www.dss.louisiana.gov or call 1-888-LA HELP U ☐ **Other Food Action Step:** _____ ☐ **Other Food Action Step:** _____ ☐ **Other Food Action Step:** _____	____ ____ ____ ____ ____ ____ ____	☐ _____ ☐ _____ ☐ _____ ☐ _____ ☐ _____ ☐ _____
Y	**YOUTH & CHILDREN**	**OBJECTIVE: Obtain and/or Maintain Services for the Youth and Children in this Family**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
____	Case Mgr Client	☐ **Obtain a day or after care provider for children. Call the following number(s) for day care services and/or referrals:** • Provider or Agency and Phone -http://www.daycareresource.com/louisiana.html : _____	____	☐ _____
____	Case Mgr Client	• Provider or Agency and Phone: _____ • Provider or Agency and Phone: _____ ☐ **Other Youth & Children Action Steps:** _____ ☐ **Other Youth & Children Action Steps:** _____	____ ____ ____	☐ _____ ☐ _____
TR	**Transportation**	**OBJECTIVE: Obtain, Restore and/or Sustain Transportation**		

Start Date	Responsible Person(s): (circle)	Action Steps Check off each step that is appropriate for this client	Target Date	Outcome and Date Met: Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain, Repair or Sustain an Automobile:** ☐ Type of Auto Related Need(s):_____ • Resource: http://www.unitedwaynola.org/income/:_____	_____	☐_____
_____	Case Mgr Client	☐ **Obtain or Sustain Access to Public Transportation:** • Resource -http://www.dotd.louisiana.gov/intermodal/transit/resource/resource.asp : _____	_____	☐_____
_____	Case Mgr Client	☐ **Obtain or Sustain Medical Transportation Need(s):** • Resource -http://www.dhh.louisiana.gov/offices/publications/pubs-152/NEMTflyer.pdf _____	_____	☐_____
_____	Case Mgr Client	☐ **Other Transportation Action Step (specify):**_____ • Referral/Resource:_____ ☐ **Other Transportation Action Step (specify):**_____	_____ _____	☐_____ ☐_____
LG	**LEGAL**	**OBJECTIVE: Obtain Legal Services**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain legal assistance or information for the following reason:**_____ • Legal Assistance Agency -http://www.lawhelp.org/la/ : _____	_____	☐_____
_____	Case Mgr Client	• Legal Assistance Agency -http://www.nolac.org/: _____ ☐ **Other Legal Action Step (specify):**_____	_____ _____	☐_____ ☐_____

HO	Housing	OBJECTIVE: Obtain/Maintain Affordable Housing in Current Area and/or Relocation		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Identify affordable and available housing options and needs in area of interest**	_____	☐_____
		□ local newspaper □ www.LAHousingSearch.org □ https://asd.fema.gov/inter/hportal/home.htm □Unity of GNO - http://www.unityhousinglink.org/templates/Unity/Intro/index.cfm?CFID=688233&CFTOKEN=9c9b7809eae16db8-D3A8E679-5056-9941-E8AF4332425E4713 □ vialink - http://65.166.193.134/IFTWSQL4/vial/selectservice.aspx?group_name=Housing □ www.habitat-nola.org □ www.neworleans.craigslist.org □ Christopher Homes (seniors) (504) 596-3460 □ Providence Community Housing (504) 821-7222 www.providencecommunityhousing.org □ The Apartments at Mater Dolorosa (504)865-7222 (Senior Housing) □ Nazareth Inn (504)246-9630/246-9640 (Senior Housing) □ Woldenberg Village Retirement Community (504)367-5640 □ Harmony Oaks (504) 894-8828 www.harmonyoaksapts.com □ River Garden Apartments on St. Andrew St. (504) 412-8216 www.rivergardenneworleans.com □ USDA resources □ HUD Disaster Victim Hotline, housing assistance, 888-297-8685 □ HUD Housing Locator database	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____	☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____
_____	Case Mgr Client	• Other housing referrals: _____ • Other housing referrals: _____ • Other housing referrals: _____		
_____	Case Mgr Client	☐ **Prevent Foreclosure** • http://www.hopenow.com/ • http://www.nw.org/network/consumers/Foreclosure-Help.asp • https://www.naca.com/index_main.jsp ☐ **Complete and submit necessary housing applications along with required verifications** ☐ **Continue to Recertify with FEMA, as needed, if in temporary FEMA Housing** • FEMA: www.fema.gov □ FEMA Hotline 1-800-621-FEMA □ FEMA Travel Trailers 1-888-294-2822 □ FEMA Maintenance 1-800-774-3249 □ FEMA Trailer Pick Up 1-888-294-2822 □ FEMA AccessibleTrailers (UFAS) 1-866-496-4297 ☐ **Plan / budget for transition from supported rental program to client rental payments**	_____ _____ _____ _____ _____ _____ _____ _____	☐_____ ☐_____ ☐_____ ☐_____ ☐_____ ☐_____

		☐ **Complete Checklist to decide if timing is appropriate to relocate**	_____	☐ _____
		☐ **Identify cost of move and finances available for relocation:**	_____	☐ _____
		☐ **Plan for sustaining all payments upon arrival in new location**	_____	☐ _____
		☐ **Establish and Abide by rent payment schedule in order to avoid housing crisis**	_____	☐ _____
		For Homeowners in Disaster Affected Areas Whose Homes Need Repair		
		☐ **Check with CM in Disaster Affected Area for Resources for Area Homeowners Who Were Relocated Due to Evacuation but Want to Repair Homes and Move Back**	_____	☐ _____
		☐ **Begin application process for LTRC (if applicable and in effect in local area)**		
		• If LTRC not available:	_____	☐ _____
		☐ Obtain estimates total expenses needed for rebuild/repair		
		☐ Contact Estimator for assistance		
		☐ Identify resources for construction costs	_____	☐ _____
		• _____	_____	☐ _____
		• _____	_____	☐ _____
		• _____	_____	☐ _____
		☐ Discuss Insurance Payments, FEMA money and SBA money received by client and determine what client has to contribute to repair/rebuild $_____	_____	☐ _____
		☐ **Other Housing Action Step:** _____	_____	☐ _____
		☐ **Other Housing Action Step:** _____	_____	☐ _____
		☐ **Other Housing Action Step:** _____	_____	☐ _____
		☐ **Other Housing Action Step:** _____		☐ _____
CL	**Clothing**	**OBJECTIVE: Obtain Clothing**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)

_____	Case Mgr Client	☐ **Obtain Clothing:** ☐ Make a list of Clothing Needed • **Resource** - http://www.goodwillno.org/: _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐ _____
AP	**Application Assistance**	**OBJECTIVE: Obtain Assistance in Order to Fill Out Applications to Obtain and/or Sustain Resources**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain Assistance with Application for:** _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐ _____
_____	Case Mgr Client	☐ **Obtain Assistance with Application for:** _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐ _____
_____	Case Mgr Client	☐ **Obtain Assistance with Application for:** _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐ _____
LA	**Language Assistance**	**OBJECTIVE: Obtain Translation Assistance in Order to Obtain and/or Sustain Resources**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain Language Assistance for in the Language of (specify):** _____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐ _____
_____	Case Mgr Client	☐ **Obtain Language Assistance for:** _____ • **Referral/Resource:** _____	_____	☐ _____

		• **Referral/Resource:** _____		
OT	**Other Unmet Needs**	**OBJECTIVE: Obtain Referrals and Resources Necessary to Meet Unmet Needs**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Obtain assistance with the unmet need of (specify):**_____ • **Resource -**http://www.gnodrp.org/ : _____ • **Referral/Resource:** _____	_____	☐_____
_____	Case Mgr Client	☐ **Obtain assistance with the unmet need of (specify):**_____ • **Referral/Resource:** _____ • **Referral/Resource:** _____	_____	☐_____
	Closure Plan	**OBJECTIVE: Plan for closure of client's case**		
Start Date	**Responsible Person(s): (circle)**	**Action Steps** Check off each step that is appropriate for this client	**Target Date**	**Outcome and Date Met:** Indicate Outcome of Action Step, with date (add additional info in Case Notes)
_____	Case Mgr Client	☐ **Discuss timeframe of services**	_____	☐ _____
_____	Case Mgr Client	☐ **Notify client prior to case and/or program closure**	_____	☐ _____
_____	Case Mgr Client	☐ **Complete Closure Summary and Client Satisfaction Survey**	_____	☐ _____
_____	Case Mgr Client	☐ **Other (specify):**_____		☐ _____

Client Signature: _____ Date: _____

Worker Signature: _____ Date: _____

Reviewed by Supervisor: _____ Date: _____

I understand that this recovery plan is a result of an assessment of my long-term needs in regard to steps that will be taken in an effort to assist me and my family to meet our goal of self-sufficiency. I have reviewed this plan with my Case Manager and all areas have been fully explained to me. This plan can be revised in the event my needs change or the current plan is not working. I (we) agree that self-sufficiency will be our main priority and ultimate goal.

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Deep Water Horizon GNO VOAD Proposal

Budget Period (November 1st -April 30th)

Personnel:	Staff	%FTE	Hourly Rate	Hours	Amount	Explanatory Notes
Program Director / Supervisors	22	100%	$ 25.00	1,040	$ 572,000	Case Management and Supervisors
Case Managers	80	100%	$ 23.00	1,040	$ 1,913,600	Case Management Staff 166 cases per CM (50 Level 1; 66 Level II and 50 Levels III and IV)
Service Coordinators	9	100%	$ 12.00	1,040	$ 112,320	Case Management Staff
Interpreters	16	100%	$ 15.00	1,040	$ 249,600	Supportive Services
Sub-total	127				2,847,520	
Benefits:					$ 569,504	20% of Payroll (FICA, Medicare, Medical, Dental, Life Ins., Disability)
Direct Client Assistance (Rent, Utility and Food)					$ 12,000,000	$10.0M- Rent/Mortgage, Utility, Prescription, Transportation, Food Vouchers (Levels II-IV) $2 M Food Boxes and Pantries
Financial Planning for clients (Consultant)					$ 1,000,000	
Operational Costs:						
Travel (Mileage)					$ 165,000	6 months of travel * .50 per mile * 55 staff * 50 miles per day
Cell Phone / Internet / Computers					$ 173,636	
Office Rent / Utilities / Trailers / Supplies					$ 81,000	
Children's Services					$ 150,000	Summer Witness and After School Assembly for Children (625 children)
Food Management					$ 100,000	Second Harvest Food Bank
General & Administrative (Individual VOAD Agencies)					$ 635,833	12.5% - Includes insurance, recruitment costs, and other misc costs
Sub-total					$ 1,305,469	
Subtotal					$ 17,722,493	
Overall Project Management (Catholic Charities)					$ 443,062	2.5% for Planning, Evaluation and Fiscal Services
211 Social Services Referral Media Campaigne					$69,210.00	
					$ 18,234,765	
Total					$ 18,234,765	
				Direct Assistance	**65.8%**	

Notes:

*Direct Assistance is Level 2 is $500*4000 people ($2.5M). Level 3 & 4 is $2500*3000 people ($7.5M).*

STEVE SCALISE
1ST DISTRICT, LOUISIANA

ASSISTANT REPUBLICAN WHIP

THE COMMITTEE ON
ENERGY AND COMMERCE

Congress of the United States
House of Representatives
Washington, DC 20515-1801

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January 24, 2011

Mr. Kenneth Feinberg
Administrator
Gulf Coast Claims Facility
P.O. Box 9658
Dublin, OH 43017-4958

Dear Mr. Feinberg:

As a member of the House Committee on Energy and Commerce Subcommittee on Oversight and Investigations and the Congressman representing Louisiana's First Congressional District, I write on behalf of the thousands of individuals and businesses in my state and along the Gulf Coast who have not yet been made whole by the Gulf Coast Claims Facility (GCCF) in the wake of the Deepwater Horizon oil spill. The GCCF plays a critical role in helping the Gulf Coast recover, and today I request increased accountability and transparency throughout GCCF's management of the claims process.

Firstly, I remind you that more transparency throughout the claims process is absolutely necessary. The GCCF's opaque nature detracts from its credibility and adds to claimants' frustration as they try to understand why their claim was denied or underpaid. You have acknowledged this problem in town hall meetings and to Congressional offices.

I also find it unacceptable that GCCF has never released the formula by which payments are evaluated, and I remind you of statements you made to Congressional staff on January 12, 2011, that you would release the method for calculating interim and final payments within 30 days.

In light of the recent announcement that local law firms will be assisting GCCF, I agree that having more evaluators and staff located in the Gulf Coast region is absolutely essential to the effectiveness and efficiency of the claims process. Claimants must have the opportunity to speak directly to someone at GCCF who can answer straightforward questions about the status of their claim and the documentation required for it to be processed.

For these reasons, I am surprised at the news that GCCF is considering eliminating about 150 jobs at the Hammond claims processing facility, especially at a time when you have repeatedly pointed to the importance of hiring additional local personnel. This move would run

counter to your previous commitments, and would make it harder to get quick answers to claimants who have questions.

Additionally, I remind you of individuals and businesses who are still waiting for their six-month emergency claim to be processed. The deadline for submitting an emergency payment passed over two months ago, on November 23, 2010. These claims must be prioritized as the transition to interim payments and final settlements continues.

To address these issues, I request the following:

1. All metrics on claims and payments, including the total number of both submitted and paid claims, broken down by state, city, industry, and job classification, and the average payment to individuals and businesses in each category;

2. The formula for how payments are calculated;

3. The total number of people employed by GCCF and working on its behalf at affiliate entities, broken down by specific geographic location and employer;

4. Any job transfers or lay-offs in claims processing that GCCF has executed or is planning to execute, including justification for such moves;

5. Specific information and documentation on the decisions leading to the removal of 150 jobs at the Hammond claims processing facility, including where those jobs are being transferred; and

6. The number of unprocessed six-month emergency claims and justification for why these claims remain unresolved.

As you know, GCCF exists to ensure that those individuals and businesses who have experienced damages and losses through no fault of their own can return to the lifestyle they all hold so dear. I urge you to move forward in an accountable and transparent way that ensures the Gulf Coast can recover in the quickest manner possible. I look forward to your prompt reply to my request for the above information.

Sincerely,

Steve Scalise
Member of Congress

FEEDING AMERICA

Formerly named
America's Second Harvest

Vicki E. Escarra, President and CEO
Feeding America

--On Behalf Of—

Natalie Jayroe, President and CEO
Second Harvest Food Bank of Greater New Orleans and Acadiana

David Reaney, Executive Director
Bay Area Food Bank of Theodore/Mobile, Alabama

Testimony Submitted for the Record
Gulf Coast Recovery: An Examination of Claims and Social Services in the Aftermath of the Deepwater Horizon Oil Spill

January 27, 2011

Senate Committee on Homeland Security and Government Affairs
Ad Hoc Subcommittee on Disaster Recovery

Good afternoon Chairwoman Landrieu, Ranking Member Graham and distinguished Members of this Subcommittee. I am pleased to submit this testimony for the record on behalf of Feeding America and the two member food banks that serve along the Louisiana, Mississippi and Alabama Gulf Coast--the Bay Area Food Bank of Theodore, Alabama and Second Harvest Food Bank of Greater New Orleans and Acadiana.

Since the initial oil spill on April 22, 2010, Feeding America has worked with its member food banks in the Gulf Coast to assess the immediate and long-term economic impact of this event. These food banks support community-based organizations in the areas that were adversely impacted by the Deepwater Horizon Oil Spill. The additional emergency food demand in these areas increased the day-to-day work of the food banks, which were already dealing with two years of unprecedented increases in food demand as a result of the current economic environment. Second Harvest Food Bank of Greater New Orleans and Acadiana and the Bay Area Food Bank in Theodore, Alabama both began responding along the Louisiana, Alabama, Mississippi and Florida coasts as many coastal communities throughout these areas continue reporting drop-off in sales from their grocers, revenue losses from money spent in restaurants, condos and hotel rentals, as well as the loss wages of boat owners and crews and the seafood packing operators.

Feeding America and its member food banks began working with State and local agencies, but the most significant support came from private sector donors and their partners among the State and local Voluntary Organizations Active in Disasters (VOAD). They began to distribute food and water to those in need and are currently assessing how they will continue to serve those with on-going needs as a result of the oil spill.

Both of these food banks responding to the increased demand in their service areas have experienced the following:

1. The need to provide additional food to areas that did not require as much food assistance support as before the oil spill
2. The need to divert resources and thereby diminish support to areas with non-spill related food assistance needs
3. The generosity of private individuals and corporations not directly responsible for the oil spill. The food banks are deeply appreciative for these donations and are committed to exercising sound stewardship of these limited resources
4. The volunteer spirit and cooperation of the communities they serve. A spirit which is commendable, and which has been essential for meeting the additional needs following the oil spill.
5. Significant needs extending beyond providing mental health and job placement assistance. Food is an essential need for those who have been adversely impacted.
6. The interdependence between coastal and non-coastal areas within the State. While those who lived by the water experienced acute needs, the needs of the entire State must be incorporated into the financial decisions for support since resources of responding governmental and non-governmental organizations had to be re-focused to areas with the most immediate and critical needs.
7. Missed opportunities for BP officials to leverage Feeding America's purchasing power to acquire food for distribution to oil spill impacted communities rather than shifting food from one community to another as was necessary with limited resources and surging demand.
8. A recognition that the fund being administered by Kenneth Feinberg would be greatly enhanced by working with these food banks to provide the necessary food assistance to these communities due to existing relationships with food providers, local community service organizations and our mission .

Bay Area Food Bank of Theodore, Alabama Responds to the Gulf Coast Oil Spill

In response to record unemployment and uncertainty with the recent oil spill, the Bay Area Food Bank began deploying its mobile pantry program, a traveling food pantry, to those communities affected along the Gulf Coast. The food bank continues to concentrate these distributions averaging over 20,000 pounds of food per week via mobile pantries in the affected areas in Pascagoula, Biloxi and Bay St. Louis, Mississippi as well as in Grand Bay, Coden and Bayou La Batre, Alabama. These communities receiving our assistance represent a large concentration of sea-based workers including those once in the fishing, shrimping or seafood processing/packing businesses. Distribution is being conducted in coordination with SOS Boat People in many of the areas requiring services. These mobile pantries are possible due to a donation and commitment from Wal-Mart. The food banks are also taking all of the fresh produce being picked up from Winn-Dixie stores and delivering it to those same affected areas. The local agencies (churches and organizations that work with those involved in the fishing industry) sign

up those they know are in need. Additional distribution to assist unemployed and underemployed tourist industry workers has occurred in Foley and Spanish Fort in Alabama as well as Pensacola, Navarre and Panama City in Florida.

Considered a blessing to the grateful families who receive the much needed food, recipients have indicated on numerous occasions that they had given up all hope until the mobile pantry showed up. Some distributions are targeted specifically for the Asian community's dietary preferences and also include Supplemental Nutrition Assistance Program (SNAP) enrollment information in various Asian languages. Many of these communities are still recovering from Hurricane Katrina. Of particular interest to this Committee may be that the Mobile Pantry operation in the Bay St. Louis/Waveland, Mississippi area is being conducted at a temporary church building where both the church and the area homes were entirely underwater and devastated by Katrina. This church hosted the pantry distribution and provided cooking classes to talk about how to prepare the food provided by the pantry as well as held discussions on how to stretch food dollars.

Concerns:

The biggest issue related to the lack of government or BP support for the operation is that the food provided through the food bank has come at the expense of other needy citizens in the Gulf Coast service area. Food is largely collected through the retail store level pick-up program from area Walmart, Winn Dixie, Sam's Club and Target stores and is then checked, sorted and loaded for mobile pantry distributions. While this is a cost effective method of using donated food, the supply does not expand when the population of those in need expands. Twenty five percent of the food bank's 2010 food distribution of 15 million pounds was provided through the retail store level pick-up program making it a critical element in the hunger relief effort. With a poverty population exceeding 300,000 people and an equal additional number of families considered to be among the working poor, the food bank would need to distribute 23 million pounds of food annually to achieve a distribution level equal to the national average among food banks. Lack of local food production, processing or distribution centers places the food bank at a disadvantage in meeting the needs throughout the States of Mississippi, Alabama and Florida, a 24 county service area which includes rural communities with unemployment above 20% and poverty above 25%. Shifting the limited available donated food to support people impacted by the BP oil spill resulted in others in need to have less available. Without reimbursement, the Bay Area Food Bank has transferred their allocation of donated food from other sections of their service area. Rural counties suffering from 11-18% unemployment are getting less of the donated food because they have had to divert it to respond to increased demand along the coast.

Actions-to-Date: Why the Food Bank Requires Support from BP

The Bay Area Food Bank has conducted 79 oil spill related Mobile Pantry distributions involving over 537,000 pounds of food with a wholesale value exceeding $850,000. These food distributions have been conducted at ten locations in Alabama, Florida and Mississippi extending from Panama City, Florida, west to Bay St. Louis Mississippi. The food Bank continues to be assisted by dedicated volunteers, as this work has involved over 800 volunteers providing over 3900 hours of time at the distribution points. An additional 100 plus volunteers have provided an additional 2000 hours assisting staff at the Food Bank in the checking, sorting and packing the donated food for distribution. Further, approximately 600 staff hours have been involved in the effort.

Financial Assistance Needs for the Bay Area Food Bank Related to the Oil Spill:

Reimbursement for the Bay Area food bank's expenditures directly related to the oil spill for 2010 and 2011 total nearly $1 million. The costs incurred in 2010 total $360,000, including $85,000 for the

distribution of food to citizens impacted by the oil spill as well as $275,000 needed for bulk purchase food to replace the food used as a result of the oil spill. This would allow the Bay Area Food Bank to feed it back into the reduced distributions in 2010.

For anticipated costs for 2011, the food bank would request a total of $600,000 to include $500,000 to be used to purchase approximately 1 million pounds of food to conduct continued distribution of food along the Mississippi, Alabama and Florida coastal areas during 2011 while communities struggle through the re-growth of coastal economies. An additional $100,000 would to be used for staff and equipment costs associated with the operation. These funds would allow the food bank to continue supporting oil spill related issues without hurting the underserved rural communities through diversion of food.

Second Harvest of New Orleans and Acadiana

The past 5 years have been very difficult ones for the people of Gulf Coast Louisiana. Hurricanes Katrina and Rita dislocated more than a million people, largely because of our human failure to maintain safe infrastructure. Hurricanes Gustav and Ike further stretched the resources of communities already struggling to recover from the disasters of 2005. The recession created economic insecurity for many working families. And finally the Deepwater Horizon disaster and drilling moratorium added a level of trauma different and perhaps more difficult to overcome than anything that went before. Because the full extent of the damage to the environment remains unknown, it is hard to know if and when the livelihoods of tens of thousands of Louisiana families will be fully restored.

Brenda Dardar Robichaux, former Principal Chief of the United Houma Nation and Board Member for Second Harvest, describes the human impact of the oil spill and the struggle of her people to survive:

> The United Houma Nation is an indigenous nation of approximately 17,000 citizens who currently reside along coastal, southeast Louisiana. Today, nearly 90% of our citizens reside in coastal Terrebonne, Lafourche, Jefferson, St. Mary, St. Bernard and Plaquemines Parishes. The relationship between the Houma People and these lands is fundamental to our existence as an Indian nation. The medicines we use to prevent illnesses and heal our sick, the places our ancestors are laid to rest, the fish, shrimp, crabs and oysters our people harvest, our traditional stories and the language we speak are all tied to these lands inextricably. Without these lands, our culture and way of life that has been passed down generation to generation will be gone.
>
> The BP Deepwater Horizon disaster presented the United Houma Nation with perhaps the greatest challenge in our history as we are at risk of losing the heart of our culture – our homelands. It is without question that the oil spill affected the estuaries within which the Houma tribal fishermen make their living. This spill has had far-reaching effects that will compromise the economic, environmental and mental health of all of southeast Louisiana. For the Houmas, it also looms as a death threat to our culture as we know it.

It is the role of Second Harvest to work with the United Houma Nation to help them through this existential crisis by supplying food resources they have lost, hopefully temporarily.

Second Harvest Food Bank of Greater New Orleans and Acadiana leads the fight against hunger in 23 parishes of south Louisiana – from the Mississippi border to the Texas state line -- through food distribution, advocacy, education and disaster response. Hunger is an disaster every day in the lives of

the 172,000 Louisiana households, or 10% of the state's population, that are food insecure; mothers struggling to pay for daycare, seniors choosing between food and medicine, parents who are worrying about how they are going to feed their families after they have been laid off, children falling asleep on their desks because they had not received a nourishing breakfast.

When a disaster strike a community and thousands of people are affected at once, Second Harvest serves on the front lines of response. Second Harvest Food Bank has experience and a proven track record of assistance during times of disaster – response and recovery. Following Hurricanes Katrina and Rita, Second Harvest Food Bank became the largest food bank in history, distributing 8 million pounds in September 2005 alone. Since 2005, we have provided more than 110 million meals to the people of south Louisiana, reaching more than 250,000 individuals every year.

Actions to Date:

Since the onset of the Deepwater Horizon crises, Second Harvest has worked with its member faith-based and nonprofit organizations across the 11 south Louisiana parishes most directly impacted to meet the most basic needs of affected families - for food. To date we have provided more than 1 million meals to men, women and children who have been impacted by this disaster and we estimate that we are reaching more than 15,000 people affected by the spill every month. As the oil spill effects linger for the foreseeable future, these agencies will need additional resources to mount an adequate response to the food insecurity facing many of our coastal communities.

Second Harvest has repeatedly surveyed its member agencies to determine what heightened level of need they continue to experience as a result of the Deepwater Horizon spill. Our latest survey snapshot, taken in December 2010, shows that 150 Second Harvest member agencies continue to serve people affected by the oil and 148 anticipate that the 25% average increase in need they have experienced as a result of the spill will continue over the next six months. Fishermen who have lost a full season will take at least a year to recover, hospitality and food industry workers are not yet fully employed and oil industry workers continue to be idle as drilling rigs slowly come back online. And many do not have the type of documentation of income that would make it easy for Mr. Feinberg to process a claim for lost income. We participated in community meetings where Mr. Feinberg claimed that a testimonial from a priest would be sufficient to establish a claim, but that did not prove to be a practical alternative.

To give an example, one Second Harvest member agency is the Community Center of St. Bernard, led by R.M "Iray" Nabatoff. The Community Center of St. Bernard, which serves coastal St. Bernard parish, saw a 42% rise in food pantry applicants from oil-spill impacted areas at the height of the Deepwater Horizon crisis in July 2010. This has decreased since the well has been capped, but still remains significantly elevated at about 18% over the pre-oil spill baseline of April 2010.

The situation faced by the Community Center of St. Bernard parish exemplifies the challenges nonprofits are struggling to overcome to meet the needs of people affected by this crisis. While nonprofits may file a claim with the Gulf Coast Claims Facility, the claims process is set up to serve for-profit businesses that are facing decreasing income in the face of fixed costs. In most cases the income of nonprofit agencies remains steady, but their costs are continually rising as they serve more and more oil-spill affected families for extended periods of time. Unfortunately this means that nonprofit claims from agencies like the Community Center of St Bernard are being routinely denied because they do not show the drop in revenue that the claims processors are looking for. And as a result, new client enrollment in both the food pantry and the Food for Seniors program at the Community Center of St Bernard has been curtailed, and clients are being put on waiting lists or referred to other agencies for help. In the absence

of a presidential declaration of disaster, Second Harvest does not have access to the additional federal commodities to distribute to its member agencies managing the crisis. Therefore Second Harvest has relied on assistance from BP, other corporations, the public and the state of Louisiana to provide food assistance to our member agencies across Louisiana's Gulf Coast.

Second Harvest Food Bank of Greater New Orleans and Acadiana is working with government, nonprofit and for-profit sectors to build a stronger more resilient Louisiana Gulf Coast community. In addition to our member agency food distribution, we are making strides to eradicate food insecurity for our community through other ways; such as building a 6,000 square foot community kitchen to provide millions of meals for children and seniors and working with the Louisiana Department of Children and Family Services to ensure that all eligible citizens have access to SNAP and other federal nutrition benefits. Because hunger is always a disaster, whether it is felt by one child, one family or one senior, or by an entire community, such as what we have faced once again with the Deepwater Horizon crises.

We have been on the ground since Day 1, responding to short-term emergency food needs and assessing the long-term impact for coastal communities. We estimate that 90,000 households may eventually require food assistance as a result of the oil spill and moratorium.

Conclusion:

The impacted food banks will continue to serve the communities in need both along the Gulf Coast, and the areas continuing to struggle every day with hunger a long-term basis. Reimbursement for those activities since the tragic oil spill occurred last April, and to cover the longer-term recovery needs of those who lost their livelihoods, is essential so that this work is not to the detriment of others in need. Food banks are efficient, effective, and trusted in supporting their communities, and these asks consistently remain reasonable and conservative. We are not requesting funds to make us whole since Katrina, nor are we looking for funds to cover expenses incurred since the economic downturn. These are specific to the increases in demand since the oil spill. We are so grateful to our many donors, or volunteers and to those who support our cause and hope that BP will carefully review this ask and quickly decide to provide support.

Written Testimony of the Louisiana Association of Nonprofit Organizations

Senate Ad Hoc Subcommittee on Disaster Recovery

"Gulf Coast Recovery—An Examination of Claims Administration and Social Services in the Aftermath of the Deepwater Horizon Oil Spill"

January 27, 2011

Chairman Landrieu, Ranking Member Graham and members of the Ad Hoc Subcommittee on Disaster Recovery, thank you for the opportunity to submit written testimony to discuss the progress made and challenges that remain following the oil spill as it pertains to nonprofit social service providers.

As repeatedly shown over the past five years after each disaster, Louisiana nonprofits have served on the frontline by meeting the diverse needs of the communities and populations they serve. Nonprofits play a central role in the immediate relief and long-term recovery of our communities and families, and act as a vital social service provider, resource, advocate and partner.

Nonprofits do not hesitate to react to crises and provide continual assistance to under-resourced populations across the state, especially in rural and urban poor communities, who rely on the coordinated charitable action of the sector. Our nation depends on nonprofits to act as first responders and fill in the gaps that cannot be fulfilled by government in times of distress and recovery. Therefore our sector's needs must be taken into consideration so that we can continue to provide the high-quality, robust services our nation has grown accustomed to depend on during times of distress.

The Louisiana Association of Nonprofit Organizations (LANO) is a statewide network of nonprofits, foundations, corporations and individuals dedicated to supporting Louisiana's nonprofit sector. LANO's mission is to strengthen, promote and build the capacity of nonprofits through education, advocacy and member services. [1] Since the Deepwater Horizon oil rig exploded in April, 2010, LANO has been monitoring the serious social, economic, health and environmental implications of the disaster for Louisiana's nonprofits and its citizens.

Since August, 2010 LANO has participated in a cohort of 12 organizations supported by BP grant funds to the state, and contracted through the Louisiana Department of Children and Family Services, to provide technical assistance to individuals, small businesses and nonprofits around their oil spill claim

[1] LANO operates from offices in Baton Rouge, New Orleans and Shreveport, with frequent travel to cities and parishes across the state. Our services to nonprofit organizations and professionals include capacity building related trainings, workshops and technical assistance, networking and promotional opportunities, research and information resources, public policy monitoring and advocacy, and benefits to our nonprofit members. As an organization, LANO is dedicated to improving member services and bringing to our state's nonprofit sector the benefits of greater accountability, strategic collaboration and a unified voice.

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applications to the Gulf Coast Claims Facility (GCCF). LANO has specifically focused on supporting nonprofit organizations, and the goal of these efforts has been to provide the sector with useful and informative tools so that they can submit a thorough claims application with a strong chance of receiving an award from GCCF.

Role of Nonprofits in Disaster

The American people look to nonprofits to be the safety net that helps repair the essential fabric of communities that are torn apart by disaster, and we fulfill that role repeatedly. Following the immediate post-disaster response period, nonprofits remain steadfast through a long-term recovery period, serving as a critical backbone for diverse and disadvantaged communities by helping to restore the many facets of their lives.

The capacity and resiliency of Louisiana's nonprofits has been tested and proven to be invaluable since Hurricanes Katrina and Rita in 2005. Following these storms, nonprofit organizations across the state immediately participated in response and recovery efforts to help communities and families become whole again. The lessons learned over the past five years were employed again in response to the oil spill, and yet again our sector showed that we play an integral part to repairing families and communities.

However while the nonprofit sector in Louisiana has increased in size and scope, and played a major role in disaster recovery, this does not necessarily mean that nonprofits have a long-term capacity to serve the increased need of our Gulf Coast communities. Nonprofits face a significant resource gap resulting from the significant tapering of Katrina-related philanthropy further compounded by the economic recession. Consequently, both financial and human capital shortages have a growing effect on nonprofits' ability to meet community needs now and into the future.

Nonprofits and the Oil Spill

Over the past ten months, our sector has worked tirelessly to deliver a wide array of services including case management, child welfare, mental health, assistance in the claims process, direct assistance, community meetings, dissemination of culturally appropriate and language accessible information, financial aid and food assistance. In the immediate weeks after the oil spill nonprofits faced a large demand for services, as families not previously served by nonprofit programs were finding themselves increasingly in need of support. Today, nonprofits continue to receive a steady stream of people who still need help to piece their lives back together.

The strength of nonprofits is that they help families and individuals through their intimate community knowledge and deep concern for the lives of local people. Following the spill, many organizations increased their service delivery despite clear financial risk because the demand presented a moral imperative that nonprofits could not deny. Despite their commitment to fully address the needs of citizens, remarks by a GCCF official at a town hall meeting suggested that nonprofits were "not obligated" to increase their services, thus implying they should have instead complacently refused to

make service adjustments. If nonprofits had decided to take that route, it could have led to dire consequences for many communities.

The aftermath of the oil spill has been hard financially for the nonprofit sector and impacted the revenue stream of many organizations. Today, nonprofits are being asked to provide more services with less than adequate funding and this will not be sustainable over the long-term. In order to effectively move our sector forward we need sufficient financial support and established partnerships with all primary stakeholders in this disaster including BP, GCCF, and federal, state and local policymakers.

Overview of Louisiana's Nonprofits

Louisiana's nonprofit sector includes over 20 thousand organizations (Source: IRS) providing diverse services to hundreds of thousands of residents daily. Our sector comprises roughly 10% of the Louisiana labor market and is an important part of the state's economic engine.

Of the entire sector, 48% are dedicated to human services, health or environmental issues—all vital in the post spill scenario—and 73% are operating on less than $150k in an annual budget. Therefore the majority of effected nonprofit organizations function on very tight budgets.

Along the Gulf Coast in the heart of the oil spill disaster, there are 8,042 registered nonprofits in 14 parishes and the top three service delivery types include human services, religious and public and societal benefits. These organizations are operating with very small budgets with the top three annual budget categories being $0-50k (58%); $50-150k (14%) and; $150-500k (13%). This data shows that the organizations located closest to the coast have minimal means to address the full extent of needed human services because of the spill.

LANO's Needs Assessment Survey

LANO conducted a Needs Assessment survey in June, 2010, replicating a format used by the Alabama Association of Nonprofits and the Mississippi Center of Nonprofits to survey their nonprofits after the spill.

The survey targeted nonprofit organizations in parishes affected by the oil spill and those from adjacent Louisiana metro areas. The goal of the survey was to provide a meaningful assessment of nonprofits and their client across the Gulf Coast. According to the survey:

- 39% of nonprofits saw "noticeable changes" in client numbers or services needed after the oil spill;
- 40% of nonprofits reported needing additional resources because of an increased demand for services;
- The top reported nonprofit organizational need (in order from greatest) included funds, staff, technology and technical assistance;
- 29% of nonprofits reported oil spill effects on planned events;

- 38% of nonprofits reported oil spill effects to organizational fundraising;
- Of those nonprofits reporting effects on fundraising, 39% reported decreases between "moderate" and "significant"; and 26% reported increases between "moderate" or "significant";
- Of those nonprofits reporting effects on fundraising, their expectation to raise funds over the next 90 days had the following sentiment: 22% expect increase, 49% expect decrease; 29% expect no change; and
- 32% of nonprofits reported the oil spill had a direct impact on their employees.

As a follow up to the June, 2010 survey, LANO conducted a limited re-assessment survey of nonprofits in September, 2010 which illustrated the ongoing effects of nonprofits as reported by organizations from the parishes most affected by the spill. The re-assessment survey indicated that more than half of respondents reported a noticeable change in the number of clients and the kinds of services needed in response to the oil spill. Of nonprofits experiencing an increase in demand for services, the most significant issues facing clients continued to be loss of job or income, followed by increased stress and mental health issues. Nonprofits also identified problems meeting mortgage, rent, or car payments as a significant or somewhat significant concern. Most nonprofits report that at least 10% of their clients continue to be impacted by the spill.

About half of respondents said that they still have insufficient resources to meet the demand of additional clients or increased service requests. In addition, funding ranked highest in needed resources, followed by additional staffing.

Oil Spill Claims Technical Assistance

In August, 2010 LANO entered into a partnership with the Louisiana Department of Children and Family Services to provide statewide nonprofits with useful technical assistance around their oil spill claims application. Over the past six months, LANO has engaged in a number of activities to plan, organize and implement its technical assistance work designed to help nonprofit organizations navigate the claims process and successfully submit a strong application.

With support from the state and Adjustors International, a third party administrator contracted by the state, LANO created worksheets and templates for nonprofits to help them organize and clearly outline their claims application. Once the worksheets were ready, LANO provided one-on-one consultations with nonprofits to go over in detail the many aspects of the GCCF claims process, and to offer guidance on how to file a claim.

LANO has communicated to over 75 nonprofit organizations about their oil spill claims process and engaged in one-on-one technical assistance consultations with 30 nonprofits. To our knowledge, 15 nonprofits filed an emergency claim and 3 organizations have had their emergency claim denied including Community Center of St. Bernard, Mary Queen of Vietnam Community Development

Corporation and Bridgehouse. In addition, LANO is not aware of one nonprofit that has received a GCCF claim award.

Of note, all three of the nonprofits that were denied a claim played a central role in the recovery efforts by providing a wide array of social services to clients, many of whom live and work in the heart of the oil spill including the fishing communities. Consequently, people most directly impacted by this disaster received vital care and service from organizations that exhausted their finances to support them and then were not approved for a claim award. This suggests a possible widespread disconnect in the claims process to the effect that it's not fully reaching significant organizations expending resources to address the oil spill.

Nonprofits and Oil Spill Claims

Like all stakeholders in this disaster, nonprofits were not immune to its economic ripple effects. Our sector has had to face many financial challenges and react accordingly to survive and remain solvent. Throughout last year, nonprofits experienced a dearth of foundation and individual support for oil spill response and recovery needs because there was a "responsible party" to pay for damages. Unlike past disasters, there was not an outpouring of donations from the American public, which overall led to inadequate resources to cover assistance costs. To further compound the lack of monetary support from external sources, nonprofits faced a much higher demand for needed services without corresponding investments for the added work.

As reported by a small faith-based nonprofit about their fundraising efforts to support oil spill related activities, "We fall into an awkward category. Our funders are saying that they hear from their donors that BP and GCCF should be paying for everything. Therefore they are not supporting our efforts financially. Most of the nonprofits I know have employees that are working at part-time pay or no pay at all, and working overtime hours. They do it because we are needed. This disaster has really affected us all."

When LANO, the state and Adjustors International created the nonprofit worksheets and templates for their claims application, we knew of the difficulties that organizations faced to explain their financial picture through the small business lens required by GCCF. The claims facility is designed in a way that only aligns with the financial structure of small businesses and individuals, and does not offer a third category for nonprofits. As a result, nonprofits are not recognized as a separate group and must file as a small business, which has created substantial barriers for the sector because of our different accounting.

Nonprofits have a unique mission, financial structure and accounting requirements such that "profit loss" is not entirely appropriate a measure and cannot be described in the exact same way as a small business. Unlike small business, which can concretely pinpoint why they are in the red financially, decreased revenue for nonprofits can include stagnant or decreased individual donations without a clear reason, foundation grant money that cannot be secured, or existing grant money that needs to be shifted away from other programs.

These factors have certainly been influenced by the oil spill, but it is difficult for nonprofits to present them in a tangible way because individual donors do not communicate the reasons why they are not giving, and foundations often will not put in writing exactly why they will not support a proposal. Therefore nonprofits are left to surmise why their large and small donors have decreased their financial support without concrete evidence, and only trends to back up their reasoning without clear causation.

Separate from a decrease in foundation and individual donor support, nonprofits have experienced additional costs associated with an increase of services. As stated by GCCF in a claimant's denial letter, the criteria to receive an award is to "demonstrate lost profits and income as a direct result of the Spill". While this is a very reasonable and sensible requirement for commercial businesses, it impedes the ability of nonprofits to receive an award based on offering more or different services. Nonprofits have experienced a different type of revenue loss plus increased costs, both of which lead to diminished profits. Predominantly, profit loss for nonprofits includes paying for services that organizations may not have funding for, but they implement anyway because the community desperately needs them.

Undoubtedly the oil spill played a role in the costs associated with increased services, however this reasoning has been deemed ineligible for a claim award. GCCF officials have stated during Gulf Coast town hall meetings and conference calls that costs associated with an increase in services will be unable to receive a claim. Furthermore, GCCF officials have backed up those statements by saying that nonprofits were not obligated to offer those increased services and, therefore, their costs do not warrant reimbursement. GCCF's position illustrates how the claim reimbursement process, as it exists, fails to adequately account for the needs of the uniquely mission-centered nonprofit sector. As a result, nonprofits are questioning whether it's worth their time and energy to apply for a GCCF claim knowing these parameters and continue to struggle to recuperate from the financial loss they incurred from offering unreimbursed services.

Overall Funding Challenges for Nonprofits

Outside of GCCF claims, nonprofits have faced other reimbursement challenges since the oil spill. Foundations have expressed reluctance to fund nonprofit response efforts because BP and GCCF are deemed the responsible parties, and they assume that nonprofits are being compensated by both entities. Further impacting available resources, individuals and small donors who typically step forward following a disaster have given little due to the same expectation of BP and GCCF responsibility. This lack of small and large donor support after the oil spill is certainly in sharp contrast to the millions donated after the 2005 storms to meet the needs of citizens.

Another financial issue compounding the response is the lack of federal resources available to help citizens. Without a national disaster declaration under the Oil Pollution Act, there were several hurdles and restrictions to benefits that made it difficult for nonprofits to fully implement the breadth of services they could offer to their clients. For example, a federal disaster declaration would have allowed states and nonprofits to provide access to emergency Food Stamps, disaster case management and Medicaid to families in need. If the federal government had pronounced the oil spill a national disaster,

it would have routed critical federal resources to the region and communities could have started rebuilding their lives much sooner.

Long-Term Funding for Nonprofits

Since the disaster occurred last April, social service funding from all stakeholders to support the human side of oil spill recovery has been insufficient to meet the extent of client needs. In addition to nonprofits not being able to secure a GCCF claim award thus far, other avenues of funding have been inadequate to reimburse the work of nonprofits. Further compounding the lack of reimbursement is the question of how nonprofits will be able to support their work over the long-term, providing service to the steady stream of clients demanding case management, job placement and mental health assistance. Plans must be put into place for how to give the sector the means to fully implement their resources now and into the future.

In summer, 2010 BP awarded a grant to Catholic Charities Archdiocese of New Orleans (CCANO) for $750,000 to support case management, mental health and affordability issues, and $250,000 for Second Harvest Food Bank of Greater New Orleans to implement food insecurity services. This $1 million grant in total was utilized to its full extent, but it expended quickly.

Following this one-time $1 million grant from BP, CCANO in partnership with the Greater New Orleans Volunteer Organizations Active in Disaster (GNOVOAD) submitted a long-term financial proposal to BP to continue the social services work beyond summer 2010. This funding request of $18 million has garnered broad support from local, state and national officials and organizations such as Governor Bobby Jindal, Senator Mary Landrieu (D-LA), the New Orleans City Council, the Louisiana Office of Community Development Disaster Recovery Unit, the United Methodist Church and the Greater New Orleans Disaster Recovery Partnership (GNODRP).

The monies under this long-term proposal would have been sub-granted to 10 strong nonprofit organizations with proven track records as effective service providers, including Catholic Charities Archdiocese of New Orleans and Houma-Thibodaux, Kingsley House, St. Bernard Project, Lutheran Social Services, Mary Queen of Vietnam CDC, RAI Ministries, Episcopal Community Services of Louisiana, Bayou Grace and Volunteers of America. Based on CCANO's on-the-ground experience, these organizations would have been tasked to engage in the most critical services needed along the Gulf Coast including case management and direct assistance (food, rent, and utilities), distributing food, mental health and health services and employment assistance.

Especially in lieu of the obstacles nonprofits have faced in the GCCF claims process, and the reticence of foundations and individual donors to provide funding, it would be extremely beneficial to the sector if this CCANO/GNOVOAD proposal was funded by BP. These dollars would help sustain the good work of organizations over the long-term and prevent organizations to scale back their efforts in future disasters for fear of never getting reimbursed.

Policy Recommendations

LANO supports the following policy recommendations:

Revise Oil Pollution Act (OPA): As the OPA is currently written, it does not include a federal disaster declaration to address the human toll of a large environmental disaster. What the oil spill clearly showed is that a catastrophic environmental disaster can reach a level outside of the size and scope written into current law. The access to and implementation of social services would have been completely different if the OPA had included a provision that a federal disaster could be declared based on the extent of damage. A federal disaster declaration would have allowed states and nonprofits to provide access to emergency Food Stamps, disaster case management and Medicaid to families in need. Instead, following the oil spill, because it was under OPA's jurisdiction, states and nonprofits had to scramble and use what little resources they had to meet an enormous need. Congress must revise the OPA to incorporate a federal disaster declaration so that federal resources can be made available to the region quickly, and states and nonprofits have the resources they need to address immediate relief. In addition, the declaration should include a particular category for disasters of catastrophic scale and make clear that the financial impact on states and nonprofits to provide human services is paid for by the responsible party.

Include a Nonprofit Representative on the Gulf Coast Recovery Council: The Secretary Mabus plan entitled "America's Gulf Coast: A Long Term Recovery Plan after the Deepwater Horizon Oil Spill" outlines the creation of a Gulf Coast Recovery Council to lead the long-term ecosystem, economic, and health recovery in the Gulf. The plan proposes that the council would be made up of state and federal representatives, and federally-recognized Gulf tribal organizations. LANO strongly recommends that this body include a key nonprofit representative. The council must include a representative from the sector so that lines of communication between all stakeholders are open for seamless coordination, and the work of nonprofits can be included in the overall dialogue and goals of the council.

LANO recommends that the creation of a Gulf Coast Recovery Council mirror the language outlined in the Gulf of Mexico Regional Citizens Advisory Council provision in the 2010 Clean Energy Jobs and Oil Company Accountability Act (section 629). As the bill outlines, the Gulf of Mexico Regional Citizens Advisory Council would give relevant stakeholders located in the coastal areas of the Gulf of Mexico such as commercial and charter fishermen, socially vulnerable communities, including both indigenous and non-indigenous communities, marine and coastal conservation entities, incorporated and unincorporated municipalities and other appropriate entities, such as nonprofits, the chance to name their representative to a council "to foster more effective engagement by interested stakeholders and local communities in providing relevant Federal agencies and the energy industry with advice on energy, safety, health, maritime, national defense, and environmental aspects of offshore energy and minerals production in the Gulf of Mexico".

Enhanced Coordination: The Secretary Mabus Plan states that there should be data and information sharing across sector and state lines so that resources are directed to those most in need. LANO recommends taking this idea one step further, and during a spill of national significance having a coordinator named that is exclusively in charge of the social, cultural and economic impacts. Currently under the Oil Pollution Act (OPA) there is a national command center that is led by the Coast Guard and

Department of Homeland Security. However this only extends to response and clean up, which leaves an enormous gap for addressing the human and cultural needs of the environmental disaster. Enhanced coordination needs to be established and an additional coordinator charged with monitoring the human service aspects of the event, and tying it into cleanup efforts when necessary so everything is universally orchestrated.

Engage Nonprofits in all Stages of Decision-Making: The role of nonprofit organizations should be recognized throughout the response and recovery process by including nonprofit representatives in all decision making conducted by key stakeholders. Nonprofits have a unique vantage point in every disaster that can inform and compliment government efforts, and their involvement will ensure that the most impacted communities will have a voice and be part of the decision-making process.

Conclusion

The social, cultural and economic repercussions of the Horizon Deepwater oil spill will be felt for years, and nonprofits will be at the forefront of that long-term recovery. LANO is committed to supporting our sector through these difficult times and will advocate on its behalf so that nonprofits receive the resources they need to meet their mission and goals. Over the past 5 years, LANO has provided timely and important information and resources to our nonprofits so that they could build the capacity of their organizations, and meet the ever-changing needs of their clients living in an ongoing post-disaster environment. Utilizing the lessons learned from all disasters, LANO will help the sector through every future challenge by fostering strategic collaboration, purposeful advocacy, information exchange and enhanced capacity.

The post-oil spill period presents excellent opportunities to promote nonprofit stability through strategic partnership with all primary stakeholders. By engaging in these joint efforts, the increased value of shared nonprofit services and savings will directly benefit the recovering communities. Nonprofits can benefit from leveraging multi-sector partnerships and working together to assure the long-term, sustained vitality of our communities—a result that aligns with the end goals of BP, GCCF and policymakers.

However while nonprofits are known for being innovative, resilient and nimble when times are tough, they cannot continue to extend themselves beyond their organizational capacity. When they do, the ability to fund critical mission work is at risk, in addition to operating infrastructure and the whole organization is in jeopardy. Nonprofits must be able to strike a balance between maintaining their operational excellence and maximizing their service delivery.

Our sector is finding the best ways possible to meet this challenging balance, but it cannot do so without adequate support from BP, foundations, major funders, individual donors, government, the business community and policymakers.

Thank you for the opportunity to submit written testimony on the progress made and challenges that still remain following the oil spill as it pertains to nonprofit social service providers.

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Post-Hearing Questions for the Record
Ad hoc Subcommittee on Disaster Recovery

Testimony of Kenneth R. Feinberg
Administrator, Gulf Coast Claims Facility
January 27, 2011

1. At the hearing, you discussed the role of Applicant Advocates in helping claimants to obtain specific information about their claim. I am grateful that these liaisons have been deployed, but they are only located at a handful of claims centers in the Gulf.

- Will you also give Worley employees access to this information so they too can provide detailed information to claimants at *all* of the intake centers?

Answer:
Yes, Worley employees at each of the site offices have full access to the system. These Worley employees at the various GCCF claims offices are provided full access to all claimant information to assist claimants in the processing of their claims.

2. You acknowledged that transparency has been a problem and indicated that Applicant Advocates may ameliorate it going forward. Currently, when claimants receive a denial letter or a payment from the GCCF that is lower than expected, they do not receive a detailed invoice. Every claimant should know the details of their award calculation to understand which claimed losses were determined eligible and ineligible.

- When will you begin providing this essential information on a consistent basis within the mailed decision letter, instead of requiring people to visit a claims center or call the hotline to obtain these details?

Answer:
In announcing and implementing the GCCF Final Rule on Friday, February 18, 2011, the GCCF also attached to the Final Rule a more detailed and informative letter to each claimant explaining the details of their award calculation and the reasons why the claim was deemed eligible or ineligible. This letter template is available on the GCCF website. A sample copy of both the individual and business letters are attached.

3. In my opinion, the current threshold for unsatisfied claimants to appeal to the GCCF's three-judge appeals panel is set way too high. Individual claims must exceed $250,000 and business claims must exceed $500,000 to be heard. As of January 26th, only 33 paid individual claims met the lesser $100,000 threshold and only 101 paid business claims met the $500,000 threshold. While these numbers may increase, the fact remains that the vast majority of claimants will not have recourse to the GCCF's appeals process.

- Why did you set these thresholds so high, and would you consider lowering or eliminating them based on demand for appeals or other factors?
- Why don't GCCF denial letters provide information to claimants about their option to request secondary review by the Coast Guard's National Pollution Funds Center and instructions on how to request such a review?

Answer:
First, under OPA any claimant whose claim is denied or who is dissatisfied with the GCCF's determination is entitled to submit his or her claim to the United States Coast Guard (with no dollar limitation whatsoever). As of February 21, 2011, 551 claimants have submitted their claims to the Coast Guard for another review. The Coast Guard has adjudicated 347 of these claims and has not found that additional payment is appropriate for any claim. .

Second, the GCCF established an additional right to appeal (not required by federal law) in those limited cases where the claimant received compensation in excess of $250,000. (BP may appeal in those limited cases where the claimant received in excess of $500,000 from the GCCF.) These thresholds were set high in order to limit the number of appeals, so that this additional appeals process does not slow down the efficiency and speed of distributing funds. There is a tension between the right to appeal and delays caused by such appeals slowing down the distribution of funds to eligible claimants. Finally, beginning February 14, 2011, all GCCF denial letters include information to claimants about their right to submit their claims to the National Pollution Funds Center, the Coast Guard Office responsible for evaluating and approving OPA claims as well as instructions as to how to request such review. All Interim and Final determination letters will also include this information.

The language included in these letters is as follows:

If you disagree with the GCCF's decision on your claim, you may have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims or as an alternative you may have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, 1-800-280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. A claim for physical injury is not a claim under OPA and therefore cannot be submitted to the NPFC.

4. I have heard from several organizations that the GCCF denied tens of thousands of Emergency Advance Payment (EAP) claims in the final weeks leading up to the EAP deadline on November 23, 2010 due simply to the fact that the GCCF did not have time to review them before the emergency phase ended.

- Did this across the board series of denials without review truly occur?
- If so, did the GCCF fully explain to the denied claimants that they were denied at no fault of their own, and have you reopened those claims without requiring resubmission?

Answer:
No, there was no blanket across the board series of denials without review in connection with the November 23, 2010 deadline for Emergency Payments. All requests for Emergency Payments were reviewed to determine whether or not there was adequate documentation to support eligibility and the requested Emergency Payment.

5. Since the end of the Emergency Advance Payments, Garden City Group, with help from Catholic Charities, developed a "pilot project" with over 30 claims from Pointe a la Hache fishermen that were denied during the November EAP rush. Most of these claims were found to be either ready for payment or only in need of a little work.

- Do you agree that this collaborative initiative for fishermen in Pointe a la Hache demonstrates the importance of providing claimants and technical assistance providers access to an adjuster with updated, actionable information?
- If so, how can this pilot be expanded and replicated with Garden City Group call representatives and other GCCF personnel?

Answer:
Yes, I do agree that it is important that the GCCF work more closely with local technical Assistance Providers and other non-profit organizations in assisting claimants with the filing and consideration of their claims. In addition, in conjunction with the implementation of the new Final Rule for Interim Payments and Final Payments, the GCCF will provide GCCF accountants in local claims offices to assist claimants in the preparation and calculation of claims. Effective February 28, 2011, the GCCF will also expand the staff in the local offices and will also advise claimants of their right to seek their own independent accountants to assist them in submitting their claims. These local accountants will not be retained by the GCCF and the cost of using these local accountants will be reimbursed by the GCCF pursuant to applicable federal law.

6. The Louisiana Technical Assistance Network is a group of 12 exceptional NGOs that have already served over 10,000 claimants with modest funding from the State. The GCCF seems to have ignored their valuable role and the trust they have earned in disaster-affected communities across Louisiana.

- Will you designate a senior decision maker within GCCF to formally coordinate with the technical assistance providers in Louisiana through a framework that facilitates regular, ongoing, two-way communication?

Answer:
Yes, we agree that the GCCF should work more closely with the Louisiana Technical Assistance Network. This effort is already underway with regard to subsistence claims; the GCCF has designated Deputy Administrator Krista Friedrich as well as one of our local liaisons and Worley employees to work with Catholic Charities and other Providers in Louisiana in determining appropriate eligibility for such subsistence claims and, if eligible, the formula to be used in calculating damages.

7. Subsistence losses are compensable under the Oil Pollution Act for people who have lost access to resources used for personal consumption or bartering, like seafood. Many Vietnamese-Americans and Native tribes in South Louisiana have filed subsistence claims with the GCCF. According to the Mary Queen of Vietnam Community Development Corporation, only 13 subsistence claims had been paid as of January 26th out of over 16,000.

- When will you make available a fair and workable methodology for evaluating and paying legitimate subsistence claims?

Answer:
The GCCF is working closely with local Providers in Louisiana to develop a methodology for determining subsistence eligibility and the calculation of appropriate damage. The GCCF will rely primarily on these local non-profit organizations to review subsistence claims and propose to the GCCF appropriate compensation based upon and agreed upon formula. This is a perfect example of the GCCF recognizing the wisdom of relying upon local organizations familiar with Louisiana and its citizens.

8. Please provide updated data on the "quick-pay" settlements that the GCCF has reached thus far with Gulf Coast claimants, including the total number of claimants in each state that have accepted such a payment, and the total amount in dollars disbursed in each state for these payments.

Answer:
As of February 22, 2011, the GCCF has received approximately 93,000Quick Payments and has paid 90,182 Quick Payments to claimants throughout the Gulf totaling about $900 million. These Quick Payments breakdown by state as follows:

a) Louisiana --33,941claimants equaling $272,345,000.
b) Alabama --14,492 claimants equaling $157,880,000.
c) Florida -- 35,673 claimants equaling $356,225,000.
d) Mississippi -- 8, 263 claimants equaling $68,695,000.
e) Texas -- 651 claimants equaling $8,455,000.

* * *

In addition to the eight questions posed above by Senator Landrieu, a series of other questions were asked by Senators Shelby, Vitter and Nelson.

1. How many of the Alabama paid claims were paid in full? (Senator Richard Shelby)

Answer:
As of February 22, 2011, 14,492 Alabama individual and business claims were paid in full pursuant to the "Quick Payment" GCCF option which permits any individual who received an earlier Emergency Payment to request $5,000 without any further documentation; a business can request $25,000 in full satisfaction of their claims. In addition, 17 Alabama individuals and businesses have received Interim Payments and 137 Alabama individuals and businesses have been offered Final Payments. Of course, there are many individuals and businesses who did not receive the full amount requested. But, this is not surprising. Requesting an amount is one thing; documenting and proving the damage is required. For example, one claimant requested all $20 billion available in the escrow account; another individual requested $10 billion.

2. In Louisiana, are half of the claimants Quick Payments? Does that mean that 92% go to retail, service and restaurant type businesses? (Senator David Vitter)

Answer:
In Louisiana 60,224 individuals and businesses received Emergency Payments. In addition, as of February 22, 2011, 583 Louisiana individuals and businesses received Interim Payments or were offered Final Payments. Of this total number, 33,941 individuals and businesses in Louisiana received Quick Payments, or 56.4 percent.

3. What is the status of the 40 claims submitted to the GCCF by Senator Nelson? (Senator Nelson)

Answer:
We are working closely with Senator Nelson's Florida staff in reviewing the status of those claims submitted to the GCCF for review and, when appropriate, payment. The GCCF is also employing additional staff at the local level in Florida to provide more one-on-one communication with those local Florida claimants.

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

[Date]

[Claimant/Attorney Name]
[Claimant/Attorney Address 1]
[Address 2]
[City, State Zip Code]

RE: Determination Letter on Interim Payment/Final Payment Claim
[Claimant Name]
[Claimant ID:]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Determination Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov.

I. The Determination of Your Claim and Calculation of Losses.

You qualify for compensation from the GCCF. **Attachment A** to this Letter explains the amount, if any, that the GCCF is paying to you now for an Interim Payment as well as an offer for a Final Payment (the "Final Payment Offer"), which is the additional amount you can be paid now if you decide to accept the Final Payment Offer and sign a Release and Covenant Not to Sue (the "Release"). The Release waives and releases any claims that you have or may have in the future against BP and all other potentially responsible parties with regard to the Oil Spill, and prevents you from submitting any claim seeking payment from the NPFC or a court. **Attachment B** to this Letter shows you the periods of your documented losses based upon the records you submitted and also shows you the periods where documents were missing (which means that the GCCF could not award you losses for those periods).

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II. Your Interim Payment.

If **Attachment A** shows that you are entitled to an Interim Payment, the GCCF will follow your payment instructions: (a) if you indicated in your Claim Form that you wished to be paid by wire transfer, the GCCF will wire your payment into your account as you directed; or (b) if you indicated in your Claim Form that you wished to be paid by check, the GCCF has mailed you a check with a hardcopy of this Letter. This Interim Payment is for your past losses for the period after April 20, 2010, and up to the time of the last period for which you submitted records showing your income or losses, as shown in **Attachment B, Section A.** The GCCF has made this Interim Payment to you without requiring you to release or give up any claims or to surrender any litigation rights. You may submit additional Interim Payment Claim Forms along with the Required Documentation to show those damages caused by the Oil Spill, once each calendar quarter, until August 22, 2013. The GCCF will review your claim, issue you a new Determination Letter and send you payment of any additional past losses caused by the Oil Spill as shown in your documents. Your new Determination Letter also will provide a new Final Payment Offer that you will have 90 days to accept. That new Final Payment Offer could be higher, lower, or stay the same as the Final Payment Offer in this Letter, depending upon what your documents show and any new information available to the GCCF at the time about the impact of the Oil Spill on the Gulf region.

III. Your Final Payment.

If you want to be paid the amount shown in your Final Payment Offer in **Attachment A** and fully resolve your entire claim now, you can accept your Final Payment Offer. Your Final Payment Offer includes payment for all future damages to you as a result of the Oil Spill, determined according to the Gulf Coast Claims Facility's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology. Your Final Payment Offer is valid for 90 days after the date of this Letter. The last page of this Letter contains an Election Form with a box for you to use to accept the Final Payment Offer and a space for your signature. To accept your Final Payment Offer, check the box on the Election Form indicating that you accept your Final Payment Offer, sign it and return it to the GCCF no later than 90 days after the date of this Letter. We then will send you a Release for you to sign and return to be paid the Final Payment Amount. The GCCF will mail or wire the Final Payment Amount to you as you indicated on your Claim Form within 14 days after receipt of a complete and properly signed Release. You must submit your ***original*** signature on the Release to the GCCF. The GCCF will not accept faxes, scanned images or photocopies of your signed Release.

You may appeal a Final Payment Offer if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals who will make an independent determination of the claim's value. BP will have the right to appeal to the panel of three neutrals if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is $500,000 or more. For further information on the appeal process, visit the GCCF website at www.gulfcoastclaimsfacility.com.

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

If you are represented by a lawyer, you should discuss your rights with your lawyer before signing and returning the Release. If you would like to consult with an attorney but cannot afford one, free legal help is available for the GCCF Interim or Final Claims Process, through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. Information about this free assistance is available on the GCCF website, www.gulfcoastclaimsfacility.com.

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If you do not accept your Final Payment Offer, then you may choose to seek additional Interim Payments from the GCCF or request re-review of your Final Payment Offer, as described in this Letter.

IV. Request for Re-Review of Your Final Offer Amount.

If **Attachment B, Section B** identifies any missing documentation needed to evaluate your claim fully, you may submit those documents and the GCCF will re-review your claim and issue you another Determination Letter with a new Final Payment Offer. Depending on what your additional documents show, your new Final Payment Offer could be higher, lower or stay the same as the Final Payment Offer in this Letter. If your documents show additional lost profits caused by the Oil Spill, the GCCF will include those lost profits in your new Final Payment Offer and will adjust the future damages portion of your Final Payment Offer accordingly. If you want to submit additional documents to the GCCF now for a re-review, send them to the GCCF within 30 days after the date of this Letter. The GCCF will review them and send you a new Final Payment Offer within 30 days after it receives your records.

V. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Determination Letter, and the calculations used to derive the Interim Payment and/or Final Payment amounts. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: XXXXXXXXX at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

SAMPLE

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ATTACHMENT A: EVALUATION OF CLAIM		
A. ANNUAL PRE-SPILL REVENUES		
2008	**2009**	**2010 Projected Revenues**
$	$	$
Methodology used to calculate 2010 Projected Revenues		

B. CALCULATION OF PAST LOST PROFITS		
1.	**2010 Projected Revenues** (projected for the periods within May-Dec. 2010 based upon documented financial records, as shown in Attachment B Section A)	$
2.	**Less: 2010 Actual Revenues** (for May-Dec. 2010 from submitted financial records as shown in Attachment B, Section A)	($)
3.	**2010 Lost Revenues** (Row 1 minus Row 2)	$
4.	**Loss of Income % (LOI %)** (the LOI percentage adjusts the calculated Lost Revenues to reflect saved or discontinued expenses)	%
5.	**Resulting 2010 Lost Profits** (Row 3 multiplied by Row 4 to determine the Lost Profits from the Lost Revenues)	$

C. INTERIM PAYMENT		
1.	**2010 Lost Profits** (from Row 5 in Section B above)	$
2.	***Less Offsets:***	
	Payments by BP	($)
	GCCF Emergency Payments	($)
	GCCF Interim Payments	($)
	Other Offsets	($)
3.	**Calculated Interim Payment**	$
4.	**Interim Payment Paid with this Letter** (A $1,000 minimum payment applies to this Interim Payment only.)	$

D. FINAL PAYMENT OFFER	
Final Payment Offer: 2010 Lost Profits of $[ ] multiplied by a Recovery Factor of [two/four] times losses = $ [ ], less the Offsets shown in Section C above and all Interim Payments. If your calculated Final Payment Offer is below $25,000, your Final Payment Offer is the $25,000 Quick Payment Amount. If you wish to accept this Final Payment Offer, check the box in Section C of the Election Form on the last page of this letter and sign and return the Election Form.	$

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ATTACHMENT B: EXPLANATION OF DOCUMENTED LOST EARNINGS AND INCOME

A. PERIODS WITH SUBMITTED FINANCIAL RECORDS

You submitted documents showing your income and losses for the periods shown below. The GCCF based its calculation of your Interim Payment Amount, if any, and the Calculated Final Payment Offer upon this submitted documentation for those periods.

	2010 Month	Periods With Documents	Source of Earnings/Income
1.			
2.			

B. PERIODS FOR WHICH FINANCIAL RECORDS ARE MISSING

You did not submit documents showing your income and losses for the Periods Missing Documents identified below. Nor did you provide any proof that that you did not receive any income during those periods. The GCCF can re-review your claim if you want to seek payment for any losses during those periods and if you submit the documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show income for these periods. You may submit these records to document the Periods Missing Documents identified below:

Individual Claimants:

(a) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(b) State tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(c) Paycheck stubs or other payroll records from all employment demonstrating earnings.

(d) A letter or other records from an employer that describes when you were working and your rate of pay and total earnings, or why you were not working.

	Periods Missing Documents
1.	
2.	

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GCCF 1012	ELECTION FORM FOR DETERMINATION LETTER ON LOST EARNINGS AND INCOME CLAIM Date of Notice: 2/11/11 Deadline to Submit Additional Documentation for Re-Review: 3/12/11 Date Final Payment Offer Expires: 5/11/11

A. CLAIMANT INFORMATION

Claimant Name		**Claimant Number**			
Address	Street		City	State	Zip
Claimant Type (Individual or Business)		**Business Type**		**Zip Code of Loss**	

B. ATTORNEY REPRESENTATION INFORMATION

☐	The GCCF has no information that this Claimant is represented by an attorney.
☐	The GCCF has been informed that this Claimant is represented by the following attorney:

Attorney Name		**Law Firm**		
Address	Street	City	State	Zip

C. ELECTION TO ACCEPT FINAL PAYMENT OFFER

☐	I elect to be paid the Final Payment Offer described in my Determination Letter. The GCCF will send you a Release and Covenant Not to Sue that you must sign and return to be paid.

SIGNATURE

Claimant Signature	_____	**Date**	___/___/___ (Month/Day/Year)
Name of Person Signing (Print or Type)			

You can send the GCCF documents for a re-review of your claim or complete and send this Election Form to elect to be paid this Final Payment Offer using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to NoticesandOffers@gccf-claims.com
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit www.gulfcoastclaimsfacility.com to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
6.	**Online Election of Final Payment Offer:** (Completed no later than midnight your time for your deadline to elect)	You can accept your Final Payment Offer electronically by visiting the GCCF website at www.gulfcoastclaimsfacility.com and accessing your claim status by clicking on the "Check Claim Status" tab. This is only for accepting the Final Payment Offer and not for sending additional documents for re-review of your claim.

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GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

[Date]

[Claimant/Attorney Name]
[Claimant/Attorney Address 1]
[Address 2]
[City, State Zip Code]

RE: Determination Letter on Interim Payment/Final Payment Claim
[Claimant Name]
[Claimant ID:]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Determination Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov.

I. The Determination of Your Claim and Calculation of Losses.

You qualify for compensation from the GCCF. **Attachment A** to this Letter explains the amount, if any, that the GCCF is paying to you now for an Interim Payment as well as an offer for a Final Payment (the "Final Payment Offer"), which is the additional amount you can be paid now if you decide to accept the Final Payment Offer and sign a Release and Covenant Not to Sue (the "Release"). The Release waives and releases any claims that you have or may have in the future against BP and all other potentially responsible parties with regard to the Oil Spill, and prevents you from submitting any claim seeking payment from the NPFC or a court. **Attachment B** to this Letter shows you the periods of your documented losses based upon the records you submitted and also shows you the periods where documents were missing (which means that the GCCF could not award you losses for those periods).

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II. Your Interim Payment.

If **Attachment A** shows that you are entitled to an Interim Payment, the GCCF will follow your payment instructions: (a) if you indicated in your Claim Form that you wished to be paid by wire transfer, the GCCF will wire your payment into your account as you directed; or (b) if you indicated in your Claim Form that you wished to be paid by check, the GCCF has mailed you a check with a hardcopy of this Letter. This Interim Payment is for your past lost profits for the period after April 20, 2010, and up to the time of the last period for which you submitted records showing your revenues or lost profits, as shown in **Attachment B, Section A.** The GCCF has made this Interim Payment to you without requiring you to release or give up any claims or to surrender any litigation rights. You may submit additional Interim Payment Claim Forms along with the Required Documentation to show those damages caused by the Oil Spill, once each calendar quarter, until August 22, 2013. The GCCF will review your claim, issue you a new Determination Letter and send you payment of any additional past lost profits caused by the Oil Spill as shown in your documents. Your new Determination Letter also will provide a new Final Payment Offer that you will have 90 days to accept. That new Final Payment Offer could be higher, lower, or stay the same as the Final Payment Offer in this Letter, depending upon what your documents show and any new information available to the GCCF at the time about the impact of the Oil Spill on the Gulf region.

III. Your Final Payment.

If you want to be paid the amount shown in your Final Payment Offer in **Attachment A** and fully resolve your entire claim now, you can accept your Final Payment Offer. Your Final Payment Offer includes payment for all future damages to you as a result of the Oil Spill, determined according to the Gulf Coast Claims Facility's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology. Your Final Payment Offer is valid for 90 days after the date of this Letter. The last page of this Letter contains an Election Form with a box for you to use to accept the Final Payment Offer and a space for your signature. To accept your Final Payment Offer, check the box on the Election Form indicating that you accept your Final Payment Offer, sign it and return it to the GCCF no later than 90 days after the date of this Letter. We then will send you a Release for you to sign and return to be paid the Final Payment Amount. The GCCF will mail or wire the Final Payment Amount to you as you indicated on your Claim Form within 14 days after receipt of a complete and properly signed Release. You must submit your ***original*** signature on the Release to the GCCF. The GCCF will not accept faxes, scanned images or photocopies of your signed Release.

You may appeal a Final Payment Offer if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals who will make an independent determination of the claim's value. BP will have the right to appeal to the panel of three neutrals if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is $500,000 or more. For further information on the appeal process, visit the GCCF website at www.gulfcoastclaimsfacility.com.

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

If you are represented by a lawyer, you should discuss your rights with your lawyer before signing and returning the Release. If you would like to consult with an attorney but cannot afford one, free legal help is available for the GCCF Interim or Final Claims Process, through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. Information about this free assistance is available on the GCCF website, www.gulfcoastclaimsfacility.com.

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If you do not accept the Final Payment Offer, then you may choose to seek additional Interim Payments from the GCCF or request re-review of your Final Payment Offer, as described in this Letter.

IV. Request for Re-Review of Your Final Offer Amount.

If **Attachment B, Section B** identifies any missing documentation needed to evaluate your claim fully, you may submit those documents and the GCCF will re-review your claim and issue you another Determination Letter with a new Final Payment Offer. Depending on what your additional documents show, your new Final Payment Offer could be higher, lower or stay the same as the Final Payment Offer in this Letter. If your documents show additional losses caused by the Oil Spill, the GCCF will include those losses in your new Final Payment Offer and will adjust the future damages portion of your Final Payment Offer accordingly. If you want to submit additional documents to the GCCF now for a re-review, send them to the GCCF within 30 days after the date of this Letter. The GCCF will review them and send you a new Final Payment Offer within 30 days after it receives your records.

V. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Determination Letter, and the calculations used to derive the Interim Payment and/or Final Payment amounts. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: XXXXXXXXX at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

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ATTACHMENT A: EVALUATION OF CLAIM		
A. ANNUAL PRE-SPILL EARNINGS		
2008	**2009**	**Higher of 2008/2009**
$	$	$

B. CALCULATION OF PAST LOST EARNINGS		
1.	**2010 Projected Earnings** (projected for May-Dec. 2010 from the higher annual amount in Section A above)	$
2.	**2010 Projected Earnings** (projected for the periods in May-Dec. 2010 based upon documented financial records, as shown in Attachment B Section A)	$
3.	**Less: 2010 Actual Earnings** (for May-Dec. 2010 from submitted records as shown in Attachment B Section B)	($)
4.	**2010 Lost Earnings** (Row 2 minus Row 3)	$
C. INTERIM PAYMENT		
1.	**2010 Lost Earnings** (from Row 4 in Section B above)	$
2.	***Less Offsets:***	
	Payments by BP	($)
	GCCF Emergency Payments	($)
	GCCF Interim Payments	($)
	Other Offsets	($)
3.	**Calculated Interim Payment**	$
4.	**Interim Payment Paid with this Letter** (A $1,000 minimum payment applies to this Interim Payment only.)	$
5.	**Accounting Preparation Expenses and/or Job Seeking Expenses Also Paid With This Letter**	$
6.	**Total Payment Sent With This Letter**	$
D. FINAL PAYMENT OFFER		
Final Payment Offer: 2010 Lost Earnings of $[ ] multiplied by a Recovery Factor of [two/four] times losses = $ [ ], less the Offsets shown in Section C above and all Interim Payments. If your calculated Final Payment Offer is below $5,000, your Final Payment Offer is the $5,000 Quick Payment Amount. If you wish to accept this Final Payment Offer, check the box in Section C of the Election Form on the last page of this letter and sign and return the Election Form.		$

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ATTACHMENT B: EXPLANATION OF DOCUMENTED LOST PROFITS

A. DOCUMENTED LOST PROFITS PERIODS

You submitted documents showing your revenue and lost profits for the periods shown below. The GCCF based its calculation of your Interim Payment Amount, if any, and the Calculated Final Payment Offer upon this submitted documentation.

	Measurement Period	Projected Monthly Revenues	Actual Post-Spill Revenues	Net Loss (Projected Monthly minus Actual Post-Spill Revenues)
1.	May, 2010	$	$	$
2.	June, 2010	$	$	$
3.	July, 2010	$	$	$
4.	August, 2010	$	$	$
5.	September, 2010	$	$	$
6.	October, 2010	$	$	$
7.	November, 2010	$	$	$
8.	December, 2010	$	$	$
TOTAL DOCUMENTED PAST LOST PROFITS SINCE THE OIL SPILL		**$**	**$**	**$**

B. MISSING DOCUMENTS

You did not submit documents showing your revenue and lost profits for the Periods Missing Documents identified below. Nor did you provide any proof that that you did not receive any revenue during those periods. The GCCF can re-review your claim if you submit such documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show revenue for these periods. You may submit these records to document the Periods Missing Documents identified below:

Business Claimants:

(a) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return, if you have filed a return for the period.

(b) Monthly and annual Profit and Loss statements.

(c) Monthly sales and use tax returns.

(d) For seafood harvesting businesses, a report, obtained from the applicable governmental agency, of the Claimant's landings since January 1, 2008.

For new or start-up businesses, all available financial statements and business plans.

	Periods Missing Documents
1.	

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GCCF 1012	ELECTION FORM FOR DETERMINATION LETTER ON LOST PROFITS CLAIM Date of Notice: Deadline to Submit Additional Documentation for Re-Review: Date Final Payment Offer Expires:

A. CLAIMANT INFORMATION

Claimant Name		**Claimant Number**			
Address	Street	City		State	Zip
Claimant Type (Individual or Business)		**Business Type**		**Zip Code of Loss**	

B. ATTORNEY REPRESENTATION INFORMATION

☐	The GCCF has no information that this Claimant is represented by an attorney.
☐	The GCCF has been informed that this Claimant is represented by the following attorney:

Attorney Name		**Law Firm**		
Address	Street	City	State	Zip

C. ELECTION TO ACCEPT FINAL PAYMENT OFFER

☐	I elect to be paid the Final Payment Offer described in my Determination Letter. The GCCF will send you a Release and Covenant Not to Sue that you must sign and return to be paid.

SIGNATURE

Signature of Business Owner or Authorized Business Representative	_____	**Date:**	___/___/___ (Month/Day/Year)
Name of Person Signing (Print or Type)			

You can send the GCCF documents for a re-review of your claim or complete and send this Election Form to elect to be paid this Final Payment Offer using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to NoticesandOffers@gccf-claims.com
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit www.gulfcoastclaimsfacility.com to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
6.	**Online Election of Final Payment Offer:** (Completed no later than midnight your time for your deadline to elect)	You can accept your Final Payment Offer electronically by visiting the GCCF website at www.gulfcoastclaimsfacility.com and accessing your claim status by clicking on the "Check Claim Status" tab. This is only for accepting the Final Payment Offer and not for sending additional documents for re-review of your claim.

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Post-Hearing Questions for the Record
Submitted to Craig Bennett
From Senator Mary Landrieu

"Gulf Coast Recovery: An Examination of Claims Administration and Social Services in the Aftermath of the Deepwater Horizon Oil Spill"
January 27, 2011

1. The Oil Pollution Act of 1990 designates the U.S. Coast Guard's National Pollution Funds Center (NPFC) to adjudicate claims if the responsible party for the oil spill fails to respond within 90 days, or if a claimant is unsatisfied with his initial award. The GCCF is processing 483,000 claimants, but the NPFC has only reviewed 507 claims.

- For some reason, the majority of claimants have no idea they can ask the Coast Guard for help if they're unsatisfied with their payment from the GCCF. Do all GCCF award decision letters explain this option and provide instructions to claimants on how to request secondary review by your office?

Response: The Oil Pollution Act of 1990 authorizes the President to use the Oil Spill Liability Trust Fund to pay claims. That authority is delegated to the National Pollution Fund Center (NPFC). In general claimants must first present their claims to a responsible party. If the responsible party denies a claim or the claim is not settled after 90-days the claimant may elect to file an action in court against the responsible party or present the claim to the NPFC.

The Gulf Coast Claims Facility (GCCF) has advised us that their operators clearly describe a claimant's option to submit claims to the NPFC. In addition GCCF protocol on interim for final claims advises claimants of their option to present claims to the NPFC. Also GCCF answers to frequently asked questions (FAQs) posted on the GCCF website clearly describe claimant options and provide a link to the NPFC website. GCCF denials of emergency payments that claimants have provided to us did not advise claimants of their option to present claims to the NPFC but instead advised claimants to present interim, final or quick pay claims to GCCF. We have advised GCCF of the need to include such information in future denial letters and GCCF has committed to do so for interim and final claims decisions.

- What is the NPFC's current procedure for advertising itself to Gulf Coast residents and GCCF claimants as a secondary alternative to the GCCF?

Response: The Oil Pollution Act of 1990 authorizes the President to use the Oil Spill Liability Trust Fund to pay claims. That authority is delegated to the NPFC. In general, claimants must first present their claims to a responsible party. If the responsible party denies a claim or the claim is not settled after 90 days then the claimant may elect to file an action in court against the responsible party or present the claim to the NPFC. The NPFC has an active website with Deepwater Horizon frequently asked questions that addresses claimant options. In addition claimants can call our 1-800 number for information. Also, the GCCF website frequently asked questions on this subject links to the NPFC website.

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2. The GCCF does not seem to have a clear methodology in place to evaluate and pay legitimate subsistence fishing claims.

- Please explain the subsistence claim methodology used by the NPFC.

Response: The Oil Pollution Act (OPA) makes the Oil Spill Liability Trust Fund (OSLTF) available to pay claims to individuals that have demonstrated a damage from loss of use of natural resources relied upon for food, shelter, clothing, or medicine as a minimum necessity of life. The National Pollution Fund Center (NPFC) reviews such claims for lost subsistence use of natural resources, like all other types of OPA claims, against the requirements provided in OPA and the Coast Guard OPA claims regulations (33 CFR Part 136).

Generally, all claims to the OSLTF must be in writing, signed by the claimant, presented within three years after the date the injury and connection with the discharge was reasonably discoverable and request a specific amount of money. Claims that meet these general requirements are then reviewed to determine if they meet the more specific requirements applicable to the type of claim submitted. For lost subsistence use claims, claimants must:

- Document that they are a subsistence user.
- Explain how the oil spill impacted the subsistence use.
- Describe efforts to mitigate the lost subsistence use.
- Describe how the amount claimed was determined.

To assist potential claimants with preparing claims to the OSLTF, the NPFC has provided information about claim requirements, including answers to frequently asked questions regarding subsistence use, an Optional OSLTF Claim Form, and the claims regulations for claims to the NPFC at http://www.uscg.mil/npfc/.

Post-Hearing Questions for the Record
Submitted to Rear Admiral Broderick
From Senator Mary Landrieu

"Gulf Coast Recovery: An Examination of Claims Administration and Social Services in the Aftermath of the Deepwater Horizon Oil Spill"
January 27, 2011

1. SAMHSA's mission is to reduce the impact of substance abuse and mental illness on America's communities. The agency provided a template as well as technical support to Gulf Coast states in the development of comprehensive plans to address the emotional and psychological needs of people affected by the spill.

- If case management were sufficiently funded and NGOs were able to provide direct assistance to people suffering as a result of the spill, would this also make it easier to deliver mental health services in the community?

Answer: Case management and NGO participation is helpful but not sufficient in and of themselves to provide for the delivery of mental health services. The delivery of mental health services is contingent upon a variety of factors that when woven together increases the effectiveness of the intervention. Additional factors necessary to effect access to intervention include:

- sufficient workforce or personnel to deliver the care,
- organization, leadership and planning to ensure smooth operations,
- equipment and systems to record and communicate services,
- training of providers to ensure trauma informed care and evidence based practices are incorporated,
- exercises to make sure all of the pieces work well together.

The capability to provide the right care to those that need it following disasters or emergencies requires a network of cooperating systems, of which NGOs play an important community role.

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WILMERHALE

Anne Harkavy

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anne.harkavy@wilmerhale.com

BY ELECTRONIC DELIVERY

March 14, 2011

The Honorable Mary Landrieu, Chairman
Ad Hoc Subcommittee on Disaster Recovery
Committee on Homeland Security and Governmental Affairs
United States Senate
613B Hart Senate Office Building
Washington, D.C. 20510-6262

The Honorable Lindsey Graham, Ranking Member
Ad Hoc Subcommittee on Disaster Recovery
Committee on Homeland Security and Governmental Affairs
United States Senate
613B Hart Senate Office Building
Washington, D.C. 20510-6262

Re: Response to Chairman Landrieu's Post-Hearing Questions for the Record Submitted to Luke Keller, Executive Vice President, Gulf Coast Restoration Organization, BP America, Inc.

Dear Chairman Landrieu and Ranking Member Graham:

I am writing on behalf of BP America, Inc. (BPA) in response to Chairman Landrieu's February 7, 2011, correspondence to Mr. Luke Keller, Executive Vice President, Gulf Coast Restoration Organization, BP America, Inc. ("BPA"), in which you requested responses to certain questions for the record submitted in connection with the hearing held by the U.S. Senate Committee on Homeland Security and Governmental Affairs Ad Hoc Subcommittee on Disaster Recovery on January 27, 2011. These responses are based on information that is reasonably available to BPA at this time.

BPA is also today providing a copy of the *Deepwater Horizon* Oil Spill Trust Agreement in response to your third request (BP-HZN-SHS-000131 – 67) and a copy of the Restricted Fund Agreement made by and among the Baton Rouge Area Foundation, the Gulf Coast Restoration and Protection Foundation, and BP Exploration & Production, Inc. in response to your fourth request (BP-HZN-SHS-000168 – 78).

WILMERHALE

The Honorable Mary Landrieu, Chairman
March 14, 2011
Page 2

If you have any questions, or require additional information, please feel free to contact me directly or Liz Reicherts at (202) 457-6585.

Sincerely,

Anne Harkavy

Enclosure

POST-HEARING QUESTIONS FOR THE RECORD
U.S. SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
MR. LUKE KELLER, EXECUTIVE VICE PRESIDENT,
GULF COAST RESTORATION ORGANIZATION, BP AMERICA, INC.
"GULF COAST RECOVERY: AN EXAMINATION OF CLAIMS ADMINISTRATION AND SOCIAL SERVICES IN THE AFTERMATH OF THE DEEPWATER HORIZON OIL SPILL"
HEARING HELD ON JANUARY 27, 2011

ANSWER SET

MARCH 14,2011

QUESTIONS FROM CHAIRMAN LANDRIEU

1. **I am grateful for BP's contributions to SAMHSA and the Gulf Coast states to address mental health challenges. However, Catholic Charities has asked BP several times since the oil spill to review its social services proposal covering other urgent needs, which was cosigned by 53 Louisiana NGOs. My staff has discussed this proposal with Iris Cross from BP, and I personally handed the document to BP's North American CEO, Lamar McKay, several weeks ago in my office. The State of Louisiana has endorsed the proposal and sent a copy of its support letter to BP's Global CEO, Robert Dudley, on November 18, 2010. Similar requests for support have also been made on multiple occasions by the South Mississippi VOAD. Current law does not require BP to fund these proposals, but the needs they are designed to address do in fact exist, they are a direct result of the oil spill, and the claims process has not succeeded in eliminating them. It seems that funding these critical NGOs would go a long way in closing service gaps and reinforcing BP's commitment to the people of this region.**
   - **When will these Gulf Coast social service providers receive a response to their proposals from BP?**

BP was pleased to partner with Catholic Charities during the early days of the response, as they were on the ground and providing services to those who had been directly affected. As you have recognized, BP has gone beyond its legal obligations under the Oil Pollution Act, including contributing more than $750,000 to Catholic Charities Archdiocese of New Orleans to support emergency food assistance, direct financial assistance and other needs; contributing more than $250,000 to Catholic Charities' food bank partner, Second Harvest Food Bank; and contributing $100,000 to the Catholic Charities Diocese Houma-Thibodaux to provide for additional social services needs of residents of the western parishes. In addition, BP provided the State with $15 million for behavioral health support and recommended that the State provide funding to Catholic Charities, based on its initial proposal, to assist with its outreach efforts. We were pleased that the State provided $6.7 million to Catholic Charities and $4.9 million to Louisiana Spirit to support behavioral health initiatives. BP's Gulf Coast Restoration Organization members have been engaged in a continuing dialogue with Jim Kelly, the Co-

President and CEO of Catholic Charities Archdiocese of New Orleans, and Tom Costanza, the Executive Director of its Office of Justice and Peace, regarding their additional proposals. We are preparing a formal response to the November 18 letter from Mr. Robin Keegan, the Executive Director of the State of Louisiana's Office of Community Development, and we will share that response with you and the Subcommittee.

BP provided the State of Mississippi's Department of Mental Health with $12 million to support its efforts to help Mississippi residents in the coastal communities gain access to appropriate behavioral health services. BP responded to all of South Mississippi VOAD's requests made during 2010. South Mississippi VOAD provided BP with a new proposal in mid-January; BP is evaluating this proposal and will respond to it.

2. **Some of the original $15 million BP donated to the State of Louisiana on August 5, 2010 went to fund 12 exceptional NGOs, together referred to as the Louisiana Technical Assistance Network, for the purpose of helping people prepare and submit their claims to the GCCF. This money will dry up very soon, beginning this month.**
   - **If the State of Louisiana files a government claim to extend support for this network through the end of 2011, will you fund it?**

Any claim submitted by the State of Louisiana, or any other entity, will be evaluated based on its particular facts and circumstances. Every claim is unique and is evaluated individually.

3. **Please provide a copy of the agreement between BP, Mr. Feinberg, and representatives from the White House.**

Based on discussions with Subcommittee staff, we understand that you are requesting a copy of the *Deepwater Horizon* Oil Spill Trust Agreement, which we are producing at BP-HZN-SHS-000131 - 67.

4. **Please provide a copy of the agreement between BP and the Baton Rouge Area Foundation.**

BPA is producing a copy of the Restricted Fund Agreement made by and among the Baton Rouge Area Foundation, the Gulf Coast Restoration and Protection Foundation, and BP Exploration & Production, Inc. at BP-HZN-SHS-000168 - 78.

RESTRICTED FUND AGREEMENT

THIS RESTRICTED FUND AGREEMENT (the "**Agreement**") is made as of the 29th day of July, 2010, by and among The Baton Rouge Area Foundation (the "**Foundation**"), a Louisiana nonprofit corporation and community foundation, Gulf Coast Restoration and Protection Foundation ("**GCRPF**"), a Louisiana nonprofit corporation and supporting organization of the Foundation, and BP Exploration & Production, Inc. (the "**Donor**"), to create a restricted fund at GCRPF. All contributions to this fund shall be bound by the terms of this Agreement. The Donor, the Foundation and GCRPF shall be referred to jointly in this Agreement as the "**Parties.**"

WHEREAS, the Foundation is exempt from tax under section 501(a) of the Internal Revenue Code of 1986, as amended (the "**Code**"), as an organization described in Code section 501(c)(3), and a publicly supported organization described in Code section 509(a)(1);

WHEREAS, GCRPF is exempt from tax under Code section 501(a) as an organization described in Code section 501(c)(3), and GCRPF is a supporting organization of the Foundation as described under Code section 509(a)(3) and Treasury Regulations section 1.509(a)-4(g).

WHEREAS, the Donor wishes to make an irrevocable gift of One Hundred Million Dollars ($100,000,000) to GCRPF to create a restricted fund to provide financial assistance to certain workers who are experiencing economic hardship following the moratorium imposed by the United States Federal government on deepwater drilling;

WHEREAS, the Foundation shall continue to allow GCRPF to utilize the Foundation's employees and resources through a service contract or donation of in-kind services during the term of this Agreement;

WHEREAS, GCRPF and the Foundation acknowledge that there is a need in the community to provide financial assistance to such workers and that providing such financial assistance is consistent with the charitable needs of the community and the charitable purposes of GCRPF and the Foundation;

WHEREAS, the Donor makes this gift as a voluntary contribution to GCRPF;

NOW, THEREFORE, in consideration of the promises hereinafter made to each other the Parties hereto agree as follows:

1. **Type and Name of Fund**. GCRPF shall establish on its books a restricted fund, which shall be known as the Rig Worker Assistance Fund (the "**Fund**"). Any recipient of benefits from this Fund shall be advised that such benefits are from the Rig Worker Assistance Fund.

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2. **Classification of Fund**. The Fund shall not be an endowment fund, and the principal of the Fund shall be considered expendable principal. The Fund is not intended to be a donor advised fund within the meaning of Code section 4966(d)(2). Notwithstanding anything in this Agreement to the contrary, Donor shall not possess any power or authority as a donor advisor described in Code section 4966(d)(2)(A)(iii).

3. **Contributions to the Fund**.

3.1 Upon signing this Agreement, the Donor shall transfer and deliver to GCRPF One Hundred Million Dollars ($100,000,000) payable in cash (the "**Grant**"). The Fund shall include the Grant and all accumulated and undistributed income from the Grant, as reduced by Awards (as defined in Schedule A) and the fees payable by the Fund as set forth in Section 7, below.

3.2 The Donor shall permit others to contribute to the Fund, but all such gifts shall be subject to the Restrictions (as defined in Section 4, below).

4. **Purposes of the Fund**. As set forth in this Agreement, the Fund is established for the exclusive charitable purpose of providing financial assistance to individuals who are experiencing economic hardship following the Federal government-imposed moratorium on deepwater drilling, as provided in greater detail in Schedule A ("**Restrictions**").

5. **Distributions from the Fund**.

5.1 The Fund shall make distributions exclusively in accordance with the Restrictions.

5.2 GCRPF shall have the exclusive authority to approve grants, awards and distributions from the Fund, subject to and consistent with this Agreement. The Donor shall have no authority to direct grants, awards or distributions from the Fund.

5.3 Distributions made from the Fund do not satisfy any legal obligation of the Donor, or any other member of the Donor's consolidated return group under the Code. Distributions from the Fund are charitable grants, and they are not intended to satisfy any legal obligation of a third party.

6. **Reporting**.

6.1 GCRPF shall provide the Donor with detailed, periodic reports documenting GCRPF's progress in making grants, awards or distributions from the Fund and any difficulties GCRPF is encountering in making Awards from the Fund until the Fund is terminated in accordance with Section 8, below. GCRPF shall provide such reports on at least a weekly basis and shall provide information including, but not limited to, (a) the number of Applications filed and the date each such Application was filed, (b) the number of Applications accepted, rejected and still being processed, (c) the dollar amount of each such Application accepted and rejected, (d) the dollar amount of each Award, (e) the total

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dollar amount of all Awards to date, (f) the dollar amount of Applications filed but still being processed, (g) the number of applications filed without proper supporting documentation, and (h) the dollar amount remaining in the Fund. Each such report shall also include, for each Award, the name of the Applicant, the address of Applicant, the last four digits of Applicant's social security or tax identification number, the amount of the Award, and the date the Award was paid.

6.2 The Donor, at its own expense, may conduct its own evaluation of distributions made from the Fund, including a formal audit conducted by a third-party chosen by the Donor and reasonably acceptable to GCRPF.

7. **Fees**. The Fund and Donor shall be charged regularly for a proper allocation of direct and indirect expenses attributed to the administration and management of the Fund and its assets as follows:

7.1 The Fund shall pay GCRPF a fee of $2,500,000 for administration of the Fund, including outreach, overseeing third-party vendors, final vetting of Applications and Award distributions.

7.2 The Fund shall pay GCRPF $4,000,000 for third-party vendor costs for processing Applications. This shall cover the costs of processing 6,000 Applications.

7.3 To cover the costs of processing 6,001 through 10,000 Applications, GCRPF shall receive $667 per Application, paid as follows:

(a) Donated by the Donor, up to a total of $2,000,000;

(b) The remaining from GCRPF.

7.4 To cover the costs of processing all Applications above 10,000 Applications, the Fund shall pay GCRPF $600 per Application.

For purposes of calculating these fees, an "**Application**" shall be defined as a completed application form signed by an Applicant and including all information and all necessary supporting documentation that is required by GCRPF for such Applicant to be considered by GCRPF for an Award.

8. **Termination**.

8.1 Any uncommitted assets remaining in the Fund after all Awards have been made shall be distributed to the Foundation's Fund for the Future of the Gulf for the purpose of providing assistance to individuals, businesses and localities experiencing economic hardship as a result of the Deepwater Horizon oil spill. When the assets in the Fund have been distributed pursuant to this provision, all obligations of GCRPF pursuant to this Agreement shall terminate, except for satisfying any final reporting obligations under Section 6, above.

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8.2 If GCRPF exercises its variance power, as defined in Section 12 of this Agreement, to modify the purposes of the Fund such that the Fund is no longer benefiting individuals who are experiencing economic hardship following the moratorium imposed by the United States Federal government on deepwater drilling, GCRPF shall transfer the Fund to the Catholic Charities of the Archdiocese of New Orleans.

9. **Publicity**. The Parties may publicize the existence of the Grant and the Fund. GCRPF shall make reasonable efforts to inform the Donor of any publicity and any public announcements by GCRPF regarding the Grant or the Fund. GCRPF shall seek the Donor's prior approval of any public announcement referring to or mentioning the Donor. The Donor's right to approve certain public announcements referring to or mentioning the Donor shall not be considered a retained right over the Fund, nor shall it be considered a right to advise GCRPF with respect to distributions or investment of amounts held in the Fund.

10. **Ownership**. The Fund shall be the property of GCRPF held by GCRPF in its corporate capacity and shall not be deemed a separate trust fund held by it in a trustee capacity. GCRPF shall have the ultimate authority and control over all property in the Fund and the income derived therefrom, for the charitable, educational, scientific, literary and religious purposes of GCRPF and the Foundation, subject to the restrictions imposed on the Fund by this Agreement. Neither the Foundation nor GCRPF is acting as an agent of the Donor in administering the Fund.

11. **Management**.

11.1 The Fund shall be managed by GCRPF in accordance with GCRPF's Articles of Incorporation and Bylaws and the Foundation's Policies and Procedures, as each may be amended from time to time. The Donor's right to receive reports and to audit the Fund shall not be considered a retained right over the Fund, nor shall it be considered a right to advise on the Fund's operations.

11.2 GCRPF shall have the sole responsibility and authority for the investment of the assets of the Fund; provided, however, that GCRPF shall invest the assets of the Fund to preserve the Fund's capital and liquidity, limited to fixed income securities and cash equivalents, such as fixed income securities issued directly by the United States Government or any agency or instrumentality thereof.

11.3 The assets of the Fund may be commingled with those of other funds of GCRPF, or may be invested in units of a common investment fund which may be established or utilized by GCRPF. However, GCRPF shall have no obligation to commingle the assets for investment purposes and may, in its discretion, retain any assets received or hold the assets of the Fund as a separate unit for investment purposes.

11.4 The Foundation shall allow GCRPF to use the employees and facilities of the Foundation to assist GCRPF in its performance of its obligations under this Agreement.

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12. **Component Part**. It is intended that the Fund shall be a component part of GCRPF and not a separate trust, and that nothing in this Agreement shall affect the status of GCRPF as an organization described in Code section 501(c)(3) or as an organization which is not a private foundation within the meaning of Code section 509(a). The GCRPF Board of Directors shall have the variance powers as set forth in the tax regulations, Treasury Regulations section 1.170A-9(f)(11)(V)(B),(C), and (D), to modify any restriction or condition imposed pursuant to this Agreement if in GCRPF's sole judgment, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community or area served; provided, however, that GCRPF shall provide written notice to the Donor at least 30 days' prior to exercising such variance power. This Agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirements of the foregoing provisions of the Federal tax laws and any regulations issued pursuant thereto.

13. **Miscellaneous**.

13.1 This Agreement may be executed in duplicate originals and in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument. For purposes of this Agreement, facsimile copies hereof and facsimile signatures hereof shall be authorized and deemed effective.

13.2 All captions are for convenience of reference only and in no way shall be used to construe or modify the provisions set forth in this Agreement. Whenever the context so requires, the gender of all words used in this Agreement includes the masculine, feminine and neuter, and the singular shall include the plural, and conversely.

13.3 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware.

13.4 Should any provision of this Agreement be held invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such holding shall not diminish the validity or enforceability of any other provision hereof.

13.5 This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

13.6 The Parties acknowledge that the Foundation is not the responsible party for implementing this Agreement, that is solely the responsibility of GCRPF.

13.7 Except to the extent that the Foundation has received distributions or payments from the Fund or to the extent of the Foundation's gross negligence or willful misconduct, Donor agrees to hold the Foundation harmless against any claim, loss, damage, liability or expense, including but not limited to reasonable counsel fees, asserted by Donor, its affiliates, or on behalf of Donor or its affiliates, arising out of or in connection with the performance of this Agreement. GCRPF may use reasonable assets from the Fund to defend any claims against it arising out of its performance of this Agreement.

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13.8 This Agreement shall not confer any benefit, right or standing to sue upon any individual or entity other than the Donor, and no third party shall be entitled to enforce any obligation, responsibility or claim of any Party to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as indicated below.

BP EXPLORATION & PRODUCTION, INC.:

Robert Dudley
Vice President

THE BATON ROUGE AREA FOUNDATION:

John G. Davies
President and Chief Executive Officer

GULF COAST RESTORATION AND PROTECTION FOUNDATION:

John G. Davies
President

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SCHEDULE A

RIG WORKER ASSISTANCE FUND

GUIDELINES

Purpose

These guidelines (the "Guidelines") set forth the criteria and processes that GCRPF shall utilize in administering the Rig Worker Assistance Fund (the "Fund") established pursuant to this Agreement executed by and among the Foundation, GCRPF and the Donor. GCRPF may impose other requirements that are reasonable and necessary to administer the Fund, provided that such requirements are consistent with the Guidelines.

Eligibility

The following individuals may receive financial assistance from the Fund (the "**Applicants**"):

> All individuals who were, as of May 6, 2010, employed to physically work offshore on a deepwater drilling rig (**"Rig Worker"**) that is subject to the moratorium imposed by the United States Federal government (as set forth on Schedule B). The status of each such individual as a Rig Worker who was employed to work offshore on a deepwater drilling rig listed on Schedule B shall be verified, to the extent reasonably determinable, by the entity that employed such individual on May 6, 2010.

Applications

The GCRPF shall require all Applicants requesting assistance from the Fund to submit an Application on a form prepared by GCRPF. In order to be considered to receive an Award from the Fund, an Applicant must submit an Application between September 1, 2010 and September 30, 2010 (the "**Application Period**"). As part of the Application, GCRPF may request such financial information as reasonably necessary to determine that an Applicant is eligible to receive an Award from the Fund.

All Applicants shall be required to provide proof of employment as of May 6, 2010 to GCRPF and shall be required to authorize GCRPF or its agent to obtain independent, third-party verification of employment.

An Applicant may be eligible to receive assistance from the Fund for economic hardship that occurred or is likely to occur between May 6, 2010 and the date upon which such Applicant's Application was required to be filed with GCRPF to be considered for an Award.

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GCRPF shall review Applications beginning October 1, 2010 and, on or before October 30, 2010, shall approve or deny all submitted Applications, make Awards from the Fund on Applications approved by GCRPF in its sole discretion (consistent with the Restrictions) and in such amounts as determined by GCRPF (consistent with the Restrictions), and send notifications to all Applicants whose Applications were denied.

If an incomplete Application is received on or before September 30, 2010, GCRPF shall request orally or in writing (which includes by electronic communication), at least once, that the Applicant submit appropriate documentation to substantiate the request for financial assistance. The Applicant may submit such documentation to supplement his or her incomplete Application on or before October 15, 2010, but any delay in submitting a complete Application after September 30, 2010 may affect the Award to such Applicant.

Assistance

An Applicant may be eligible to receive assistance from the Fund, based on financial need and available funds, of no less than $3,000 and no more than the lesser of (1) such Applicant's total lost wages as a result of the moratorium, and (2) $30,000 (**"Awards"**).

GCRPF shall make Awards from the Fund in compliance with Code section 501(c)(3) and based on consistent and non-discriminatory criteria of each Applicant's financial need including, but not limited to, the following requirements:

Income

- Lost wages. GCRPF shall take into consideration an Applicant's actual lost wages through the date upon which an Applicant's Application was required to be filed with GCRPF. An Applicant who continues to receive full wages shall not be eligible to receive an Award from the Fund.
- Other sources of income. GCRPF shall take into consideration ongoing wages the Applicant receives during the moratorium, as well as Applicant's other sources of income, including, but not limited to, expected insurance proceeds, unemployment payments, payments from federal, state or local relief funds and other assistance funds, and wages received by Applicant's spouse.
- Other assets. GCRPF shall not take into account an Applicant's investments, including, but not limited to, retirement accounts, real estate holdings or tangible personal property.

Expenses

- Average monthly expenses. GCRPF shall require Applicants to provide information about their average monthly expenses for at least three months prior to May 6, 2010.
- Unanticipated expenses. GCRPF shall take into consideration unanticipated expenses incurred by an Applicant as a result of the moratorium, including,

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but not limited to, job searches or job training; travel or relocation expenses; or unexpected medical expenses not covered by insurance.

- Anticipated financial obligations. GCRPF shall take into consideration an Applicant's clearly expected additional financial obligations within the next six months, including, but not limited to, tuition for a child who is beginning college.

GCRPF shall calculate any Award an Applicant may receive from the Fund based on the difference between income and expenses, as described above, after subtracting out any lost wages.

GCRPF shall review and make determinations regarding all Applications consistently and on a non-discriminatory basis, regardless of the residence or employer of Applicants.

GCRPF may impose, in its sole discretion, other criteria and requirements, consistent with this Agreement, that are reasonable and necessary to administer the Fund.

Additional Eligible Applicants

Following the distribution of all Awards on or before October 31, 2010, if, in GCRPF's sole discretion, there are sufficient assets in the Fund to make additional Awards, consistent with the terms and conditions set forth in this Agreement, and pay the reasonable costs relating to such additional Awards, GCRPF shall accept another round of Applications, using the following definition of Applicant:

> Individuals other than Rig Workers who were predominantly engaged in direct support of any deepwater drilling rig listed on Schedule B, as of May 6, 2010, and were laid-off as a result of the moratorium imposed by United States Federal government. The status of each such individual as a worker who was employed predominantly to provide direct support to one or more of such deepwater drilling rigs shall be verified, to the extent reasonably determinable, by the entity that employed such individual on May 6, 2010.

GCRPF shall accept and review Applications and make Awards to these additional eligible Applicants using criteria and processes that are consistent with those used for Awards made on or before October 31, 2010, recognizing that the deadline for Applications and the fees for processing this second round of Applications shall change from what is reflected in this Agreement. GCRPF may also make reasonable adjustments to the definition of Applicant to further clarify who is eligible for Awards in this second round of Applications. Applicants who were eligible to receive Awards on or before October 31, 2010 shall not be eligible to apply for an Award during this second round of Applications.

Other

GCRPF shall implement a process to accept Applications and make Awards from the Fund

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that allows Applicants to submit Applications by mail, telephone, facsimile and on-line.

GCRPF shall, in its sole discretion, engage a third party and/or retain a sufficient number of temporary workers, in addition to its own employees, to assist with the administration of the Fund.

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SCHEDULE B

DEEPWATER DRILLING RIGS

	Rig Name	Rig Manager	Current Operator
1	Deep Ocean Ascension	Pride	BP
2	Ocean Voyager	Diamond Offshore	Walter Oil & Gas
3	Transocean Marianas	Transocean	Eni
4	Ocean Saratoga	Diamond Offshore	Taylor Energy
5	Ocean Victory	Diamond Offshore	Newfield Exploration
6	GSF Development Driller III	Transocean	BP
7	GSF Development Driller II	Transocean	BP
8	Maersk Developer	Maersk Drilling	Statoil
9	Discoverer Spirit	Transocean	Anadarko
10	Ocean Confidence	Diamond Offshore	ATP Oil & Gas
11	Ocean Endeavor	Diamond Offshore	Devon Energy
12	ENSCO 8501	Ensco	Noble Energy
13	West Sirius	Seadrill	ExxonMobil
14	Noble Clyde Boudreaux	Noble	Noble Energy
15	Noble Danny Adkins	Noble	Shell
16	Noble Jim Thompson	Noble	Shell
17	Noble Lorris Bouzigard	Noble	LLOG
18	ENSCO 8500	Ensco	Anadarko
19	ENSCO 8502	Ensco	Nexen
20	Noble Amos Runner	Noble	Anadarko
21	Noble Paul Romano	Noble	Marathon
22	Ocean Monarch	Diamond Offshore	Marathon
23	Deepwater Nautilus	Transocean	Shell
24	Deepwater Pathfinder	Transocean	Eni
25	Discoverer Americas	Transocean	Statoil
26	Discoverer Clear Leader	Transocean	Chevron
27	Discoverer Deep Seas	Transocean	Petrobras
28	Discoverer Enterprise	Transocean	BP
29	Discoverer Inspiration	Transocean	Chevron
30	Frontier Driller	Frontier Drilling	Shell
31	GSF C.R. Luigs	Transocean	BHP Billiton
32	GSF Development Driller I	Transocean	BHP Billiton
33	Transocean Amirante	Transocean	Eni

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DEEPWATER HORIZON OIL SPILL TRUST

TRUST AGREEMENT dated as of August 6, 2010 (this "***Agreement***") among (i) BP EXPLORATION & PRODUCTION INC., a Delaware corporation ("***BPEP***"), as grantor (together with any successor-in-interest thereto, the "***Grantor***"), (ii) JOHN S. MARTIN, JR., and KENT D. SYVERUD, as individual trustees (each (together with any successor to such Trustee), an "***Individual Trustee***" and, collectively (together with any successors to such Trustees), the "***Individual Trustees***") and (iii) CITIGROUP TRUST-DELAWARE, N.A., as corporate trustee (together with any successor corporate trustee, the "***Corporate Trustee***" and together with the Individual Trustees, each a "***Trustee***" and, collectively, the "***Trustees***").

RECITALS

1. The Grantor has unknown potential liabilities under federal, state and local law for damages arising from or related to the oil spill caused by the explosion at the Deepwater Horizon oil rig in the Gulf of Mexico (the "***Oil Spill***"), including claims under the Oil Pollution Act, natural resource damages and related costs (including assessment costs), state and local government response costs and certain other claims for damages.

2. The Grantor has established the Gulf Coast Claims Facility (the "***GCCF***") to be administered by Kenneth R. Feinberg (Mr. Feinberg and any successor administrator of the GCCF, the "***GCCF Administrator***") for the purpose of administering, mediating and settling certain of the Damage Claims (as defined below).

3. "***Damage Claims***" shall be limited to amounts owed by the Grantor pursuant to: (i) claims resolved and settled by the GCCF ("***GCCF Claims***"); (ii) amounts owed by the Grantor pursuant to final judgments or settlement agreements that are resolved outside of the GCCF process and relate to the Oil Spill ("***Other Resolved Claims***"); (iii) natural resource damage costs (including assessment costs) pertaining to the Oil Spill ("***NRD Claims***"); and (iv) state and local government response costs pertaining to the Oil Spill ("***Government Response Costs***"). Notwithstanding the foregoing, Damage Claims shall not include the amounts for any fines and penalties or the amounts of any claims by partners, subsidiaries, affiliates, shareholders, noteholders, customers, operators or suppliers of the Grantor or its affiliates in their capacity as such.

4. To provide funds to be used to satisfy resolved Damage Claims, the Grantor has irrevocably agreed (i) to establish the trust created hereunder (the "***Trust***") for the benefit of the holders of resolved Damage Claims (the "***Beneficiaries***"), (ii) to contribute $20 billion to the Trust in accordance with this Agreement, and (iii) to provide collateral to secure its obligations hereunder as provided in Article II hereof. The Corporate Trustee is willing to accept the Contributions (as defined below) and to hold custody to such assets through its affiliate, Citibank, N.A. (the "***Lead Paying Agent***"), when such Contributions are made to the Trust, and the Lead Paying Agent, by executing the Joinder to this Agreement provided at the end hereof, agrees to serve as paying agent for the Trust in distributing the Trust's assets to pay resolved Damage Claims to Beneficiaries as provided herein.

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5. Each of the Trustees willingly accepts the Trust hereby created and covenants to discharge faithfully their fiduciary duties hereunder, and the Lead Paying Agent is willing to provide the paying agent services contemplated herein.

NOW, THEREFORE, the Grantor agrees to transfer property to the Trustees, IN TRUST, and the Trustees agree to accept such property and to hold, manage and distribute such property (the "***Trust Fund***") under the terms of this Agreement.

ARTICLE I.
Creation of Trust; Trust Name

The Grantor and the Trustees hereby create the Trust on the terms and conditions set forth herein for the benefit of the Beneficiaries. The Trust shall constitute an irrevocable common law trust under Delaware law. The Trust created hereunder may be referred to as the DEEPWATER HORIZON OIL SPILL TRUST.

ARTICLE II.
Contributions; Distributions; Trust Terms

A. **Contributions.**

1. The Grantor hereby irrevocably agrees to make cash contributions (the "***Contributions***") to the Trust in the aggregate amount of TWENTY BILLION DOLLARS ($20,000,000,000) as follows:

a. The Grantor shall contribute THREE BILLION DOLLARS ($3,000,000,000) to the Trust on or about August 9, 2010;

b. The Grantor shall contribute an additional TWO BILLION DOLLARS ($2,000,000,000) to the Trust, in one or more installments, during the fourth calendar quarter of 2010 and by no later than December 31, 2010;

c. The Grantor shall contribute an additional ONE BILLION TWO HUNDRED FIFTY MILLION DOLLARS ($1,250,000,000) to the Trust, in one or more installments, during and prior to the end of each calendar quarter commencing with the first calendar quarter of 2011 and continuing through the last calendar quarter of 2013.

2. The Grantor shall have the right, but not the obligation, to prepay any of the Contributions prior to the applicable calendar quarter for such Contribution. To the extent any Contribution made during any calendar quarter exceeds the amount required to be made in such calendar quarter (each a "***Prepaid Amount***"), such Prepaid Amount shall be credited against the Grantor's obligation to make Contributions in subsequent calendar quarters on a forward chronological basis.

3. All Contributions shall be deposited in one or more trust accounts for which the Corporate Trustee or the Lead Paying Agent acts as custodian (collectively, the "***Payment Account***"), and the Trustees hereby agree to accept the Contributions as provided herein. The Corporate Trustee and the Lead Paying Agent shall enter into an arrangement with

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one or more banks with branch networks located in Louisiana, Alabama, Mississippi and Florida (each a "***Local Bank***"), which initially shall be Whitney National Bank, so that checks drawn in payment of certain GCCF Claims under this Agreement are eligible to be cashed or deposited in branches of such Local Banks in such manner as to expedite Beneficiary access to such funds. In connection with such arrangement the Corporate Trustee and the Lead Paying Agent may keep funds on deposit with such Local Banks to expedite access to funds by Beneficiaries. The Corporate Trustee shall be required to reimburse the Trust for any uninsured loss experienced by the Trust from such deposits or for any other losses experienced by the Trust due to the actions or inactions of Whitney National Bank pursuant to the foregoing arrangement; provided, however, that the Corporate Trustee shall not be required to reimburse the Trust for losses experienced by the Trust due to the actions or inactions of Whitney National Bank to the extent such actions or inactions satisfy the standard of care to which the Corporate Trustee is subject under this Agreement. In the event Whitney National Bank is no longer able or willing to provide the services described above, the Corporate Trustee will use commercially reasonable efforts to enter into a similar arrangement with one or more other Local Banks that provide similar geographic distribution in Louisiana, Alabama, Mississippi and Florida.

4. All amounts held in the Payment Account shall be held and distributed pursuant to the terms and conditions of this Agreement. The Corporate Trustee shall provide or cause the Lead Paying Agent to provide the Individual Trustees and the Grantor with a written confirmation of all Contributions received by it under this Agreement within two Business Days of such receipt.

5. The Corporate Trustee's wire transfer instructions for each Contribution are as follows:

Citibank, N.A.
ABA # 021000089
Account #: 36855852
F/B/O: Escrow Concentration A/C
Ref: A/C#798462
Obo and at the direction of BPEP in
satisfaction of certain obligations pursuant to the Trust

The Corporate Trustee may change such wire instructions by written notice to the Grantor in the manner provided in this Agreement.

6. All amounts in the Payment Account shall be invested by the Corporate Trustee in accordance with this Agreement. All earnings from such investment shall be added to the Payment Account.

7. The Corporate Trustee, on behalf of the Trust, may appoint any depository institution that, alone or with its affiliated depository institutions, has total capital and surplus of at least $50 billion or that, alone or with its affiliated institutions, has assets under management of at least $500 billion to serve as the Lead Paying Agent of the Trust. The initial Lead Paying Agent shall be Citibank, N.A. The Lead Paying Agent shall have the revocable power to withdraw funds from the Payment Account solely as instructed by the Corporate Trustee for the

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purpose of making the distributions required to be made by the Corporate Trustee on behalf of the Trust in accordance with Article II, Section D of this Agreement. The Corporate Trustee may revoke such power and remove the Lead Paying Agent at any time. In the event that a Lead Paying Agent shall cease to act as such, the Corporate Trustee may appoint a successor Lead Paying Agent provided that it meets the qualifications set forth above in the first sentence. The Corporate Trustee shall cause such successor Lead Paying Agent appointed hereunder to execute and deliver to the Corporate Trustee a joinder to this Agreement in which such successor Lead Paying Agent shall agree with the Corporate Trustee that, as Lead Paying Agent, such successor Lead Paying Agent shall hold all sums, if any, held by it for payment to the Beneficiaries in trust for the benefit of the Beneficiaries entitled thereto until such sums shall be paid to such Beneficiaries. The Lead Paying Agent shall return all unclaimed funds to the Corporate Trustee upon the expiration of the applicable claims period and upon removal of a Lead Paying Agent such Lead Paying Agent shall also return all funds in its possession to the Corporate Trustee or, at the direction of the Corporate Trustee, to the successor Lead Paying Agent appointed hereunder.

B. **Collateral.**

1. To secure the payment and performance of its obligations to make the Contributions to the Trust hereunder, the Grantor hereby agrees to grant, convey, and/or assign to the Trust first priority perfected security interests in production payments pertaining to the Grantor's U.S. oil and natural gas production ("***Production Payments***") (which Production Payments shall be issued and held in a newly formed limited liability company subsidiary of the Grantor that shall have no business or operations other than holding such Production Payments) or a perfected security interest in other property mutually agreed to by the Grantor and the Individual Trustees (the "***Collateral***"), the terms and conditions of which shall be set forth in additional detail in one or more documents to be entered into by the Grantor and the Individual Trustees, on behalf of the Trust (the "***Security Documents***"), provided that any security interest in the Production Payments will be subject to the operating agreement applicable to such production. The Grantor and the Individual Trustees agree to negotiate in good faith the Security Documents and enter into the same as soon as practicable hereunder, it being understood that the Security Documents shall contain such representations, warranties, covenants, remedies and other terms and conditions as shall be reasonably satisfactory to both the Grantor and the Individual Trustees.

2. In the event the Collateral provided by the Grantor under the Security Documents consists solely of Production Payments, its value will be routinely tested at such times and in such manner as shall be agreed to by the Grantor and the Individual Trustees and set forth in the Security Documents. If upon any such valuation, the value of the Collateral then held by the Trustees is less than the value of the then-unpaid Contributions (a "***Valuation Gap***"), then the Grantor shall grant, convey, and/or assign perfected security interests in additional property ("***Additional Collateral***," which upon its grant shall be included in the term "***Collateral***" hereunder) so that the sum of the value of the Collateral (including the Additional Collateral) is at least equal to the value of the then-unpaid Contributions. Such grant, conveyance or assignment shall be effected by the Grantor within thirty (30) days of the date on which the corresponding valuation was completed or such later date as is reasonably necessary for the Individual Trustees to value and accept such Additional Collateral and for the Grantor

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and the Individual Trustees thereafter to document and perfect the Trust's security interest therein. The Security Documents shall further provide that if Additional Collateral is granted as described above, such Additional Collateral shall later be released by the Trust to the extent it later results in the value of the Collateral (including the Additional Collateral) exceeding the value of the then-unpaid Contributions. Additional terms and conditions of such conveyance(s) shall be set forth in the Security Documents, which shall be reasonably satisfactory to the Grantor and the Individual Trustees. Nothing contained in this Article II, Section B2 shall limit the terms that may be negotiated by the Individual Trustees in respect of any collateral other than Production Payments. In the event the Grantor and the Individual Trustees agree that the Collateral will consist of Production Payments and other property and such other property is not subject to revaluation and will have a constant value for all purposes, the Production Payments will be subject to a valuation testing process comparable to that described above, and if such testing process demonstrates a Valuation Gap in respect to the portion of the Collateral consisting of the Production Payment, the Grantor will provide Additional Collateral in a manner comparable to that provided above, in all respects in accordance with the terms and conditions that may be agreed to by the Grantor and the Individual Trustees.

3. The Individual Trustees are hereby authorized to negotiate and finalize and execute, deliver and perform the Security Documents, all documents contemplated thereby, and the terms of any other Collateral to be pledged or assigned to the Trust. The Individual Trustees have agreed to accept on behalf of the Trust the security interests to be granted pursuant to the Security Documents.

C. **During the Trust Term.** During the Trust Term (as defined below), the Trustees shall administer the Trust as follows:

1. The Trustees shall distribute the principal, and net income, if any, of the Trust, up to the whole thereof, to or for the benefit of the Beneficiaries in satisfaction of the Grantor's legal obligations to the Beneficiaries and shall effect such distributions through the Corporate Trustee, the Lead Paying Agent or the GCCF Paying Agent. Pursuant to 12 Delaware Code § 3313, the Grantor hereby grants the Authorized Persons (as defined in Article IX, Section A, below), as specified in this Agreement, the authority to direct the Trustees as to the timing, amount and payment of all distributions from the Trust Fund, and the Trustees shall follow the directions of the Authorized Persons and make or cause to be made any and all directed distributions. On behalf of the Trustees, the Corporate Trustee, without the consent or approval of any other Trustee, shall make, or cause the Lead Paying Agent to make, such distributions from the Payment Account, pursuant to Article II, Section D, below in accordance with the instructions received by an Authorized Person thereunder.

2. Any net income from the Trust Fund not so distributed shall be accumulated and added to the principal of the Trust Fund.

3. The Trustees shall enforce their rights under this Agreement and the Individual Trustees shall enforce their rights under the Security Documents. Except as otherwise provided hereunder, any right of the Trust hereunder that pertains to matters within the authority of the Corporate Trustee hereunder may be enforced by the Corporate Trustee acting alone, and any right of the Trust hereunder that pertains to any other matter, as well as any rights of the

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Trust under the Security Documents, may be exercised or enforced by any Individual Trustee acting alone. To the extent the Grantor breaches any of its obligations hereunder or under the Security Documents, the Grantor shall reimburse the Trustees and the Trust for any reasonable out-of-pocket costs (including reasonable attorneys' fees and other professional fees) incurred by them in enforcing or in connection with enforcing such obligations. To the extent not reimbursed by the Grantor, such out-of-pocket expenses may be advanced out of the Trust Fund, which will then have a right of recovery against the Grantor which may be enforced by the Corporate Trustee with respect to this Agreement and by the Individual Trustees with respect to the Security Documents.

4. If the Grantor breaches any of its obligations to make Contributions hereunder and such breach is not cured within ten (10) Business Days after its occurrence, the Individual Trustees shall have the right to declare all of the Contributions then unmade immediately due and payable to the Trust and to exercise all rights and remedies under this Agreement and the Security Documents including the right to foreclose on, sell or take possession of any Collateral, as shall be described in the Security Documents. All obligations shall become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Grantor. Upon satisfaction in full by the Grantor of its obligations to make the Contributions to the Trust or the Expiration Date, whichever is earlier, the Individual Trustees shall promptly release in full all liens, encumbrances and other rights they may have in respect of the Collateral or under the Security Documents and the Security Documents shall terminate.

D. **Distributions.**

1. The Corporate Trustee, on behalf of the Trust, and the Lead Paying Agent shall enter into a paying agent arrangement (the "***GCCF Paying Agent Arrangement***") with a claims administrator selected by the GCCF Administrator, after consultation with the Grantor, which shall initially be Garden City Group, Inc. (the "***GCCF Paying Agent***"). The GCCF Paying Agent Arrangement will, subject to agreements with the GCCF Paying Agent, provide for (i) the ability of the GCCF Paying Agent to draw checks or funds on the Payment Account as directed by a GCCF Authorized Person (as defined below) to effect distributions to GCCF Beneficiaries (as defined below) in satisfaction of GCCF Claims, (ii) the preparation and processing by the GCCF Paying Agent of Internal Revenue Service ("***IRS***") Forms 1099-MISC and 1042-S in respect of such distributions (to the extent required by law), (iii) the withholding of all taxes as required by law or permitted pursuant to this Agreement, (iv) other related tasks, and (v) the instruction for draws of funds or payment of checks drawn on the Payment Account on behalf of the GCCF Administrator (which, for avoidance of doubt, will be treated as a GCCF Distribution Notice signed by a GCCF Authorized Person). The GCCF Paying Agent shall be required to provide the Corporate Trustee with monthly reports regarding distributions made to GCCF Beneficiaries in respect of GCCF Claims in such form as may be reasonably requested by the Individual Trustees and the Grantor. Promptly thereafter, the Corporate Trustee shall provide copies of such reports to the Individual Trustees and to the Grantor.

2. As an alternative to the use of the GCCF Paying Agent, at the option of the GCCF Administrator, the GCCF Administrator shall have the authority to direct the Corporate Trustee to make, through the Lead Paying Agent, distributions directly to a GCCF

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Beneficiary in respect of a GCCF Claim as provided in this Article II, Section D2. Upon receipt by the Corporate Trustee and the Lead Paying Agent of a notice (each, a "***GCCF Distribution Notice***") signed by one or more GCCF Authorized Persons setting forth (i) the name of one or more persons entitled to receive a distribution from the Payment Account (each, a "***GCCF Beneficiary***"), (ii) the amount to be distributed from the Payment Account to each such GCCF Beneficiary (each, a "***GCCF Distribution Amount***"), (iii) the means (check or wire transfer) by which each such GCCF Distribution Amount is to be paid, (iv) the address of any GCCF Beneficiary, (v) the account information of any GCCF Beneficiary that is to be paid by wire transfer, and (vi) the Tax Information (as defined below) for the GCCF Beneficiary, the Corporate Trustee shall distribute or cause the Lead Paying Agent to distribute, as promptly as practicable, from the Payment Account to each such GCCF Beneficiary (by the means indicated by the applicable GCCF Distribution Notice) the applicable GCCF Distribution Amount.

3. Upon receipt by the Corporate Trustee and the Lead Paying Agent of a notice (each, an "***Other Resolved Claims Distribution Notice***") signed by one or more Grantor Authorized Persons (as defined below) setting forth (i) the name of one or more persons entitled to receive a distribution from the Payment Account (each, an "***Other Resolved Claims Beneficiary***"), (ii) the amount to be distributed from the Payment Account to each such Other Resolved Claims Beneficiary (each, an "***Other Resolved Claims Distribution Amount***"), (iii) the means (check or wire transfer) by which each such Other Resolved Claims Distribution Amount is to be paid, (iv) the address of any Other Resolved Claims Beneficiary that is to be paid by check, (v) the account information of any Other Resolved Claims Beneficiary that is to be paid by wire transfer, (vi) the Tax Information for the Other Resolved Claims Beneficiary, and (vii) a copy of the relevant judgment or settlement agreement to which the Other Resolved Claims Distribution Amount relates, the Corporate Trustee shall distribute, or cause the Lead Paying Agent to distribute, as promptly as practicable, from the Payment Account to each such Other Resolved Claims Beneficiary (by the means indicated by the applicable Other Resolved Claims Distribution Notice) the applicable Other Resolved Claims Distribution Amount. The Corporate Trustee shall have no obligation to confirm the validity or enforceability of any judgment or settlement agreement accompanying an Other Resolved Claims Distribution Notice or the consistency of the claim set forth in such Notice with such judgment or settlement agreement. In the event the Grantor becomes subject to any bankruptcy proceeding, the Individual Trustees, after consultation with the Corporate Trustee, shall seek direction from the bankruptcy court regarding alternative means of processing Other Resolved Claims.

4. Upon receipt by the Corporate Trustee and the Lead Paying Agent of a notice (each, an "***NRD Claims or Government Response Costs Distribution Notice***") signed by one or more Grantor Authorized Persons setting forth (i) the name of one or more persons entitled to receive a distribution from the Payment Account (each, an "***NRD Claims or Government Response Costs Beneficiary***"), (ii) the amount to be distributed from the Payment Account to each such NRD Claims or Government Response Costs Beneficiary (each, an "***NRD Claims or Government Response Costs Distribution Amount***"), (iii) the means (check or wire transfer) by which each such NRD Claims or Government Response Costs Distribution Amount is to be paid, (iv) the address of any NRD Claims or Government Response Costs Beneficiary that is to be paid by check, (v) the account information of any NRD Claims or Government Response Costs Beneficiary that is to be paid by wire transfer, (vi) the Tax Information for the NRD Claims or Government Response Costs Beneficiary, and (vii) supporting documentation

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showing that natural resource damage costs pertaining to the Oil Spill or state and local government response costs have been incurred ("***Supporting Documentation***"), the Corporate Trustee shall distribute or cause the Lead Paying Agent to distribute, as promptly as practicable, from the Payment Account to each such NRD Claims or Government Response Costs Beneficiary (by the means indicated by the applicable NRD Claims or Government Response Costs Distribution Notice) the applicable NRD Claims or Government Response Costs Distribution Amount. The Corporate Trustee shall have no obligation to confirm the validity of any Supporting Documentation accompanying a NRD Claims or Government Response Costs Distribution Notice or the consistency of the claim set forth in such Notice with such Supporting Documentation.

5. Each GCCF Distribution Notice, Other Resolved Claims Distribution Notice, or NRD Claims or Government Response Costs Distribution Notice shall be delivered by such means as may be reasonably agreed to by the Corporate Trustee, which means may include hand delivery, facsimile delivery, entry into a data base on a dedicated web site or secure internet message. The Corporate Trustee sball use all commercially reasonable efforts to pay or cause to be paid GCCF Distribution Amounts required to be paid under Article II, Section D2 above on the same Business Day that it receives a GCCF Distribution Notice in respect thereof if such GCCF Distribution Notice is received by the Corporate Trustee by no later than 10:00 a.m. (Eastern Time) on such Business Day and in all other cases by the end of the next following Business Day. The Corporate Trustee shall use all commercially reasonable efforts to pay or cause to be paid all Other Resolved Claims Distribution Amounts and all NRD Claims or Government Response Costs Distribution Amounts within three Business Days after its receipt of the applicable Distribution Notice from a Grantor Authorized Person in the case of a Distribution Notice received from a Grantor Authorized Person or the expiration of the objection period described above in the case of an Other Resolved Claims Distribution Notice received from an Other Resolved Claims Beneficiary. The Corporate Trustee shall be required to make such distributions only to the extent that funds are available therefor in the Payment Account. In the event any resolved Damage Claims are not paid because of the limitation set forth in the immediately preceding sentence, the Corporate Trustee shall forward such claims to the Grantor for payment and notify the GCCF Administrator that such Damage Claim has been forwarded to the Grantor for payment.

6. The Individual Trustees shall oversee and monitor the activities of the Corporate Trustee. The Corporate Trustee shall provide the Individual Trustees and the Grantor with weekly statements setting forth all distributions made pursuant to this Article II, Section D and monthly statements setting forth the remaining balances in the Payment Account and the value of investments thereof as of each such date and shall provide the Grantor such other access to the Trust's accounts and claims files as may reasonably be requested for purposes of any insurance, indemnity, or other claim-related or other legitimate need of the Grantor.

7. **Distribution Priority.** Upon receiving Notices issued pursuant to paragraph 2, 3, or 4 of this Article II, Section D representing claims the aggregate value of which exceeds the funds available therefor in the Payment Account and until such time as the Payment Account contains sufficient funds to make payments in full pursuant to such Norices, the Corporate Trustee shall make distributions first, on account of GCCF Distribution Notices; second, in the chronological order that they are received by the Corporate Trustee, on account of

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Other Resolved Claims Distribution Notices; and third, in the chronological order that they are received by the Corporate Trustee, on account of NRD Claims or Government Response Costs Distribution Notices; provided, however, that the priority scheme described in this Article II, Section D7 shall not be deemed to alter to any extent or in any manner any payment priority afforded a Beneficiary under otherwise applicable law as such priority relates to recovery of such claim against the Grantor generally as opposed to through application of the funds in the Trust.

E. **Distribution at Expiration of Term of Trust.** Upon the expiration of the Trust Term (as defined below), any assets then remaining in the Trust Fund, including the Payment Account, shall be distributed to the Grantor, provided tbat all amounts payable under any pending Distribution Notices have been paid in full or otherwise satisfied and that all Approved Expenses (as defined below) have been paid in full or otherwise satisfied, and tbe Trust shall terminate.

F. **Trust Term; Effectiveness of Trust Agreement.** The term of the Trust (the "***Trust Term***") shall commence on the date on which the Grantor makes its first cash contribution to the Trust and shall expire on the earlier of (i) the Expiration Date (as defined in Article IX below) and (ii) the date that is 30 years after the commencement of the Trust Term. This Agreement shall be effective upon its execution and delivery by the Grantor and the Corporate Trustee. If no Individual Trustee has been appointed at the time of such effectiveness, (i) this Agreement shall be effective and enforceable notwithstanding that this Agreement contemplates additional Individual Trustees as parties hereto and (ii) the Corporate Trustee shall have full power to act on behalf of the Trust in respect of any matter requiring action by the Corporate Trustee or by the Trustees in general. Until at least one Individual Trustee has been appointed, the Trust shall not be authorized to undertake any action that would require the approval of the Individual Trustees, and, upon their appointment by the Grantor, the initial Individual Trustees shall review the activities taken by the Corporate Trustee on behalf of the Trust prior to their appointment. Each Individual Trustee shall become a party to this Agreement upon his or her execution and delivery of a counterpart hereof. Notwithstanding Article III, in connection with the appointment of either of the initial Individual Trustees, the Grantor shall have the authority to amend any of the provisions of this Agreement that relate to the rights, duties or obligations of the Individual Trustees and to amend any additional provisions as required to effect conforming changes solely to accommodate comments thereon made by such initial Individual Trustee, without the consent of any Beneficiary; provided, however, that any such amendment shall not affect any of the Corporate Trustee's material rights or obligations hereunder without the consent of the Corporate Trustee.

ARTICLE III.
Irrevocability

This Agreement and the Trust created hereby shall be irrevocable. Except as provided herein or in Article II, Section F or in Article IX, Section F4, neither the Grantor, the Trustees nor the Beneficiaries shall have any right to alter this Agreement or amend it in any way. Notwithstanding the foregoing, the Trustees, however, shall have the fiduciary power, with the consent of the Grantor and without the consent of any Beneficiary, to amend this Agreement in any manner required for the sole purpose of ensuring that the Trust qualifies as a grantor trust for federal income tax purposes under Subpart E of Part I of Subchapter J of the Internal Revenue

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Code. The Trustees shall also have the fiduciary power, without the consent of any Beneficiary, to amend the administrative and technical provisions of this Agreement in any manner that the Trustees deem appropriate for the proper or improved administration of the Trust. Notwithstanding anything to the contrary contained in this Article III, such amendments, however, shall not (i) change the irrevocability or purpose of the Trust, (ii) otherwise materially and adversely affect the distribution rights of the Beneficiaries under Article II, Section D hereof, or (iii) affect any of the Corporate Trustee's material rights or obligations hereunder without the consent of the Corporate Trustee.

ARTICLE IV.
Limitation on Decanting Power

Notwithstanding the common law, 12 Delaware Code § 3528, any other similar law that might apply to the Trust, and any provision herein to the contrary, the Trustees shall not exercise any power to appoint the Trust Fund in favor of the trustees of another trust without the express written consent of the Grantor.

ARTICLE V.
Grantor Trust Status

The Grantor and the Trustees intend that the Trust established under this Agreement qualify as a grantor trust for federal income tax purposes under Subpart E of Part 1 of Subchapter J of the Code and the Treasury Regulations thereunder (the "***Grantor Trust Rules***") of which the Grantor is treated for tax purposes as the sole owner, and the Grantor and the Trustees shall refrain from acting in a manner that is inconsistent with the Trust's status as a grantor trust or the Grantor's treatment as the sole owner of the Trust for tax purposes. Pursuant to the Grantor Trust Rules, the Grantor believes that the Trust qualifies for grantor trust status because the Grantor has established and funded the Trust for the purpose of distributing net income and principal of the Trust in discharge of the Grantor's legal obligations to pay Damage Claims as those may be finally determined. Accordingly, the Grantor and the Trustees intend and the Grantor believes that the Trust established hereunder qualifies as a grantor trust for federal income tax purposes under Regulations § 1.677(a)-1(d). The Grantor and the Trustees further intend and the Grantor believes that the Trust is not a Qualified Settlement Fund within the meaning of the Regulations under Code § 468B, but, solely for the avoidance of any doubt, the Grantor agrees to timely make a protective election under Regulation § 1.468B-1(k).

ARTICLE VI.
Trustees

A. **Trustee Appointments; Removal.**

1. Anything herein to the contrary notwithstanding, neither the Grantor nor any affiliate, subsidiary, officer, director, employee, controlling person or agent of the foregoing shall ever serve as Trustee hereunder.

2. Except as expressly provided to the contrary elsewhere in this Agreement, the Trustees shall be entitled to serve based on the following rules:

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a. First, the initial Trustees shall be entitled to serve.

b. Second, any successor Trustees appointed in accordance with this Agreement shall be entitled to serve.

3. Multiple Trustees shall serve together, and each may serve even if one or more of them shall fail or cease to serve for any reason; provided, however, there shall at all times be at least one Individual Trustee and exactly one Corporate Trustee serving hereunder.

4. The Corporate Trustee may be removed at any time for Cause (as defined below) by the Individual Trustees. Each Individual Trustee may be removed by the other Individual Trustee at any time for Cause or if such Individual Trustee becomes an Incapacitated Individual Trustee (as defined below). The Grantor shall have no authority to remove any Trustee. Any removal of the Corporate Trustee shall also automatically terminate the services of any Lead Paying Agent hereunder appointed by such Corporate Trustee pursuant to this Agreement.

B. **Additional Provisions Regarding Changes in Fiduciaries.**

1. Any Trustee may resign at any time without court approval, upon giving thirty (30) days written notice to the Grantor and the other Trustees; provided that (a) the resignation of the Corporate Trustee shall not become effective until the earlier of (i) the date upon which a successor Corporate Trustee has been appointed as provided herein and assumed the obligations of the Corporate Trustee hereunder and (ii) sixty (60) days after it has delivered such written notice of resignation, provided that if no successor Corporate Trustee has been appointed within such sixty (60) day period, the Corporate Trustee shall he required to file a motion to fill the vacancy with the Delaware Court of Chancery and (b) no Individual Trustee may resign if such resignation would result in there being no Individual Trustee. Any resignation of the Corporate Trustee shall also serve as a resignation of the Lead Paying Agent. Upon the resignation of a Trustee becoming effective, all obligations of such Trustee under this Agreement shall immediately cease and terminate.

2. Notwithstanding any other provision in this Agreement, as long as the interpretation, validity, administration and operation of the Trust are governed by the laws of the State of Delaware, the Corporate Trustee must be a bank or trust company authorized by Delaware or U.S. federal law to exercise fiduciary powers in Delaware and have its principal place of business in the State of Delaware and no Corporate Trustee may take office unless it satisfies such requirements.

3. A vacancy caused by the removal or resignation of a Trustee or the death of any Individual Trustee shall be filled by the remaining Individual Trustee(s), provided that any successor Corporate Trustee appointed shall take office only if it has the capability, as determined by the Individual Trustees, to perform the paying agent services set forth herein (including those assigned to the Lead Paying Agent) and is a depository institution that, alone or with its affiliated depository institutions, has total capital and surplus of at least $50 billion or that, alone or with its affiliated institutions, bas assets under management of at least $500 billion. If there are no remaining Individual Trustees, any such vacancy shall be filled by the Delaware

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Court of Chancery upon the motion of the Grantor or the Corporate Trustee. The Corporate Trustee shall be required to file such a motion no later than thirty (30) days after the date on which there are no remaining Individual Trustees.

4. No successor Trustee shall be personally liable for any act or failure to act of any predecessor Trustee or shall have any duty to examine the records of any predecessor Trustee. Each successor Trustee may accept the account rendered and the property delivered to the successor Trustee by or on behalf of the predecessor Trustees without incurring any liability or responsibility for so doing. Each successor Trustee shall be indemnified out of the Trust Fund for any and all claims, demands, losses, liabilities, damages and expenses arising from any act or omission of any prior Trustees occurring before the date the Trust Fund was received by the successor Trustee. No predecessor Trustee shall be personally liable for any act or failure to act of any successor Trustee. Each predecessor Trustee shall be indemnified out of the Trust Fund for any and all claims, demands, losses, liabilities, damages and expenses arising from any act or omission of any subsequent Trustees occurring after the date such predecessor Trustee ceased to serve as a Trustee.

5. A corporation resulting from any merger, conversion, reorganization or consolidation to which any corporation acting as a Corporate Trustee is a party, or any banking or trust company to which is transferred all or substantially all of the Corporate Trustee's trust business, shall automatically become the successor Corporate Trustee under the terms of this Agreement without the execution or filing of any instrument or the performance of any further act provided that such successor Corporate Trustee meets the applicable requirements for a Corporate Trustee under Clauses 2 and 3 of this Article VI, Section B. The successor shall have the same powers, authorities and discretions as though originally named herein, and any reference to the prior Corporate Trustee shall refer to the successor Corporate Trustee; provided, however, that Article VI, Section B4 of this Agreement shall not apply to any predecessor Corporate Trustee that is succeeded pursuant to this Article VI, Section B5 or to any successor Corporate Trustee taking office pursuant to this Article VI, Section B5.

6. A Trustee may be appointed pursuant to this Article VI for a limited purpose or term of service or to hold only specified powers.

7. If any Trustee is removed, resigns or otherwise ceases to act as Trustee of the Trust, such Trustee shall immediately surrender all records maintained by the Trustee with respect to the Trust to the then acting Trustees or, if no other Trustee is then acting with respect to the Trust, to the successor Trustee or Trustees, as the case may be, upon receipt of written notice of the designation of the successor Trustee or Trustees, as the case may be, from the person appointing such successor Trustee or Trustees.

C. **Accountings and Other Proceedings.**

1. The Grantor directs that the Trust be subject to independent administration with as little court supervision as the law allows. The Trustees shall not be required to render any annual or other periodic accounts to any court or Beneficiary, or any inventory, appraisal, or other returns or reports, except as required by applicable state law notwithstanding this provision. The Trustees shall take such action for the settlement or approval of accounts at such

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times and before such courts or without court proceedings as the Trustees shall determine. The Trustees shall pay the costs and expenses of any such action or proceeding, including (but not limited to) the compensation and expenses of attorneys and guardians, out of the Trust Fund. The Trustees shall not be required to register the Trust.

2. 12 Delaware Code § 3547 shall apply with respect to this Trust and shall apply for purposes of any judicial or nonjudicial matter, whether located within or without the State of Delaware.

3. The Corporate Trustee shall maintain or cause to be maintained records sufficient to document each significant action taken by the Corporate Trustee pursuant to this Agreement. The Individual Trustees shall maintain or cause to be maintained records sufficient to document each significant action taken by the Individual Trustees pursuant to this Agreement.

D. **Waiver of Bond.** No Trustee shall be required to give bond or other security in any jurisdiction, and if despite this exoneration a bond is nevertheless required, no sureties shall be required.

E. **Additional General Provisions Regarding Fiduciaries.**

1. Except to the extent, if any, specifically provided otherwise in this Agreement, references to the Trustees shall, in their application to the Trust, refer to all those from time to time acting as Trustees of the Trust. If more than two Individual Trustees are eligible to act on a given matter, they shall act by majority. If exactly two Individual Trustees are eligible to act on a given matter, they shall act by unanimity, except as otherwise provided herein. If all Trustees are eligible to act on a given matter, they shall act by majority.

2. Schedule B-1, attached hereto and incorporated herein by reference, provides the compensation and fee schedule for the Corporate Trustee and the Lead Paying Agent, which may be adjusted from time to time as approved by the Corporate Trustee and the Individual Trustees. Each of the Individual Trustees shall receive compensation in accordance with Schedule B-2 attached hereto and incorporated herein by reference. The Trustees shall be entitled to reimbursement for any out-of-pocket expenditures made or incurred in the proper administration of the Trust or in furtherance of their fiduciary duties and obligations.

3. This Agreement provides that the Trustees are to follow the direction of the Authorized Persons with respect to distribution decisions, and, pursuant to 12 Delaware Code § 3313(e), the Trustees therefore have none of the duties or obligations set forth in clauses (1) through (3) thereof.

4. In the exercise of any of the authorities, powers or discretion conferred upon it by law or by this Agreement, the Corporate Trustee and the Lead Paying Agent shall be held harmless and be free and wholly exonerated from liability on account of any honest error of judgment, or by reason of acts or things done, suffered or omitted without willful misconduct or negligence, and the Corporate Trustee and the Lead Paying Agent (and their agents not to include Whitney National Bank) shall be indemnified from the Trust Fund for any expense (including attorneys' fees and other costs of investigation, defense or settlement of any claim), judgment, settlement, tax or other liability arising as a result of the Corporate Trustee's

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performance of its fiduciary duties, the Lead Paying Agent's performance of its obligations (and their agents of their respective obligations) hereunder that satisfies the foregoing standard of care. In the exercise of any of the authorities, powers or discretion conferred upon them by law or by this Agreement, each Individual Trustee shall be held harmless and be free and wholly exonerated from liability on account of any honest error of judgment, or by reason of acts or things done, suffered or omitted without willful misconduct or gross negligence, and such Individual Trustee (and his or her agents) shall be indemnified from the Trust Fund for any expense (including attorneys' fees and other costs of investigation, defense or settlement of any claim), judgment, settlement, tax or other liability arising as a result of such Individual Trustee's performance of his or her fiduciary duties hereunder that satisfies the foregoing standard of care. The indemnities contained herein shall survive the resignation or removal of any Trustee or the death of any Individual Trustee, and may be enforced after the death of an Individual Trustee by such Individual Trustee's heirs, estate or personal representatives. No Trustee shall be liable to anyone for anything done or not done by any other Trustee.

5. The fact that a Trustee is active in the investment business shall not be deemed a conflict of interest, and purchases and sales of investments may be made through the Corporate Trustee or through any firm of which the Corporate Trustee or an Individual Trustee is a partner, member, shareholder, proprietor, associate, employee, owner, subsidiary, affiliate or the like and may result in the payment of fees to the Corporate Trustee or any of the other foregoing entities. In the event a conflict of interests arises in respect of any matter relating to the Trust that could reasonably be deemed to affect the judgment or impartiality of one or more (but not all) of the Individual Trustees in a material manner, each such Individual Trustee shall have the right to recuse himself or herself from any decision relating to such matter, in which case the other Individual Trustees shall be authorized to act in respect of such matter.

6. The Trustees may employ and rely upon advice given by investment counsel, delegate discretionary investment authority over investments to investment counsel and pay investment counsel reasonable compensation from the Trust Fund in addition to fees otherwise payable to the Trustees, notwithstanding any rule of law otherwise prohibiting such dual compensation. Without limiting the generality of the foregoing, the Trustees sball have the authority to retain experts to confirm the accuracy of all material representations made by the Grantor herein or in the Security Documents and to assist in the enforcement of all rigbts of the Trustees under this Agreement or under the Security Documents; provided that any such expert shall agree to maintain the confidentiality of any information furnished to it on terms substantially similar to the confidentiality obligations of the Trustees.

7. Any Individual Trustee may delegate to another Individual Trustee any power held by the delegating Individual Trustee, but only if the other Individual Trustee is authorized to exercise the power delegated and accepts the delegation. A delegation may be revocable, but while it is in effect the delegating Individual Trustee shall have no responsibility concerning the exercise of the delegated power. A delegation shall be in writing and shall be delivered to the Individual Trustee accepting the delegation.

8. Each Trustee may irrevocably release one or more powers held by the Trustee while retaining other powers, provided that each power conferred upon the Trustees

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hereunder must be retained by at least one Trustee authorized to exercise such power. Any such release shall be in writing and shall be delivered to the other Trustees.

9. Unless otherwise provided in this Agreement, any authority granted to the Trustees in this Agreement or by law, whether stated as an authority, right, power or otherwise, may be exercised by the Trustees in their sole and absolute discretion, subject to the provisions of Section E4 of this Article VI.

10. The Trustees shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Trustees (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God, war or terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

ARTICLE VII.
Governing Law and Trustee Powers

The interpretation and operation of the Trust shall be governed by the laws of the State of Delaware. Each of the parties to this Agreement agrees (a) that this Agreement involves at least $100,000, and (b) that this Agreement has been entered into by the parties bereto in express reliance upon 6 Delaware Code § 2708. Each of the parties hereby irrevocably and unconditionally agrees to be, and shall be, subject to the jurisdiction of the courts of the State of Delaware and of the federal courts sitting in the State of Delaware, and (b) that service of process may be made on such party by prepaid certified mail with a proof of mailing receipt validated by the United States Postal Service constituting evidence of valid service, and that such service shall have the same legal force and effect as if served upon such party personally within the State of Delaware. Except as limited by this Agreement, the Trustees may, without prior authority from any court, exercise all powers conferred by this Agreement or by common law or by any fiduciary powers act or other statute of the State of Delaware or any other jurisdiction whose law applies to the Trust. The Trustees shall have sole and absolute discretion in exercising these powers. Except as specifically limited by this Agreement, these powers shall extend to all property held by the Trustees under the Trust until actual distribution of the property. The powers of the Trustees shall include the following:

A. **Allocate Gain to Accounting Income.** The Trustees may allocate any capital gain recognized by the Trust to accounting income, which allocation shall be evidenced by the execution by the Trustees of an instrument in writing and kept with the records of the Trust.

B. **Accounting Allocations and Tax Determinations.** The Trustees may make any and all accounting allocations necessary for the administration of the Trust. The Trustees may also make any and all tax determinations that under the Code are left to the discretion of the trustees of a grantor trust.

C. **Investment Responsibility.** The Corporate Trustee shall invest all cash deposited in the Trust Fund conservatively in a manner designed to assure timely availability of funds, protection of principal and avoidance of concentration risk; provided, however, that all cash received by the Corporate Trustee after 3:00pm (Eastern Time) shall be deposited in a non-

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interest bearing account with the Lead Paying Agent and shall not be invested by the Corporate Trustee until the next Business Day. Acceptable investments will be comprised of United States government money market funds having a AAA/Aaa rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's or Fitch), short-dated United States treasury bills and/or interest bearing bank deposits at banks (including banks located in Louisiana, Alabama, Mississippi and Florida) that are at all times rated A+/A1 or higher by Standard & Poor's and Moody's provided such bank rated A+/A1 or higher at all times holds a stable or positive outlook (subject to the restrictions set forth in the next succeeding sentence, "***Acceptable Investments***"). The total amount of cash invested in any single United States government money market fund shall not exceed $1 billion and the total amount invested in bank deposits shall not exceed $200 million per bank. Any income derived from such investments shall be credited to and become part of the Trust Fund and shall be reinvested as provided in this Article VII, Section C. By instructing the Trustees to invest only in a limited set of assets, the Grantor intends to modify the "prudent person" rule, "prudent investor" rule, or any other rule of law that would require the Trustees to pursue investment options other than those outlined in this Agreement. The Corporate Trustee shall provide the Individual Trustees and the Grantor with monthly account statements showing all investment activity in the Trust Fund. The Individual Trustees shall be permitted to rely upon the decisions of the Corporate Trustee in respect to which investments constitute Acceptable Investments hereunder, and no Individual Trustee shall be liable to the Trust in the event any bank in which the Trust has deposited any portion of the Trust Fund is declared insolvent or closed.

Notwithstanding the foregoing, if the Individual Trustees take possession of property as part of the enforcement of their rights under the Security Documents and such property is in a form other than an Acceptable Investment, the Trustees may retain such property; provided, however, that if the Trustees choose to sell or exchange such property, any cash proceeds received in connection with such sale or exchange must be invested and reinvested as outlined above in this Article VII, Section C.

D. **Sale or Exchange of Property.** The Trustees may sell property at public or private sale, for cash or upon credit, and exchange property for other property. The Trustees may give such warranties or indemnifications as the Trustees may deem advisable.

E. **Participation in Mergers and Reorganizations.** The Trustees may join in any merger, reorganization, voting-trust plan or other concerted action of security holders and delegate discretionary powers (including investment powers) in entering into the arrangement.

F. **Reliance upon Advice.** The Trustees may employ and rely upon advice given by accountants, attorneys, investment bankers, and other expert advisors and employ agents, clerks and other employees and pay reasonable compensation to such advisors or employees in addition to fees otherwise payable to the Trustees, notwithstanding any rule of law otherwise prohibiting such dual compensation.

G. **Custodian Employed.** The Trustees may employ a custodian, hold property unregistered or in the name of a nominee (including the nominee of any bank, trust company, brokerage house or other institution employed as custodian), and pay reasonable compensation to

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a non-Trustee custodian in addition to any fees otherwise payable to the Trustees, notwithstanding any rule of law otherwise prohibiting such dual compensation.

H. **Continuation of Trustee's Powers.** With respect to all property held hereunder, powers granted to the Trustees hereunder or by applicable law shall continue to be exercisable by the Trustees until such property is actually distributed to a Beneficiary or to the Grantor pursuant to Section E of Article II. By way of illustration and not by way of limitation, the Trustees may invest and reinvest and take all investment action with respect to property that has been directed to be distributed and notwithstanding any direction that the property be distributed "as it is then constituted" until such property is actually distributed.

I. **Enforcement of Rights.** The Corporate Trustee acting alone shall have the full power and authority to enforce all of the rights of the Trust that pertain to matters within the authority of the Corporate Trustee hereunder. Each of the Individual Trustees shall singly have the full power and authority, on behalf of the Trust, to enforce all other rights of the Trust, and all of the obligations of the Grantor, under this Agreement through any means, including litigation, that they deem appropriate. Each of the Individual Trustees shall singly have the full power and authority, on behalf of the Trust, to enforce all of the Trust's rights, and all of the obligations of the Grantor, under the Security Documents through any means, including litigation, that they deem appropriate. Without limiting the generality of the foregoing, in the event any distribution is made under Article II, Section D and it is subsequently determined that such distribution was fraudulently or otherwise improperly obtained, the Individual Trustees, acting on behalf of the Trust, shall have the full authority to seek recovery of such distribution.

J. **Payment of Approved Expenses.** The Corporate Trustee shall cause the Trust to pay Approved Expenses, provided that if the total amount of all Approved Expenses paid by the Trust during any Measuring Period exceeds the sum of the total Trust Earnings earned by the Trust during such Measuring Period and any amount by which the aggregate Trust Earnings for all prior Measuring Periods exceeds the aggregate Approved Expenses paid by the Trust during such prior Measuring Periods, the Grantor shall promptly after written notice from the Corporate Trustee reimburse the Trust for such excess.

ARTICLE VIII.
Closely-Held Business

A. **Authority to Operate.** In the event the Trust acquires any equity interests of any corporation, partnership, limited liability company or other entity (a "***Business***") the Individnal Trustees may operate the Business and retain any equity interests in the Business, even if these interests otherwise would be a speculative or inappropriate investment for a trust. The Individual Trustees may do all things related to the operation of the Business that the Grantor could do as owner of the Business, in a fiduciary capacity:

1. The Individual Trustees may carry out the terms of any option or buy-sell agreements into which the Grantor may have entered.

2. The Individual Trustees may sell or liquidate any of the interests in the Business at such price and on such terms as the Individual Trustees may deem advisable.

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3. The Individual Trustees may arrange for and supervise the continued operations of the Business.

4. The Individual Trustees may vote (in person or by proxy) as stockholder or otherwise and in any matter involving the Business on behalf of the Trust.

5. The Individual Trustees may grant, exercise, sell, or otherwise deal in any rights to subscribe to additional interests in Business.

6. The Individual Trustees may participate in any incorporation, dissolution, merger, reorganization or other change in the form of the Business and, where appropriate, deposit securities with any protective committees and participate in voting trusts.

7. The Individual Trustees may delegate to others discretionary power to take any action with respect to the management and affairs of the Business that the Grantor could have taken as the owner of the Business.

8. The Individual Trustees may accept as correct financial or other statements rendered by the Business as to its conditions and operations except when having actual notice to the contrary.

B. **Liabilities.** Neither the Trust nor the Trustees shall have any liability to anyone for any loss arising from the operation, retention or sale of the Business.

ARTICLE IX.
Definitions and Miscellaneous Provisions

The following definitions and miscellaneous provisions shall apply under this Agreement:

A. **Definitions**. As used herein, the following terms have the following meanings:

"***Approved Expenses***" means (a) the fees and reimbursable expenses of any of the Trustees or the Lead Paying Agent (including reasonable attorneys' fees and other professional fees) hereunder and under the Security Documents in connection with the administration of the Trust, (b) the fees and reimbursable expenses of any GCCF Paying Agent or Local Bank in connection with the performance of their responsibilities as contemplated in this Agreement, (c) the formation or organizational expenses incurred by the parties hereto in connection with the formation and establishment of the Trust, and (d) any other fees or expenses that the Trustees are authorized or required to pay under the terms of this Agreement and the Security Documents, including without limitation amounts owed pursuant to the Trust's indemnification obligations set forth in Article VI, Section E4 hereof but excluding resolved Damage Claims paid in accordance with Section D of Article II hereof.

"***Authorized Person***" means a GCCF Authorized Person or a Grantor Authorized Person.

"***Business Day***" means any day other than a Saturday, Sunday or any other day on which the office of the Corporate Trustee located in the State of Delaware or the office of the Lead

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Paying Agent located in New York, New York is authorized or required by law or executive order to remain closed.

"***Cause***" means (a) in respect to any Corporate Trustee, (i) the failure of such Corporate Trustee or the Lead Paying Agent to perform all of its obligations hereunder in all material respects or the material breach by such Corporate Trustee or Lead Paying Agent of any provision hereof; (ii) the commission by such Corporate Trustee or Lead Paying Agent of any act of willful malfeasance, intentional misconduct or gross negligence in connection with the performance of its duties hereunder; (iii) any material act of dishonesty or breach of trust in connection with the performance of such Corporate Trustee's or Lead Paying Agent's duties hereunder; (iv) the insolvency of such Corporate Trustee or Lead Paying Agent; (v) the appointment of a receiver or conservator over the affairs or assets of such Corporate Trustee or Lead Paying Agent or the commencement of any bankruptcy proceeding by or in respect to such Corporate Trustee or Lead Paying Agent; (vi) or the conviction of, or entry of a plea of guilty or no contest by, such Corporate Trustee in respect of any felony or any lesser crime having as its predicate element fraud, dishonesty or misappropriation; and (b) in respect of any Individual Trustee, (i) the failure of such Individual Trustee to perform all of his or her obligations hereunder in all material respects or the material breach by such Individual Trustee of any provision hereof; (ii) the commission by such Individual Trustee of any act of willful malfeasance, intentional misconduct or gross negligence in connection with the performance of his or her duties hereunder; (iii) any material act of dishonesty or breach of trust in connection with the performance of such Individual Trustee's duties hereunder; (iv) the insolvency of such Individual Trustee; (v) the appointment of a receiver or conservator over the affairs or assets of such Individual Trustee or the commencement of any bankruptcy proceeding by or in respect to such Individual Trustee; or (vi) the conviction of, or entry of a plea of guilty or no contest by, such Individual Trustee in respect of any felony or any lesser crime having as its predicate element fraud, dishonesty or misappropriation.

"***Code***" or "***Internal Revenue Code***" means the Internal Revenue Code of 1986, as amended at the time in question; provided that if, at the time in question, a particular provision of the Code has been renumbered, or the Code has been superseded by a subsequent federal tax law, a reference to the Code or the Internal Revenue Code shall be deemed to be to the renumbered provision or the corresponding provision of the subsequent law, unless to do so would clearly be contrary to the Grantor's intent as expressed in this Agreement.

"***Estimated Claims Amount***" means a good faith estimate of the amount of funds reasonably necessary to satisfy remaining Damage Claims, which estimate is made by the Individual Trustees after consultation with the GCCF Administrator, the Natural Resource Trustees, appropriate government entities, the Grantor, and after review of pending litigation that is reasonably anticipated to result in claims that could be presented to the Trust under this Agreement.

"***Expiration Date***" means the earliest of such time as (i) the Grantor has made all Contributions to the Trust required under Article II hereof and the Trust Fund has been fully distributed under Clauses 1-4 of Article II, Section D hereof, (ii) the GCCF Administrator has informed the Individual Trustees in writing that the GCCF Claims process is substantially complete and the Individual Trustees independently determine, after consultation with the

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Natural Resource Trustees, appropriate governmental entities, and the Grantor and after review of pending litigation that is reasonably anticipated to result in claims that could be presented to the Trust under this Agreement, that either (A) the purpose of the Trust has been substantially fulfilled or (B) the benefits of continuing the Trust are outweighed by the costs of continuing the Trust, and (iii) the Scheduled Expiration Date (as defined below).

"***GCCF Authorized Person***" means initially any of the Authorized Persons listed on Schedule A hereto under the heading "GCCF Authorized Persons," provided that the GCCF Administrator, by written notice to the Trustees and the Grantor, from time to time may remove any such person as a GCCF Authorized Person, and/or add one or more additional persons as GCCF Authorized Persons, with such removal or addition to be effective upon receipt by the Trustees of such written notice.

"***Grantor Authorized Person***" means initially any of the Authorized Persons listed on Schedule A hereto under the heading "Grantor Authorized Persons," provided that the Grantor, by written notice to the Trustees, from time to time may remove any such person as a Grantor Authorized Person, and/or add one or more additional persons as Grantor Authorized Persons, with such removal or addition to be effective upon receipt by the Trustees of such written notice.

"***Incapacitated Individual Trustee***" means any Individual Trustee who is deemed incapacitated (and while incapacitated shall not serve as a Trustee). An Individual Trustee shall be deemed to be incapacitated for purposes of this definition if (a) such Individual Trustee is determined to be incapacitated by a court of competent jurisdiction, including for such purpose the Delaware Court of Chancery or (b) another then-serving Trustee receives written certification that the examined Individual Trustee is physically or mentally incapable of managing the affairs of the Trust, whether or not there is an adjudication of incapacity. In the event an Individual Trustee believes in good faith that grounds exist for another Individual Trustee to be declared incapacitated, such Individual Trustee shall have the authority to commence a proceeding in the Delaware Court of Chancery for a determination as to whether such other Individual Trustee is incapacitated and the Trust shall bear all costs and expenses incurred in connection with such proceeding.

1. A certification referred to in clause (b) above shall be valid only if it is signed by at least two (2) licensed physicians, each of whom has personally examined the Individual Trustee.

2. Such certification need not indicate any cause for the Individual Trustee's incapacity.

3. A certification of incapacity shall be rescinded when a serving Trustee receives a certification that the former Individual Trustee is capable of managing the Trust's affairs. This certification, too, shall be valid only if it is signed by at least two (2) licensed physicians, each of whom has personally examined the Individual Trustee, and at least one (1) of whom is board certified in the specialty most closely associated with the former incapacity.

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4. No person is liable to anyone for actions taken in reliance on these certifications or for dealing with a Trustee other than the one removed for incapacity based on these certifications.

"***Measuring Period***" means each of the following periods: (a) the period commencing on the date the Trust commences and ending on December 31, 2011, and (b) any subsequent calendar year.

"Natural Resource Trustees" has the meaning ascribed to such term in 33 U.S.C. § 2706.

"***Regulations***" or "***Regs***" means the Regulations under the Code at the time in question; provided that if, at the time in question, a particular provision of the Regulations has been renumbered, or the Regulations have been superseded by subsequent regulations, a reference to the Regulations shall be deemed to be to the renumbered provision or the corresponding provision of the subsequent regulations, unless to do so would clearly be contrary to the Grantor's intent as expressed in this Agreement.

"***Scheduled Expiration Date***" means April 30, 2016, provided that if the Individual Trustees determine that the Estimated Claims Amount as of such Scheduled Expiration Date is equal to or greater than $1 billion, the Individual Trustees shall have the authority to extend the Scheduled Expiration Date for up to six months, at which point the Individual Trustees shall determine the Estimated Claims Amount as of the end of such extension period and if such Estimated Claims Amount is equal to or greater than $1 billion, the Individual Trustees shall have the authority to extend the Scheduled Expiration Date for up to an additional six months. This estimation and extension process shall continue every six months thereafter until such time as the Estimated Claims Amount is less than $1 billion, at which time the authority of the Individual Trustees to extend the Scheduled Expiration Date shall expire. In the event of any extension of the Scheduled Expiration Date as provided above, if the amount then remaining in the Payment Account exceeds 110% of the corresponding Estimated Claims Amount, such excess shall be promptly distributed to the Grantor unless the Grantor directs otherwise; provided that such distribution shall be contingent upon the Grantor's execution of a receipt and funding agreement that obligates the Grantor to recontribute any such distributed amount to the extent the Individual Trustees thereafter determine the remaining amount in the Payment Account is insufficient to satisfy all Damage Claims. The Scheduled Expiration Date shall not occur at any time when the Grantor (x) has been dissolved, (y) is the subject of a bankruptcy proceeding, or (z) has admitted that it is unable to satisfy all valid claims against it in full, including Damage Claims, as they become due. Notwithstanding any other provision in this definition, the Grantor and the Individual Trustees may agree to extend the Scheduled Expiration Date to such date as they may agree.

"***Trust Earnings***" means all amounts earned by the Trust from the investment of the amounts contributed to the Trust by the Grantor, including without limitation any amounts earned from the reinvestment of Trust Earnings.

B. **Reporting to Beneficiaries.** The Trustees shall have no obligation to provide the Beneficiaries with any report (annual or otherwise), accounting or any other information with

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respect to the Trust's administration, distributions of the Trust Fund or any other aspect of the Trust (collectively "***Trust Information***") except for Trust Information requested in writing by a Beneficiary that (i) has been made generally available to the public, (ii) is necessary in order for such Beneficiary to comply with any law, order, regulation, or (iii) is reasonably related to such Beneficiary's resolved Damage Claim; provided, however, that, notwithstanding clause (iii) above, no Beneficiary shall be entitled to receive any information with respect to the processing of any Damage Claim of, or resulting distribution from the Trust to, any other Beneficiary, including, without limitation, the amount of such distribution or the identity of any other Beneficiary.

C. **Change of Situs.** The situs of the Trust created hereunder initially shall be Delaware. The situs of the Trust may be maintained in any jurisdiction within the United States, in the discretion of the Trustees, and thereafter may be changed at any time or times to any jurisdiction within the United States selected by the Trustees. Upon any such change of situs, the Trust may thereafter, at the election of the Trustees, be administered and operated exclusively under the laws of (and subject, as required, to the exclusive supervision of the courts of) the jurisdiction to which it has been transferred. Accordingly, if the Trustees of the Trust created hereunder elect to change the situs of the Trust, said Trustees are hereby relieved of any requirement of having to qualify in any other jurisdiction and of any requirement of having to account in any court of such other jurisdiction.

D. **Execution in Counterparts and by Facsimile.** This Agreement may be executed in several counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on all of the parties notwithstanding that all parties are not signatory to the original or same counterpart. The execution of this Agreement by facsimile signature shall be sufficient for all purposes and shall be binding on any party who so executes.

E. **Patriot Act Disclosure**. Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("***USA PATRIOT Act***") requires the Corporate Trustee to implement reasonable procedures to verify the identity of any person that opens a new account with it. Accordingly, the Grantor acknowledges that § 326 of the USA PATRIOT Act and the Corporate Trustee's identity verification procedures require the Corporate Trustee to obtain information which may be used to confirm the Grantor's identity including without limitation name, address and organizational documents ("identifying information"). Grantor agrees to provide the Corporate Trustee with, and consents to the Corporate Trustee obtaining from third parties, any such identifying information required as a condition of opening an account with or using any service provided by the Corporate Trustee.

F. **Tax Reporting**.

1. On or before the date required by applicable U.S. tax law, unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, the Corporate Trustee shall prepare and mail, or cause to be prepared and mailed, to each Beneficiary to whom a distribution has been made pursuant to Article II, Section D (other than a Beneficiary who demonstrates his, her, or its status as a foreign corporation, foreign partnership,

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foreign trust or nonresident alien (a "***Foreign Person***"), in accordance with applicable tax law) an IRS Form 1099-MISC or other applicable form reporting the aggregate amount received by such Beneficiary in accordance with applicable U.S. tax law. Unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, the Corporate Trustee also shall prepare and file, or cause to be prepared and filed, copies of such IRS Forms 1099-MISC or such other applicable form with the IRS or other applicable taxing authority on or before the date required, in accordance with applicable U.S. tax law.

2. On or before the date required by applicable U.S. tax law, unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, the Corporate Trustee shall prepare and mail, or cause to be prepared and mailed, to each Beneficiary who is a Foreign Person to whom a distribution has been made pursuant to Article II, Section D an IRS Form 1042-S or other applicable form reporting the aggregate amount received by such Beneficiary in accordance with applicable U.S. tax law. Unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, the Corporate Trustee also shall prepare and file, or cause to be prepared and filed, copies of such IRS Forms 1042-S or such other applicable form with the IRS or other applicable taxing authority on or before the date required, in accordance with applicable U.S. tax law.

3. For the avoidance of doubt, the Trust shall be treated as if engaged in a trade or business for purposes of Code § 6041.

4. Prior to delivering a Distribution Notice with respect to a Beneficiary, the applicable Authorized Person shall seek from the Beneficiary, as applicable, a duly completed and executed IRS Form W-9 (or its successor form) or a duly completed and executed IRS Form W-8 (or its successor form) or if no such IRS Form can be or will be provided, a taxpayer identification number or social security number and such other information as may be reflected in the Addendum (as defined below) (collectively, the "***Tax Information***"). Unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, the Corporate Trustee shall deduct and withhold, or cause to be deducted and withheld, based on the Tax Information provided in the applicable Distribution Notice, any applicable federal withholding tax from any distribution made to a Beneficiary and shall timely and duly pay, or cause to be timely and duly paid, such withheld taxes to the proper taxing authority in accordance with applicable U.S. tax law. In the event that any such withholding taxes are withheld from a distribution made to a Beneficiary pursuant to this Article IX, Section F4, the Corporate Trustee shall deliver, or cause to be delivered, unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, to such Beneficiary the appropriate form or documentation reporting such withholding and the amount so withheld in accordance with applicable U.S. tax law. The Trustees and the Grantor hereby agree that the terms governing whether the Corporate Trustee shall report on any applicable information returns and the terms governing whether the Corporate Trustee shall deduct and withhold any applicable federal withholding tax in accordance with this Article IX, Section F4 sball be set forth in an addendum to this Agreement (the "***Addendum***"), and the Trustees and the Grantor further agree that actions taken pursuant to the provisions of the Addendum will be indemnified to the same extent of the indemnification provisions contained in this Agreement. The Addendum shall be approved by the Grantor and the Trustees after consultation with the GCCF Administrator and the GCCF

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Paying Agent. Notwithstanding Article III, the Grantor and the Trustees shall have the power, without the consent of any Beneficiary, to agree to the Addendum.

5. If (i) voluntary withholding on distributions to Beneficiaries is permissible under applicable law and (ii) the GCCF Administrator, the Individual Trustees and the Corporate Trustee collectively agree on a process by which U.S. federal taxes can be withheld from a Beneficiary's distribution at the option of that Beneficiary, then the Corporate Trustee shall accommodate, or cause to be accommodated, any such request by a Beneficiary made pursuant to such process and, unless the GCCF Paying Agent has such responsibility under the GCCF Paying Agent Arrangement, shall (i) deduct and withhold, or cause to be deducted and withheld, any applicable U.S. federal tax from any distribution made to such Beneficiary; (ii) timely and duly pay, or cause to be timely and duly paid, such federal withheld taxes to the proper taxing authority in accordance with applicable U.S. tax law; and (iii) deliver, or cause to be delivered, to such Beneficiary the appropriate form or documentation reporting such federal withholding and the amount so withheld in accordance with applicable U.S. tax law. If the GCCF Administrator, the Individual Trustees and the Corporate Trustee collectively agree on an alternative arrangement related to the payment of U.S. taxes, such as the payment of estimated taxes on behalf of a Beneficiary at the request of such Beneficiary, the Corporate Trustee shall, as agreed, pay such Beneficiary's distribution in part directly to such Beneficiary and in part to the proper taxing authority as an estimated tax payment on behalf of such Beneficiary and file appropriate information returns. For the avoidance of doubt, this paragraph does not require the GCCF Administrator, the Individual Trustees and the Corporate Trustee to agree on either a tax withholding process or a similar arrangement.

6. The Grantor and the Trustees understand and intend that any income tax returns required to be filed with respect to the receipt by a Beneficiary of a distribution shall be prepared and filed by the Beneficiary with the IRS and any other taxing authority as required by law.

7. Any income tax returns required to be filed with respect to the Trust Fund or income earned by the Trust Fund shall be prepared and filed by the Grantor with the IRS and any other taxing authority as required by law. The Grantor acknowledges and agrees that except as otherwise specified in this Article IX, Section F, the Trustees shall have no responsibility for the preparation and/or filing of any tax return or any applicable reporting or withholding with respect to the Trust Fund or any income earned by the Trust Fund. The Trustees shall, on an annual basis, pursuant to Regulations § 1.671-4, provide to the Grantor all of the information required to allow the Grantor to report all of its items of income, deduction and credit attributable to the Trust Fund in a timely manner.

8. Any income or other taxes required to be paid by a Beneficiary shall be the sole responsibility of such Beneficiary.

G. **Security Procedures.** In the event funds transfer instructions from any Authorized Person are given, whether in writing, by facsimile or otherwise, the Corporate Trustee, the Lead Paying Agent or their respective agents, is authorized to seek confirmation of such instructions by telephone call-back to such Authorized Person, and the Corporate Trustee,

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the Lead Paying Agent, as well as their respective agents, may rely upon the confirmation of anyone purporting to be the person or persons so designated.

H. **Notices**. Except as otherwise provided in Article II, Section D hereof, all communications hereunder shall be in writing and shall be deemed to be duly given and received: (a) upon delivery, if delivered personally, or upon confirmed transmittal, if by facsimile; (b) on the next Business Day if sent by overnight courier; or (c) four (4) Business Days after mailing if mailed by prepaid registered mail, return receipt requested, to the appropriate notice address set forth below or at such other address as any party hereto may have furnished to the other parties in writing by registered mail, return receipt requested.

If to the Grantor:

BP Exploration & Production Inc.
501 Westlake Park Blvd
Houston, TX 77079
Attention: Mark Holstein
Fax No.: (281) 366-5901

With a copy (whicb shall not constitute notice) to:

Arnold & Porter LLP
555 Twelfth Street, NW
Washington, DC 20004-1206
Attention: Thomas H. Milch and Robert B. Ott
Fax No.: (202) 942-5999

If to the Corporate Trustee:

Citigroup Trust-Delaware, N.A.
222 Delaware Avenue, 14th Floor
Wilmington, DE 19801
Attention: William Hearn, President
Fax No.: (302) 355-0767

With a copy (which shall not constitute notice) to:

Citibank, N.A.
Escrow/Special Transaction Group
Citi Global Transaction Services
388 Greenwich Street, 14th Floor
New York, NY 10013
Attention: Edward C. Morelli, Director
Fax. No.: (201) 716-3941

With a copy (which shall not constitute notice) to:

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Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
Attention: Herman H. Raspé
Fax. No.: (212) 336-2222

If to either of the Individual Trustees, to the address or fax number for such Individual Trustee set forth on the signature pages hereto.

If to the Lead Paying Agent:

Citibank, N.A.
388 Greenwich Street
New York, NY 10013
Attention: Marion O'Connor, Vice President
Fax. No.: (212) 816-5530

With a copy (which shall not constitute notice) to:

Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
New York, NY 10036
Attention: Herman H. Raspé
Fax. No.: (212) 336-2222

ARTICLE X.
Manifestation of Trustees' Actions

When the Trustees take an action that is authorized hereunder and such action does not involve the participation of another person with respect to such action, the Trustees may (but sball not be required to) execute, within a reasonable time of taking such action, an acknowledged, written instrument describing the action taken, which instrument shall be maintained with the Trust's records and may be filed in the court having jurisdiction over the Trust. Failure to execute or to file the instrument shall not make the action taken by the Trustees void, voidable or ineffective, and the Trustees shall not be subject to any liability or surcharge for failure to document such action.

ARTICLE XI.
Captions

The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision therein.

[Remainder of Page Intentionally Blank]

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IN WITNESS WHEREOF, the Grantor and the Trustees have caused this Agreement to be executed by their duly authorized representatives effective the date first above written and executed by each of them on the dates set forth below.

Dated: August 7, 2010

BP EXPLORATION & PRODUCTION INC., as Grantor

By: _____
Name: Stephen J. Riggs
Title: Attorney-In-Fact

Dated: _____

JOHN E. MARTIN, JR., as Trustee

_____

Address for Notice:

_____
_____
_____
Fax No.: _____

Dated: _____

KENT D. SYVERUD, as Trustee

_____

Address for Notice:

_____
_____
_____
Fax No.: _____

Dated: _____

CITIGROUP TRUST-DELAWARE, N.A., as Trustee

By: _____
Name: William Hearn
Title: President

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IN WITNESS WHEREOF, the Grantor and the Trustees have caused this Agreement to be executed by their duly authorized representatives effective the date first above written and executed by each of them on the dates set forth below.

Dated: _____ BP EXPLORATION & PRODUCTION INC., as Grantor

By: _____
Name: _____
Title: _____

Dated: August 7, 2010 JOHN S. MARTIN, JR., as Trustee

_____

Address for Notice:

Martin & Obermaier, LLC
565 Fifth Avenue
New York, N.Y. 10017
Fax No.:212-883-7688

Dated: _____ KENT D. SYVERUD, as Trustee

_____

Address for Notice:

_____
_____
_____
Fax No.:_____

Dated: _____ CITIGROUP TRUST-DELAWARE, N.A., as Trustee

By: _____
Name: William Hearn
Title: President

Deepwater Horizon Oil Spill Trust Signature Page

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IN WITNESS WHEREOF, the Grantor and the Trustees have caused this Agreement to be executed by their duly authorized representatives effective the date first above written and executed by each of them on the dates set forth below.

Dated: _____ BP EXPLORATION & PRODUCTION INC., as Grantor

By: _____
Name: _____
Title: _____

Dated: _____ JOHN S. MARTIN, JR., as Trustee

_____

Address for Notice:

_____
_____
Fax No.: _____

Dated: 8/9/10 KENT D. SYVERUD, as Trustee

Address for Notice:
One Brookings Drive Campus Box 1120
Anheuser-Busch Hall St. Louis, MO 63130
Fax No.: 314-935-6243

Dated: _____ CITIGROUP TRUST-DELAWARE, N.A., as Trustee

By: _____
Name: William Hearn
Title: President

Deepwater Horizon Oil Spill Trust Signature Page

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IN WITNESS WHEREOF, the Grantor and the Trustees have caused this Agreement to be executed by their duly authorized representatives effective the date first above written and executed by each of them on the dates set forth below.

Dated: _____ BP EXPLORATION & PRODUCTION INC., as Grantor

By: _____
Name: _____
Title: _____

Dated: _____ JOHN S. MARTIN, as Trustee

_____

Dated: _____ KENT D. SYVERUD, as Trustee

_____

Dated: 8/6/2010 CITIGROUP TRUST-DELAWARE, N.A., as Trustee

By: _____
Name: William Hearn
Title: President

Deepwater Horizon Oil Spill Trust Signature Page

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JOINDER

The undersigned hereby agrees to provide the services of the Lead Paying Agent provided in the foregoing Trust Agreement on the terms sets forth therein and shall hold all sums held by it for payment to the Beneficiaries in trust for the benefit of the Beneficiaries entitled thereto until such sums shall be paid to such Beneficiaries

Dated: 6-Aug-2010

CITIBANK, N.A., as Lead Paying Agent

By: Marion O'Connor

Name: Marion O'Connor

Title: Vice President

Deepwater Horizon Oil Spill Damage Claims Trust Signature Page

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SCHEDULE A

GCCF AUTHORIZED PERSONS

[To be added.]

GRANTOR AUTHORIZED PERSONS

[To be added.]

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SCHEDULE B-1

CORPORATE TRUSTEE AND LEAD PAYING AGENT COMPENSATION

PRICING MEMO **Deepwater Horizon Oil Spill Trust**
August 6, 2010

Structuring and Implementation Fee

For the structuring and implementation of the Corporate Trustee and Paying Agent requirements of the Deepwater Horizon Oil Spill Trust and the Gulf Coast Claims Facility.

The one-time, upfront structuring fee consists of the following components:

Corporate Trustee: $250,000

Setting up of the Trust services consists of the following components and activities:

- **Legal framework review and establishment of the Trust**
- **Formation of Fiduciary controls over the Trust funds**
- **Establishing Investment Framework**
- **Engagement of Whitney National Bank**

Paying Agent: $800,000

Setting up of the paying agent structure consists of the following key one-time components and activities:

- **Set-up and Implementation**
- **Network Management & Coordination**
- **Value-added and ancillary activities**

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Corporate Trustee

To cover the administrative functions of the Trustee, including the establishment of the various trust accounts and investment of funds. The Trust will be established in the name of Deepwater Horizon Oil Spill Trust, an entity created by BP, and will coordinate investment liquidation and funds movements to match the payment needs as directed through information provided by the Claims Administrator.

The Trustee will administer the following:

- Master Trust Account
- NY DDA Check Funding Account
- NY DDA Reserve Funding Account
- Whitney DDA Check Funding Account
- Investments
- Management of the Whitney National Bank interaction with the Trust
- Coordination of Issuance and Payment files between the Claims Administrator, Citi, and Whitney for wire issuances.
- Management of the Claims Administrators interaction with the Trust

Annual Charge: $175,000

Paying Agent and Disbursement Management Fees

The following identifies the overall payment processes involved in the disbursement of funds to claimants from the Deepwater Horizon Oil Spill Trust, based on transaction level assumptions, for the purpose of providing guidance on fees and expenses associated with the implementation and ongoing administration.

The following areas of payment solutions are included below:

- Check Payments (Citi/Whitney)
- Wire Payments (Citi only)

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Claims Payment Solution

Checks & Wires

To cover the ongoing management and administration of a controlled dishursement/ wire payment solution with the integrated local branch network and related services.

Monthly Charge: $50,000 (may be reviewed after one year), $25,000 of which shall be paid to Whitney National Bank by Citi

Monthly Program fees would cover all ongoing activities, incremental staffing and operational capacity management associated with the disbursements program at Citi and Whitney including handling of potential special situations arising out of the long-term, high visibility nature of the claims facility and the complex and geographically wide-spread scope of the underlying solution. Specifically, the monthly program administration includes:

SERVICE	Price Per Unit
Checking Services	
Per Check cashed or deposited over the counter:	$6.00
The encashment charge consists of two components: $5.50 per check payable to Whitney National Bank and $0.50 fee charged by Citi for enabling real-time check validation and generation of unique authorization code for audit-trail integrity, providing analytics/ data to Whitney for cash inventory planning, training support, ongoing MIS and process oversight	
Clearing, positive pay, payee match, IVR and reconcilement/reporting	$0.50
Apart from clearing and funding for checks, per check clearing fee is to accept issuance data from GCG, managing check and account reconciliation, running positive pay and payee match against each check, image archiving, providing online and file based access to reports and check images to all parties, as needed. This charge also includes maintaining real-time data integrity between DDA platform and IVR system	
Wire Transfers	
Domestic Wire Transfers – Incoming & Outgoing	$3.50
Per wire fees for all claims wire payments sent to claimants as well as wires between Citi and Whitney funding accounts to support the account management.	

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Legal Fees

To cover Citibank and its subsidiaries and affiliates' external counsel legal fees and disbursements in connection with the Trustee, Paying Agent and potential Collateral Agent appointments.

AT COST

All annual and monthly fees, unless otherwise stated, are due in advance. Any reasonable charges for out-of-pocket expenses or for any services of an extraordinary nature that Citibank or its legal counsel may be called upon from time to time to perform in either an agency or fiduciary capacity will be passed-through at cost. Should this schedule of fees be accepted and agreed upon and work commenced on this transaction but subsequently halted and the transaction described is not consummated the legal fees incurred, along with all out-of-pocket expenses and a satisfactory termination fee, will be payable. This Fee Schedule is offered for and applicable to the transaction titled on page one only, and is guaranteed for sixty days from the date on this proposal. After sixty days, this offer can be extended in writing only.

In accordance with US regulations regarding anti-money laundering and terrorist financing, Federal law requires Citibank to obtain, verify and record information that identifies each business or entity that opens an account or establishes a relationship with Citibank. What this means for you: when you open an account or establish a relationship, we will ask for your business name, a street address and a tax identification number, that Federal law requires us to obtain. We appreciate your cooperation.

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SCHEDULE B-2

INDIVIDUAL TRUSTEE COMPENSATION

$100,000 per annum per Individual Trustee

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