

This is a preliminary transcript of a Committee Hearing. It has not yet been subject to a review process to ensure that the statements within are appropriately attributed to the witness or member of Congress who made them, to determine whether there are any inconsistencies between the statements within and what was actually said at the proceeding, or to make any other corrections to ensure the accuracy of the record.

1 {York Stenographic Services, Inc.}

2 HIF208.170

3 HEARING ON ``THE BP OIL SPILL AND GULF COAST TOURISM:

4 ASSESSING THE IMPACT''

5 TUESDAY, JULY 27, 2010

6 House of Representatives,

7 Subcommittee on Commerce, Trade, and Consumer Protection

8 Committee on Energy and Commerce

9 Washington, D.C.

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

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

18 Staff present: Michelle Ash, Chief Counsel; Tim

19 Robinson, Counsel; Angelle Kwemo, Counsel; Anna Laitin,  
20 Counsel; Will Wallace, Special Assistant; Elizabeth Letter,  
21 Press Assistant; Jeremy Feigenbaum, Intern; Billie McGrane,  
22 Intern; David Cavicke, Chief of Staff; Amanda Mertens  
23 Campbell, General Counsel; Katie Wheelbarger, Deputy Chief of  
24 Staff; Brian McCullough, Senior Professional Staff; Kevin  
25 Kohl, Professional Staff; Aaron Cutler, Counsel; and Sam  
26 Costello, Legislative Analyst

|  
27           Mr. {Rush.} The Subcommittee on Commerce, Trade, and  
28 Consumer Protection will come to order. I thank those who  
29 have gathered here for this hearing, and the Chair recognizes  
30 himself for 2 minutes for an opening statement.

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

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

44           Tourism is the Gulf Region's second largest industry.  
45 It generates more than \$39 billion in state revenue. Tourism  
46 represents 46 percent of the region's economy. Tourism  
47 employs over one million people. Various setting indicate  
48 that this oil spill has put 300,000 jobs at risk,  
49 representing 15 percent of the total job base in the region.

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

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

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

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

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

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

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

84           [The prepared statement of Mr. Rush follows:]

85 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
86           Mr. {Rush.} With that I yield back the balance of my  
87 time. Now I recognize the Ranking Member for 2 minutes.

88           Mr. {Whitfield.} Mr. Chairman, thank you and I want to  
89 welcome all the witnesses today. We appreciate Mr. Feinberg  
90 being with us, as well as representatives of the tourism  
91 industry.

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

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

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

108           The administration of the claims process is being

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

114 Mr. Feinberg is charged with administering the entire  
115 \$20 billion Gulf Coast claims account and paying legitimate  
116 claims to affected parties. It is an admirable and certainly  
117 a difficult position because we know that paying claims in  
118 this kind of a situation is certainly an inexact science.  
119 Will it be restricted to the beach resorts only, or will  
120 downstream suppliers to the tourism industry qualify for  
121 compensation? There are a lot of unanswered questions. We  
122 do want to see that people are reimbursed who have legitimate  
123 claims. We know that there will be some people filing claims  
124 that are not legitimate, but that is one of the challenges  
125 that Mr. Feinberg faces.

126 And then one other question that I think is going to  
127 have to be answered as we go along is the drilling moratorium  
128 imposed by the Administration is certainly going to have an  
129 impact on the economy up and above the impact on the tourism  
130 as a result of the spill. And there is going to have to be  
131 some questions asked about who should pay for the cost of  
132 those--of that moratorium. Should it be the government,

133 should it be BP? So there are a lot of unanswered questions,  
134 and I know that this committee is totally committed to making  
135 sure that everyone receives compensation that deserves it.  
136 We look forward to your expertise, your thoughts on this  
137 important subject and certainly look forward to all of your  
138 testimony.

139 Thank you.

140 [The prepared statement of Mr. Whitfield follows:]

141 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
142 Mr. {Rush.} The Chair recognizes the Chairman of the  
143 Full Committee, Mr. Waxman, for 5 minutes.

144 The {Chairman.} Thank you very much, Mr. Chairman.

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

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

155 I would like to thank Chairman Rush for holding our  
156 ninth hearing which will focus on the impacts of the spill on  
157 tourism and the tourism economy in the Gulf area. The  
158 economies of Louisiana, Mississippi, Alabama, and Florida are  
159 heavily dependent on the travelers who come to the Gulf Coast  
160 beaches each summer for swimming, fishing, and other  
161 activities across each of these four States. Some beaches  
162 are closed, and significant fishing grounds are still off  
163 limits. Hotels, restaurants, charter boats, and resorts are  
164 facing cancellations. Tourists are shying away from the

165 areas of the Gulf even where no oil has come ashore. Diners  
166 and grocery shoppers across America are asking about whether  
167 the seafood is from the Gulf and whether it is safe to eat.

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

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

181 Thank you, Mr. Chairman.

182 [The prepared statement of Mr. Waxman follows:]

183 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
184 Mr. {Rush.} The Chair now recognizes the gentleman from  
185 Florida, Mr. Stearns, for 2 minutes. For 1 minutes. I am  
186 sorry.

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

189 Mr. {Barton.} I am willing to let Mr. Stearns go.

190 Mr. {Rush.} He is to my left. You are not normally on  
191 my left.

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

194 Mr. {Barton.} I thank the distinguished gentleman from  
195 the windy city of Chicago, home of the Cubs and the White  
196 Sox. I appreciate that.

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

202 Since the Deepwater Horizon exploded and sank 3 months  
203 ago, this committee in my opinion has conducted a fair and  
204 rigorous investigation of the accident and developed what I  
205 consider to be a measured Congressional response. Our  
206 Oversight and Investigations Subcommittee, Energy and

207 Environment Subcommittee, Health Subcommittee, and now the  
208 Commerce, Trade, and Consumer Protection Subcommittee are  
209 each doing their best to review and discuss all of the issues  
210 surrounding the oil spill.

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

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

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

228         Tourism, fishing, and energy development are vital to  
229 the Gulf Coast where they employ hundreds of thousands of  
230 people. The tourism industry, which is the focus of today's

231 hearing, by itself generates over \$30 billion a year.

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

239         The Gulf Coast economy is tied to earth and ocean  
240 resources. The industries along the Gulf are so intertwined  
241 that the losses in one sector ripple throughout the entire  
242 regional economy. That is why if you are going to understand  
243 the magnitude of the tragedy, we must listen closely to those  
244 who are being directly affected by the Administration's  
245 decisions, especially the one currently to ban energy  
246 exploration.

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

255 consideration.

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

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

265           With that I yield back, Mr. Chairman.

266           [The prepared statement of Mr. Barton follows:]

267 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
268 Mr. {Rush.} The Chair recognizes the gentle lady from  
269 Florida, Ms. Castor, for 1 minute.

270 Ms. {Castor.} Thank you, Chairman Rush and Chairman  
271 Waxman and Mr. Whitfield, for organizing this important  
272 hearing.

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

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

289 We have got to turn that perception around. The efforts  
290 of BP to date have been inadequate to say the least. What is

291 particularly maddening is we watch these incessant ads, full-  
292 page ads by BP, that are polishing their corporate image at a  
293 time where they should be devoting a good portion of those  
294 monies to helping small business owners, our hotels get back  
295 on their feet and explain to folks around the globe that our  
296 beaches are pristine, and we want you to come to Florida  
297 rather than how many millions and millions and millions of  
298 dollars have they spent on polishing their own corporate  
299 image.

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

306           Thank you.

307           [The prepared statement of Ms. Castor follows:]

308 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
309 Mr. {Rush.} The Chair now recognizes the gentleman from  
310 Florida, Mr. Stearns for 1 minute.

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

315 I saw in the paper recently he said, ``I have a concern  
316 that BP is stalling claims. Yes, BP is stalling. I doubt  
317 they are stalling for money. It is not that. I just don't  
318 think they know the answer to the questions by the  
319 claimants.'' That is going to be true whether you decide a  
320 claim because of geographic distance or whether you decide a  
321 claim because of ownership. Are you going to ask for tax  
322 returns? I mean, how are you possibly going to figure out  
323 what particular claim is valid or not. So we all pray and  
324 hope that he will have the wisdom of Solomon to do this.

325 I noticed in a report as of July 24 in Florida 41,818  
326 claims were made, and money that was handed out was  
327 \$45,320,000. So obviously some claims have been paid, and a  
328 lot of people across many, many counties and including  
329 counties that are not even affected by the Gulf Coast, have  
330 been paid. Florida has the most densely-populated coastline  
331 of the United States, and so this spill threatens our

332 beaches, and as a former restaurant, hotel owner I deeply  
333 sympathize and empathize with these businesses and hope  
334 obviously that they are not hurt badly and that we can come  
335 back.

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

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

343 [The prepared statement of Mr. Stearns follows:]

344 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
345 Mr. {Rush.} Mr. Green from Texas.

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

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

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

364 I represent a district in Houston where thousands has  
365 lost or furloughed their jobs as a result of the drilling  
366 moratorium. Other areas have been hit even harder, and some  
367 Gulf Coast towns oil and gas, fishing and tourism are all

368 they have, and now they don't have any of those three. I am  
369 afraid this spill is going to have a lasting negative impact  
370 on communities beyond the environmental implications for  
371 years to come with so much money being removed from the  
372 system. The economy is already hard hit. We will struggle  
373 to bounce back.

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

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

385       I yield back my time.

386       [The prepared statement of Mr. Green follows:]

387 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
388 Mr. {Rush.} Mr. Latta is recognized for 1 minute.

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

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

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

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

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

409 [The prepared statement of Mr. Latta follows:]

410 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
411 Mr. {Rush.} Ms. Sutton is recognized for 1 minute.

412 Ms. {Sutton.} I thank the distinguished Chairman for  
413 holding this hearing.

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

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

432 Thank you, and I yield back.

433 [The prepared statement of Ms. Sutton follows:]

434 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
435 Mr. {Rush.} Dr. Gingrey is recognized for 1 minute.

436 Dr. {Gingrey.} Chairman Rush, thank you for calling  
437 today's hearing on the impact that the Deepwater Horizon  
438 explosion has had on tourism in the Gulf Region. As a member  
439 of the Subcommittee on Oversight and Investigation, I have  
440 had the opportunity to hear testimony on a range of matters  
441 relating to Deepwater Horizon. I look forward to hearing  
442 from today's panel of witnesses.

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

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

456 In particular, based on his earlier testimony at the  
457 Small Business Committee, I look forward to hearing from Mr.

458    Feinberg in particular on the challenges facing the Gulf  
459    Coast tourism in the aftermath of Deepwater Horizon, and I  
460    thank all of you gentlemen who are actively involved in  
461    tourism industry.  You know of what you speak.  We look  
462    forward to hearing from you today.

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

464            [The prepared statement of Dr. Gingrey follows:]

465            \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
466           Mr. {Rush.} Mr. Barrow of Georgia is recognized for 1  
467 minute.

468           Mr. {Barrow.} I waive opening.

469           [The prepared statement of Mr. Barrow follows:]

470           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
471           Mr. {Rush.} Thank you. The Chair now recognizes Mr.  
472 Scalise of Louisiana for 1 minute.

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

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

493           That is why it is so critical that the recovery fund

494 being run by Mr. Feinberg is administered in a way that helps  
495 all of those that are being affected and will be affected by  
496 this disaster.

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

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

510         Thank you, and I yield back.

511         [The prepared statement of Mr. Scalise follows:]

512 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|

513           Mr. {Rush.} Mr. Gonzalez from Texas is recognized for 1  
514 minute.

515           Mr. {Gonzalez.} Wave opening.

516           [The prepared statement of Mr. Gonzalez follows:]

517 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

|  
518           Mr. {Rush.} The Chair thanks the gentleman. Is there  
519 any other member? The Chair don't see any--does not see any  
520 other members seeking recognition.

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

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

530           [The information follows:]

531 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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

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

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

552           Again, I want to thank the witnesses for appearing in  
553 response to our request and our invitation. It is the  
554 practice of this subcommittee to swear in witnesses, so I

555 will ask if you will stand and raise your right hand.

556 [Witnesses Sworn]

557 Mr. {Rush.} Please let the record reflect that the  
558 witnesses have all in their entirety answered in the  
559 affirmative. And now we will recognize Mr. Feinberg for 5  
560 minutes for opening statement.

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

|  
570 ^TESTIMONY OF KENNETH FEINBERG

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

577 I am the independent administrator of this new Gulf  
578 Coast Claims Facility set up by agreement between the  
579 Administration and BP. I do not work for the Administration.  
580 I do not work for BP. I have been delegated the authority to  
581 design, implement, and administer this purely private

582 facility funded by BP in a \$20 billion escrow account.

583 I have been assured by both the Administration and BP  
584 that this facility that I am administering will, in fact, be  
585 totally independent. I answer to the people in the Gulf, not  
586 to the Administration nor to BP. BP has--is setting aside  
587 \$20 billion in an escrow fund to pay all eligible claims that  
588 are submitted to the facility. Hopefully the \$20 billion  
589 will be enough. If not, BP has agreed that it will honor any  
590 additional financial obligations that it may have over and  
591 above the \$20 billion.

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

602 I want to give BP some credit. It has already paid over  
603 \$230 million worth of claims, not out of the \$20 billion but  
604 as part of its petty cash. It has paid out \$230 billion in  
605 individual and some business claims. When I said--somebody--

606 Congressman Stearns, I think, reminded me about stalling. BP  
607 has not been paying certain problematic claims for the  
608 reasons really expressed by Congressman Stearns.

609 I mean, what constitutes an eligible claim is a major  
610 question here, and it is going to be a major question today  
611 when it comes to tourism. It is easy to compensate a motel  
612 or a restaurant on the beach where there is oil. You don't  
613 need the wisdom of Solomon for that claim. You really don't.  
614 You don't need the wisdom of Solomon for a claim involving a  
615 motel on the beach where the beach is pristine but you can't  
616 fish. That is an easy claim.

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

622 Now, I have got some great help on that from Mr. Malone  
623 from Alabama, who I have met with on a couple of occasions,  
624 who is thinking this problem through from the perspective of  
625 tourism in Alabama. Governor Crist in Florida has reminded  
626 me about the Pan Handle and the influence of this disaster on  
627 a--on the Florida coast, but what I am going to have to  
628 decide, you see, as part of this Gulf Coast Claims Facility  
629 is what constitutes a direct claim, a direct claim, that is

630 immediately payable, and how far attenuated may a claim be  
631 from the spill. The overall impact of the spill undoubtedly  
632 impacts tourism throughout a particular state. I am sure of  
633 that.

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

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

652         So you can't do this from Washington. You have to spend  
653 a lot of time down there, hearing what people have to say,

654 the uncertainty, the concern, and I really look forward to  
655 working with this committee in the months and weeks ahead.

656 Thank you.

657 [The prepared statement of Mr. Feinberg follows:]

658 \*\*\*\*\* INSERT 1 \*\*\*\*\*

659

|

Mr. {Rush.} Mr. Dow, you are recognized for 5 minutes.

|  
660 ^TESTIMONY OF ROGER DOW

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

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

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

681 It is mentioned that four States are impacted to the

682 tune of \$94 billion of their travel economy and a million  
683 employees in their travel economy, but you also have Texas,  
684 which perception has not been hit as hard but perception can  
685 cause people not to go to parts of Texas, and that is even a  
686 bigger place.

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

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

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

706 tourism industry, over 3 years.

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

714         And it is three parts. One is to inform the perception,  
715 and we all know how important perception is. Second, create  
716 an incentive for people to travel back to this area. Third,  
717 to make businesses and people whole, and this must be funded  
718 by BP to help reduce the long-term implications.

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

729         We believe that the Gulf Coast Claims Facility is the

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

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

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

752 Thank you very much.

753 [The prepared statement of Mr. Dow follows:]

754 \*\*\*\*\* INSERT 2 \*\*\*\*\*

|  
755           Mr. {Rush.} The Chair recognizes now Mr. Daniels for 5  
756 minutes.

|  
757 ^TESTIMONY OF RIP DANIELS

758 } Mr. {Daniels.} Thank you, Chairman Rush, Ranking Member  
759 Whitfield, and other subcommittee members. I am representing  
760 myself today.

761 Mr. {Rush.} Would you turn the mike on and pull it  
762 closer to you? Thank you.

763 Mr. {Daniels.} I apologize for that. I am representing  
764 myself as a private citizen and not the Harrison County  
765 Tourism Commission primarily because I wanted to represent  
766 small business as well as it applies to tourism.

767 I have been in tourism since 1978, starting as a tavern  
768 owner, radio broadcaster, real estate broker, tourism  
769 commissioner, and the primary investor in the Coast's newest  
770 African-American hotel, the Almanett. I have seen firsthand  
771 the adverse effects of a range of disasters from Hurricane  
772 Camille's destruction on the seafood industry's processing in  
773 1969, to the economic recession of the '80s which resulted in  
774 the closing of the Hilton and Sheraton hotels, the complete  
775 destruction of the Coast tourism destination by Hurricane  
776 Katrina.

777 However, I have also been a part of the recovery and  
778 renewal of the Coast after each calamity, and the resilience

779 of the Gulf Coastians in the face of insurmountable  
780 destruction is a testament to their faith in God and in each  
781 other.

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

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

799         One can glean that the Mississippi Gulf Coast billion  
800 dollar tourism industry is undoubtedly tied to seafood.  
801 According to recent Harrison County surveys the number one  
802 reason for visiting the Mississippi Gulf Coast was the food,

803 the seafood. Ladies and Gentleman, the Coastal view is still  
804 gorgeous. The beaches are clean, the sound and the bayous  
805 are open for fishing, but the seafood; is it safe? How does  
806 the Coast remove the perception that it is not?

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

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

824 The most serious adverse effect over the last--over the  
825 lack of tourism, not recovery workers, is that many of the  
826 Mom and Pop shops, the restaurants, off boats, seafood

827 merchants, water sports vendors, and golf courses and the  
828 like have suffered. They are not getting tourist dollars  
829 which were far greater.

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

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

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

847           Thank you.

848           [The prepared statement of Mr. Daniels follows:]

849 \*\*\*\*\* INSERT 3 \*\*\*\*\*

|  
850           Mr. {Rush.} The Chair recognizes Mr. Malone for 5  
851 minutes.

|  
852 ^TESTIMONY OF HERB MALONE

853 } Mr. {Malone.} Good morning, Mr. Chairman, and thank you  
854 and thank the members of the subcommittee for inviting us  
855 here today. It is a tremendous honor to represent our area.  
856 It is an honor to represent the some 2,000--

857 Mr. {Rush.} Move to mike to you. Thank you.

858 Mr. {Malone.} Okay. It is an honor to represent some  
859 2,000 business owners and some 40,000 employees that they  
860 employ whose livelihoods all are at risk as we sit here  
861 today.

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

874 awhile to get it working, but it is working.

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

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

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

897         We are the smallest beach, laterally we are the smallest

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

906         So it is devastating to us. It is about survival. The  
907 BP claims process has been mentioned in the numbers that they  
908 seem to tout quite often of what they have paid. The bigger  
909 number is what they have not paid. Last night I received an  
910 e-mail from one of our local CPA firms that I know has been  
911 very actively engaged in the claims process. They have filed  
912 over--gave me a detailed list of over 70 claims they have  
913 filed on behalf of businesses. These 70 claims total over  
914 \$27 million. This is just for May and June. July claims are  
915 just now starting to be filed. Of that \$27 million less than  
916 \$5 million has been paid yet to owners. Of that \$5 million,  
917 \$3.5 million went to two claims.

918         So as you see there is a tremendous void in what has  
919 been filed and what has been requested and what has been  
920 documented, and this CPA firm is highly reputable. They have  
921 been actively engaged from the very beginning, and they like

922 the rest of us, are being frustrated why money is not coming  
923 into the hands of our business community. Without that they  
924 can't support the jobs, they can't make payroll next week,  
925 they can't pay the notes that are due.

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

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

944 But our problem is I have businesses who have bank notes  
945 due last week. Every day that goes by is critical. Every

946 week that goes by there will be another foreclosure. So when  
947 Mr. Feinberg says he is taking over mid next month, I wish  
948 for us he would take over tomorrow, and if there is any way  
949 that members of this committee or any other members of  
950 Congress can help facilitate getting this into the control of  
951 Mr. Feinberg and out of the control of BP, it would be a  
952 tremendous benefit to us.

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

960         [The prepared statement of Mr. Malone follows:]

961 \*\*\*\*\* INSERT 4 \*\*\*\*\*

|  
962           Mr. {Rush.} Thank you. Mr. Overton, you are recognized  
963 for 5 minutes.

|  
964 ^TESTIMONY OF KEITH OVERTON

965 } Mr. {Overton.} Thank you, Mr. Chairman, and  
966 distinguished subcommittee members. For the record we, too,  
967 are a little frightened of Mr. Feinberg so far, but I think  
968 we are going to get through it okay as we have more  
969 discussion.

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

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

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

986 travel and tourism.

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

998         Now, if you extrapolate that out and you assume the  
999 balance of Pinellas County's 35,000 rooms have had a similar  
1000 impact, that is a \$70 million economic loss just in hotel  
1001 room revenue, and that doesn't include restaurants or  
1002 secondary businesses related to tourism.

1003         And then if you think about the Pan Handle, which has  
1004 76,000 hotel rooms in its entirety and the effects clearly  
1005 have been more devastating to them than they have in Pinellas  
1006 County, it is easy to see that the losses to Florida's  
1007 tourism are in the billions. It is a substantial number, and  
1008 it is something that we want to make on the record today that  
1009 we need help with that.

1010           What is most concerning to me is that all of these  
1011 losses have occurred to our resorts without a drop of oil  
1012 being on any beach in Pinellas County. It is amazing to me  
1013 how the perceptions of the media have gotten us to this  
1014 point. Nonetheless, we are there.

1015           I also want to share with you that the Y-Partnership  
1016 conducted a survey on June 18, and it was asked at the time  
1017 of the participants which States do you believe will most  
1018 directly be impacted by oil. Ninety-five percent of them put  
1019 Florida at the top of the list. Florida is clearly the least  
1020 affected State, at least physically, from the oil that is  
1021 impacted the shorelines.

1022           So clearly, again, I want to restate this is a  
1023 perception problem, and I certainly think we can all agree  
1024 that perceptions have worsened since June 18.

1025           Prior to appearing on Neil Cavuto show a couple of weeks  
1026 ago, I was viewing a monitor, and it had the President who  
1027 was appearing at Pensacola Beach, and at the time there were  
1028 a few tar balls there, but it hadn't been materially  
1029 affected. And the tickertape along the bottom, I couldn't  
1030 hear what was being said, but it read, ``Oil finally reaches  
1031 Florida's beaches.'' Plural. And when they transitioned to  
1032 the next shot, the television station, and I can't recall  
1033 which one it was, superimposed the oil running down the

1034 screen behind the President over the beautiful Gulf waters  
1035 that were behind him. And I said to myself, you know, \$25  
1036 million, \$50 million, \$100 million, there is no amount of  
1037 money that is going to combat that kind of imagery, and it is  
1038 a challenge that we are faced with, and it is going to be  
1039 there for many, many years to come I believe. Much like what  
1040 happened in the hurricanes of 2004. We are still suffering  
1041 from that and cannot gain occupancies in August and September  
1042 that we used to achieve.

1043 I have five requests of the committee in closing if you  
1044 would acknowledge them, and I would ask you to at least  
1045 address them in your comments and your questions. One is the  
1046 media must be held accountable to accurate and fair reporting  
1047 of the facts regarding this oil spill. They have a legal and  
1048 an ethical responsibility to do so, yet many of them continue  
1049 to put ratings ahead of accuracy.

1050 I urge you to charge some agency, maybe it is this  
1051 governing body, I am not sure, within the Federal Government  
1052 to review news reports weekly and hold them accountable for  
1053 the sensationalism and the accuracies that are there. We  
1054 need somebody to support us in that regard, or it will just  
1055 continue on even with the next crisis beyond this one.

1056 Number two. We are optimistic that the oil leak has  
1057 been capped, however, there is still going to be years of

1058 cleanup and recovery efforts remaining. We all fear that the  
1059 claims are going to cease being paid prior to the end of the  
1060 actual losses. I think that is an accepted concept today.

1061         Additionally, Mr. Feinberg's recent comments with  
1062 regards to what is a compensable or legitimate claim based on  
1063 whether or not oil is on its beaches and the proximity to  
1064 that oil is also very concerning to all of our members and  
1065 all of the tourist-based businesses within Florida, and we  
1066 implore Mr. Feinberg and any branch of the government that  
1067 can influence the claim process to look very carefully at  
1068 this and not allow it to be a black and white issue. We want  
1069 to make sure each business owner has an opportunity to be  
1070 heard for their legitimacy of their claims and not just ruled  
1071 out because of geographics.

1072         Third, I would like to make you aware that the CVBs in  
1073 all of the Gulf Coast counties rely on bed tax dollars, and  
1074 those bed tax dollars are related to hotel room revenues.  
1075 When they fall, revenues fall, then the bed tax dollars fall.  
1076 We need that marketing money. We need to be made whole. I  
1077 know that is not Mr. Feinberg's responsibility, but those  
1078 CVBs need to be made whole on the dollars that have been lost  
1079 for their marketing purposes.

1080         The fishing and seafood industry and our wildlife are  
1081 critical to tourism and Florida's economy. I am not going to

1082 go into the details, but I have included in your packet some  
1083 recommendations from very legitimate ocean conservancy, other  
1084 agencies that will help you in some of your studies as it  
1085 relates to our wildlife.

1086         And lastly, we have to continue to spend money on  
1087 marketing efforts both domestically and internationally. We  
1088 have not yet gotten more money past the \$25 million  
1089 originally that BP has given to us. Fifty million dollars  
1090 was requested by our governor, and it has been turned down.  
1091 We really need that money. It is very important. This is  
1092 going to go on for a long period of time as I said earlier,  
1093 and those dollars are vital to our recovery.

1094         I thank you very much for allowing me to speak today and  
1095 giving you our testimony.

1096         [The prepared statement of Mr. Overton follows:]

1097 \*\*\*\*\* INSERT 5 \*\*\*\*\*

|  
1098           Mr. {Rush.} Mr. Brennan, you are recognized for 5  
1099 minutes.

|  
1100 ^TESTIMONY OF RALPH O. BRENNAN

1101 } Mr. {Brennan.} Thank you very much, Mr. Chairman, and  
1102 thank you for this opportunity to testify on behalf of the  
1103 National Restaurant Association and the restaurant industry.  
1104 As you said in my introduction, I am from the Ralph Brennan  
1105 Restaurant Group, and I have been involved in the restaurant  
1106 industry in New Orleans for almost 30 years, and my family  
1107 has been in the restaurant business for more than 60 years,  
1108 and as a group we operate 12 restaurants, nine of those in  
1109 New Orleans. And Gulf seafood is an important ingredient in  
1110 all of our menus.

1111 I want to thank you for holding this hearing and for  
1112 your continuous focus on the oil spill's impact on the  
1113 economy of the Gulf Region and the Nation, and I appreciate  
1114 the opportunity to tell the restaurant industry's part of the  
1115 story.

1116 Ours is an industry that employs an estimated 2.3  
1117 million employees in the Gulf Coast Region. Restaurants in  
1118 the Gulf Coast area generate about \$77 billion in annual  
1119 sales.

1120 Since April 20 when oil began flowing into the Gulf of  
1121 Mexico, our coastline, our sea life, our culture and our

1122 tourism economy are again in great jeopardy. After Hurricane  
1123 Katrina roared ashore on August the 29th, 2005, Gulf Coast  
1124 residents and businesses essentially knew what to do to  
1125 return to normal or as we call it today the new normal. The  
1126 water came into New Orleans, the water went out, and we began  
1127 to rebuild and move on. But this is not the case today.

1128         The key message that I want to share with you is one of  
1129 long-term uncertainty impacting both the ecosystem of the  
1130 Gulf and the economy of the Gulf Coast area and potentially  
1131 devastating tourism in the Gulf States.

1132         Across the affected areas restaurants report a range of  
1133 experiences. Those located in seaside or in beach  
1134 communities are decimated as tourism shrivels. Tourists are  
1135 not coming because there is either oil on the beach or in the  
1136 water, or people have the perception that there is oil there,  
1137 and visitor perception is key to decisions about where to  
1138 vacation. The overall numbers of tourists are down,  
1139 restaurant guests and sales are decreasing, product costs are  
1140 increasing, and jobs are in jeopardy as already thin margins  
1141 precariously slip away.

1142         In New Orleans one of the driving forces of our economy  
1143 is culinary tourism and Gulf seafood is at the heart of our  
1144 culinary tourism. Like we saw after Hurricane Katrina,  
1145 convention groups and leisure travelers are now calling to

1146 express concern about upcoming business and whether to book  
1147 future business. Many are asking if oil is on the doorsteps  
1148 in New Orleans, and New Orleans is miles inland. Today  
1149 almost 5 years after Hurricane Katrina convention bookings  
1150 have not returned to pre-Katrina levels because of the damage  
1151 to the New Orleans brand, and the oil spill risks  
1152 surrendering the ground that we have gained over the last few  
1153 years along with future increases.

1154         While the focus of my testimony is not primarily on the  
1155 BP claims process, I have heard from some of our restaurant  
1156 association executives along the Gulf that there is a  
1157 willingness to set up a claims center and that would be  
1158 solely focused on the restaurant and hotel industries, and I  
1159 want to voice my strong support for that idea.

1160         Regarding my three New Orleans restaurants specifically,  
1161 sales are down, counts are down, costs are up, and margins  
1162 are down, and this is not a sustainable business model and as  
1163 the oil looms offshore with an impact that could last for  
1164 many years to come.

1165         With regard to perceptions and misconceptions, I would  
1166 like to begin applauding our state and federal officials for  
1167 the stringent safety testing of Gulf seafood that has allowed  
1168 truthful reporting around the potential toxicity of the  
1169 seafood. We are fortunate that 100 percent of the reports to

1170 date have shown that Gulf seafood is to be safe to consume  
1171 from areas that are approved. Ongoing testing is crucial for  
1172 a safe and informed public.

1173         Despite the testing concerns about safety and supply,  
1174 one of the recent national polls indicated that 54 percent of  
1175 the respondents said they would only eat seafood that they  
1176 know does not come from the Gulf. Our staff has received  
1177 many calls and comments, all centered around safety and  
1178 supply. And to combat concerns we have aggressively trained  
1179 our staff to knowledgeably share precise locations of where  
1180 our seafood comes from.

1181         To demonstrate support for the fishermen and the safety  
1182 of the product, my restaurants have added seafood offerings.  
1183 As I told the ``New York Times,' ' the way to help is to eat  
1184 Gulf seafood. If high-profile individuals, including  
1185 celebrities, celebrity chefs, and even members of Congress  
1186 could be seen eating a Gulf shrimp po boy it would go a long  
1187 way to alleviating consumer fear. The Obama family's visit  
1188 to Florida beaches next month is a welcome opportunity,  
1189 again, for positive reinforcement, and I know the National  
1190 Restaurant Association is looking to plan some of its  
1191 meetings in the Gulf Coast Region, and I would hope that  
1192 trade associations and even government agencies would do the  
1193 same.

1194           Despite a curb in the demand for Gulf seafood, prices  
1195 across the board have increased. On average in my  
1196 restaurants we are paying 18 to 30 percent more for the  
1197 seafood that we serve.

1198           Finally, I would like to comment on the long-term impact  
1199 of a misinformed public. In the years after Hurricane  
1200 Katrina potential visitors from around the country thought  
1201 that the city of New Orleans was still under water, that the  
1202 drinking water was unsafe, and there were no hospitals or  
1203 other city services. These misperceptions were largely  
1204 created and reinforced by the media because of the regular  
1205 replaying of images from days after the storm.

1206           Many in New Orleans feel it was only after the New  
1207 Orleans Saints and the city of New Orleans hosted two playoff  
1208 games back in January, and the Saints went on to win the  
1209 Super Bowl that those misperceptions were finally ceased.

1210           Misperceptions are happening again now. Just about  
1211 every day a story is reported live from New Orleans on the  
1212 spill. The perception shaped by the media, even if  
1213 unintentional, is that oil is on the doorsteps of New  
1214 Orleans. That is sensationalistic and untrue, yet if  
1215 reporting from these locales continues, the public will  
1216 continue to draw its own conclusions and perceive New Orleans  
1217 and many of the cities and resorts across the Gulf as damaged

1218 destinations.

1219           Marketing dollars will be needed to counter these  
1220 misperceptions. The long-term consequences and impact on  
1221 tourism of the damaged brand are severe.

1222           Thank you, Mr. Chairman and member of the subcommittee,  
1223 for this opportunity to be here today.

1224           [The prepared statement of Mr. Brennan follows:]

1225 \*\*\*\*\* INSERT 6 \*\*\*\*\*

|  
1226           Mr. {Rush.} The Chair thanks all the witnesses for  
1227 their testimony, and the Chair recognizes himself now for 5  
1228 minutes of--for the purposes of questioning the witnesses.

1229           Mr. Feinberg, I am going to begin with you. At this  
1230 moment BP is still processing claims I understand filed by  
1231 businesses and workers in the Gulf Coast Region. According  
1232 to your testimony BP has already paid \$200 million in  
1233 emergency payments. Despite these numbers we have been told  
1234 that there are many complaints about the claim spots that BP  
1235 is utilizing.

1236           Mr. Malone describes the process as erratic, somewhat  
1237 convoluted, and at times dysfunctional. And also in your  
1238 testimony you stated how complicated it is to determine  
1239 whether the oil spill is true or the approximate cause for  
1240 the damages that businesses are suffering, even when there is  
1241 no evidence of oil in sight. Many of these businesses are on  
1242 life support, and they wait on a determination of their  
1243 eligibility to submit a claim against the \$20 billion escrow,  
1244 a fund that BP has established.

1245           Mr. Feinberg, I just have to ask you because I am drawn  
1246 to the infamous and traditional Gulf Coast fisherman, Forest  
1247 Gump, saying life is a box of chocolates. You don't know  
1248 what you are going to get.

1249           Now, my question to you is when will the people of the  
1250 Gulf Coast, the business people, the workers, when will they  
1251 get definite answers? Mr. Dow talked about a roadmap to  
1252 recovery. When will they get such a specific from you or  
1253 someone else about who is eligible, why they are eligible,  
1254 when they are going to get paid, how much they are going to  
1255 get paid? These are just some basic questions. The  
1256 guesswork needs to be in--it needs to come to us, the  
1257 guesswork.

1258           And so your process that you are going through I  
1259 understand you got to go through this process in terms of  
1260 getting to a point of answering some of these very, very  
1261 valid and important questions, but when is the process going  
1262 to be over? When are you going to be able to give some  
1263 clarity and eliminate the guesswork?

1264           Mr. {Feinberg.} I will answer that very obviously  
1265 critically important question with three answers.

1266           First, I believe that the blueprint that I have  
1267 established for emergency payments to be paid as quickly as  
1268 possible should be finished and available this week. That is  
1269 first. That is my goal.

1270           Secondly, I have no authority to fund the \$20 billion  
1271 escrow account. That is an agreement between the  
1272 Administration and BP. My understanding is that they are

1273 working overtime to try and finalize the terms and conditions  
1274 of that escrow account which will make the \$20 billion  
1275 available. I can't give you a time except to say I think it  
1276 is probably within a matter of weeks, but I don't know. I am  
1277 not privy to that escrow negotiation.

1278         Third, I suspect that I will be able to accept  
1279 transition from BP, BP will get out of the claims business  
1280 completely, the private claims business, and I should be up  
1281 and running with the Gulf Coast Claims Facility the middle of  
1282 next month. The middle of next month. A couple of weeks.  
1283 And then I will assume all authority to process emergency  
1284 claims. Emergency claims. In which the fishermen, the small  
1285 business, the restaurant will not waive any rights they may  
1286 have. They will simply decide if they are eligible, they  
1287 will decide whether they want to participate in the program,  
1288 and we will receive, if eligible and if they document their  
1289 loss, up to 6 months of emergency payments to help get them  
1290 over this immediate emergency.

1291         Now, that--Mr. Chairman, if I may just add, I understand  
1292 from all of these witnesses and from the members of this  
1293 committee time is of the essence. This is a huge  
1294 undertaking, and I am working as fast as I can, as diligently  
1295 as I can, full time to get the Gulf Coast Claims Facility up  
1296 and running, to get it funded so that these emergency claims

1297 can be made as soon as possible.

1298 Mr. {Rush.} Are you considering the workers also in  
1299 terms of--will they--the same guidelines apply to them also?

1300 Mr. {Feinberg.} The same. I think BP frankly has done  
1301 a much better job of this \$230 million they have paid out, I  
1302 think they have done a much better job of paying out worker  
1303 claims, shrimpmen, fishermen, oyster harvesters than they  
1304 have paying out small business and large business claims. I  
1305 think that is clear from the testimony I have heard today and  
1306 from the CPA in Alabama, and I think that is absolutely true.  
1307 That is one reason why I have got to get up and running with  
1308 this facility as soon as I can.

1309 Mr. {Rush.} The Chair now recognizes the Ranking  
1310 Member, Mr. Whitfield, for 5 minutes.

1311 Mr. {Whitfield.} Well, thank you again for your  
1312 testimony, and Mr. Feinberg, I think all of us are delighted  
1313 that you will truly be independent, you are not reporting to  
1314 anyone. I think that is probably good for all of us to get a  
1315 fair and equitable help on this problem.

1316 I notice that Mr. Daniels, Mr. Overton, and Mr. Brennan  
1317 in their testimony placed a great deal of emphasis on damages  
1318 caused by perception as opposed to damages caused by actual  
1319 damage, and I have heard many people also blame the media for  
1320 assisting in this misperception of the American public. And

1321 I don't think any of us are surprised by that because the  
1322 media is focused on being sensational and obtaining more  
1323 viewers and more readers and frequently without any regard to  
1324 the real impact it has on people.

1325         But my question to you would be since you are going to  
1326 be up and running within a month hopefully, when you start  
1327 processing claims from your perspective it won't make any  
1328 difference if the damage is caused by perception or by actual  
1329 damage. Is that correct?

1330         Mr. {Feinberg.} That is correct. Under the law of the  
1331 Federal Pollution Control Act, which is a very important  
1332 aspect of this whole process, actual physical damage to  
1333 property is not required. So the issue for me--you are  
1334 absolutely right on, Congressman. The issue for me is not  
1335 whether perception that has an impact on tourism is  
1336 compensable. The question really is going to be how far  
1337 removed is a claim to be eligible. It is one thing if the  
1338 perception harms a motel on the beach, even if there is no  
1339 damage. It is another thing if the perception harms a motel  
1340 70 miles inland.

1341         Mr. {Whitfield.} Right.

1342         Mr. {Feinberg.} And I am going to decide, I take no  
1343 advanced position on this, but that is where--I think that is  
1344 what Congressman Stearns was getting at a little bit.

1345 Mr. {Whitfield.} Uh-huh.

1346 Mr. {Feinberg.} Where you draw that line on  
1347 eligibility.

1348 Mr. {Whitfield.} And that is going to be one of the  
1349 obviously key points that you are going to have to decide on.  
1350 It kind of reminds you of the old Pause Graff case in law  
1351 school.

1352 Mr. {Feinberg.} You remember. That is right.

1353 Mr. {Whitfield.} But on the--Mr. Dow, you talked about  
1354 a \$500 million fund to assist. Now, would this money--is it  
1355 your idea that this money for emergency marketing would also  
1356 come from BP?

1357 Mr. {Dow.} Yes, I definitely believe it should come  
1358 from BP, and the question whether it can come from this fund  
1359 or additional amount but as I stated, my hope clearly is that  
1360 this can mitigate the damages phenomenally to the tune of 7  
1361 to \$8 billion. Just as all the money was spent to cap that  
1362 well, we ought to cap the damages now. No one would say let  
1363 the oil run forever and let us just pay the people afterwards  
1364 for their damages. They said, stop it, and we have to do the  
1365 same thing.

1366 So I believe it should come from BP. Mr. Feinberg is--  
1367 may be between a rock and a hard place, can that money come  
1368 from the fund. I don't know.

1369 Mr. {Whitfield.} Do you have authority to pay out money  
1370 for marketing?

1371 Mr. {Feinberg.} I don't think. Again, I am not privy  
1372 to that negotiation involving the escrow account, but I don't  
1373 think under the terms of that escrow account \$500 million for  
1374 marketing could come out of that \$20 billion. Now, that  
1375 doesn't mean there aren't other sources for it, but I don't  
1376 think, I am not an expert on this, but I don't think it could  
1377 come out of it.

1378 Mr. {Whitfield.} If I come in for emergency payment  
1379 from you and you give me emergency funds, will I be required  
1380 to sign a release for legal liability issues?

1381 Mr. {Feinberg.} No.

1382 Mr. {Whitfield.} Will I ever be required to sign a  
1383 legal release?

1384 Mr. {Feinberg.} You will be required to sign a release  
1385 down the road only if you come back to the Facility and seek  
1386 a final payment for all of your then damage and projected  
1387 future damage. Only then would you have to sign a release.  
1388 Not as part of these emergency funds.

1389 Mr. {Whitfield.} Thank you.

1390 Mr. {Rush.} Ms. Castor is recognized.

1391 Ms. {Castor.} Thank you, Mr. Chairman.

1392 Mr. Dow, since the April BP blowout in the Gulf, have

1393 you seen these TV ads that BP has been running, polishing  
1394 their corporate image?

1395 Mr. {Dow.} If you own a television set, you cannot not  
1396 see them. I have seen them, and I have seen them, and it  
1397 just points out to me the very clarity that BP truly  
1398 understands that changing perception and getting the word out  
1399 is critical. I think the same thing has to be done for the  
1400 citizens, for the businesses of the Gulf Coast. It is  
1401 critical, and it can stem the damages phenomenally.

1402 Ms. {Castor.} I think you said it well. If you own a  
1403 TV, you have seen these incessant ads by BP. Oftentimes not  
1404 very informative, just--they remind me of political campaign  
1405 ads, frankly, and you can't pick up a newspaper.

1406 Mr. Malone, I am sure you seeing in Alabama what we see  
1407 in Florida. Is there a day you pick up the newspaper you  
1408 don't see these full-page ads?

1409 Mr. {Malone.} That is true, and I can tell you that we  
1410 have met with some of the BP officials that you see in those  
1411 ads, particularly the gentleman that represents he is in  
1412 charge of claims for BP. We met as early as May the 11th in  
1413 my office with our mayors and other leading people, some of  
1414 our CPAs, in a proactive approach to try to establish an  
1415 expedited claims process. Lots of promises were made that  
1416 day on May the 11th, and I don't mean to be flippant, but in

1417 our community BP has come to stand for broken promise.

1418 Ms. {Castor.} Uh-huh.

1419 Mr. {Malone.} And that is what we have seen one after  
1420 another after another. In fact, they issued a press release  
1421 around the middle of June where they said they had adopted an  
1422 expedited claims process for business claims. I read you the  
1423 figures awhile ago. It has not come true.

1424 Now, Mr. Feinberg is right. The individual employee can  
1425 walk in a claims office and walk out with a check for 2,500  
1426 or \$5,000 if he has got his W-9s from last year or whatever--  
1427 minimum documentation. But when you ask a business to submit  
1428 2,200 pages of documentation before your claim would even be  
1429 considered, that is onerous. And that same business  
1430 submitted their claim in May, mid-May, they have yet to  
1431 receive less--more than 10 percent--

1432 Ms. {Castor.} Uh-huh.

1433 Mr. {Malone.} --of the claims they have presented since  
1434 May to this date. These claims, they are referred to as  
1435 large claims. They differ on whether that is over 20,000,  
1436 over 50,000, depending on who you talk to. They are sent to  
1437 a forensic account for examination before they ever get in  
1438 consideration. That takes weeks and weeks to do. And as I  
1439 said in my recent comments, to me is the analogy of everyone  
1440 submitting their income tax returns, and if you do a refund,

1441 you can't get your refund until a full audit is completed.  
1442 They are doing a full audit before they are writing a single  
1443 check to our businesses, and I am not always talking about  
1444 the million dollars businesses. They guy who rents beach  
1445 umbrellas on the beach.

1446 Ms. {Castor.} Uh-huh.

1447 Mr. {Malone.} Submits \$60,000 claims. That is his  
1448 whole year, that is--

1449 Ms. {Castor.} Don't you think it is making folks mad  
1450 because they understand how much this media campaign is  
1451 costing BP? I mean, do you see the same thing in  
1452 Mississippi, Mr. Daniels? Do you see all these ads on the  
1453 TVs and TV commercials?

1454 Mr. {Daniels.} Yes, without a doubt we do, and actually  
1455 as a broadcaster we sell advertisement to BP. That is the  
1456 paradox here.

1457 Ms. {Castor.} Uh-huh.

1458 Mr. {Daniels.} From a broadcasting standpoint it is not  
1459 necessarily the ads. It is the reassurance.

1460 Ms. {Castor.} Uh-huh.

1461 Mr. {Daniels.} And if the Federal Government would do  
1462 one thing that is reassure by way of Mr. Feinberg's claims  
1463 but especially when it comes down to saying that the seafood  
1464 is safe. What the rest of the world needs to hear and

1465 especially the Nation needs to hear is that it is okay to go  
1466 in the water and that it is safe and that it is being  
1467 monitored.

1468 Ms. {Castor.} Right.

1469 Mr. {Daniels.} I--

1470 Ms. {Castor.} The--we--I know someone had made an  
1471 inquiry of BP about how much money they have spent on these  
1472 ads, and they refused to provide that information, so, Mr.  
1473 Chairman, I would like to ask unanimous consent that this  
1474 committee seek from BP the amount of money that they have  
1475 spent on their corporate image-polishing campaign since the  
1476 BP blowout.

1477 Mr. {Rush.} The Chairman will consent to the  
1478 gentlelady's request to direct staff to address a letter to  
1479 BP specifically with that question in mind.

1480 Ms. {Castor.} Thank you, Mr. Chairman, very much, and  
1481 quickly in my remaining time, Mr. Feinberg, this--we have got  
1482 to be able to bring our local government and CVB industry  
1483 state claims as part of your \$20 billion escrow. How do we  
1484 do this? Do we need to lobby the Administration and BP to  
1485 have that included in this escrow agreement that is going to  
1486 be coming out in the next week or two?

1487 Mr. {Feinberg.} First of all, the government claims are  
1488 included in the \$20 billion escrow. They are just not part

1489 of my watch.

1490 Ms. {Castor.} Uh-huh.

1491 Mr. {Feinberg.} Out of that 20 billion will come not  
1492 only the claims that I pay but all government claims will  
1493 come out of that \$20 billion, but the way the understanding  
1494 is reached between the Administration and BP government  
1495 claims are the direct responsibility of BP, even though they  
1496 are coming out of the \$20 billion.

1497 Ms. {Castor.} So what is your opinion? Don't you agree  
1498 that you and your experts will--are competent, in fact,  
1499 expert enough to sort through those very difficult and  
1500 detailed claims?

1501 Mr. {Feinberg.} If it is the will of the parties to the  
1502 agreement, the Administration and BP, I am glad to take--

1503 Ms. {Castor.} So it is up to them?

1504 Mr. {Feinberg.} --on that--as if I don't have enough  
1505 problems, but I would be glad to take on that assignment,  
1506 but, again, not only watch at the current time. Nor the  
1507 moratorium claims either.

1508 Ms. {Castor.} Thank you.

1509 Mr. {Rush.} The Chair recognizes Mr. Barton for 5  
1510 minutes.

1511 Mr. {Barton.} Thank you, Mr. Chairman. Most of my  
1512 questions are going to be towards Mr. Feinberg simply because

1513 he has got a huge undertaking, and we don't get him before  
1514 our committee too often, but I want to tell you other  
1515 gentlemen, I listened to your testimony in my office. I  
1516 clearly understand the issues that you are dealing with and  
1517 clearly support that you should be compensated, and I am  
1518 especially pleased to know that there is still a Brennan  
1519 involved with Brennan's. That is comforting to know since I  
1520 am a frequent visitor to your restaurants when I am in New  
1521 Orleans.

1522 My first question to you, Mr. Feinberg, oh, and let me  
1523 say, I do support that there be a compensation fund. I do  
1524 support that BP pays most, if not all, of the money that goes  
1525 into that fund, and I do support that it be, as I said,  
1526 fairly, quickly, and transparently paid out to the people  
1527 that have the claims.

1528 My first question to you, Mr. Feinberg, is who do you  
1529 report to? Do you report to the President, do you report to  
1530 the Secretary of the Treasury, the Chairman of the Federal  
1531 Reserve? Who exactly is your boss?

1532 Mr. {Feinberg.} I don't have a boss on this assignment.  
1533 I think the fair answer, Congressman, would be that I report  
1534 to the people in the Gulf. Both the Administration and BP  
1535 frankly don't want to get near me once this program is up and  
1536 running, and they want to--they are going to reinforce--I am

1537 totally independent.

1538           Mr. {Barton.} You did an excellent job in the other  
1539 fund that you administered, but that was different. That  
1540 fund was approved by the Congress, there were clear reporting  
1541 standards. This is in a unique fund.

1542           Mr. {Feinberg.} It really is.

1543           Mr. {Barton.} There apparently is no precedent for it.  
1544 Doesn't mean, again, that we don't need it, but if my  
1545 understanding is correct, now that you have been either asked  
1546 to serve or appointed by the President, he does not have the  
1547 power to remove you. Is that correct?

1548           Mr. {Feinberg.} I think that clearly is correct.  
1549 Clearly he doesn't have the power.

1550           Mr. {Barton.} All right. Do you have to personally  
1551 approve each claim to be paid?

1552           Mr. {Feinberg.} As a theoretical matter, the answer is  
1553 yes. Now, of course, there is going to thousands of claims,  
1554 and I am going to have a process in place, an infrastructure  
1555 where problematic claims will come to me. Hopefully we will  
1556 consistently apply the formulas and there won't be a  
1557 necessity for me to look at each and every claim.

1558           Mr. {Barton.} When a claim is paid, will your signature  
1559 be on the check?

1560           Mr. {Feinberg.} You know, I don't know the answer to

1561 that question.

1562 Mr. {Barton.} All right.

1563 Mr. {Feinberg.} That is a good question.

1564 Mr. {Barton.} Where will the funds be deposited that  
1565 you allocate? Will they deposit in the U.S. Treasury in  
1566 Washington, in a branch office of the Federal Reserve, in a  
1567 private financial institution or institutions?

1568 Mr. {Feinberg.} One, I don't know the answer to that  
1569 question because I am not privy to the escrow negotiations  
1570 between the Administration and BP. Two, I have urged both of  
1571 the escrow negotiators to deposit at least some of the money  
1572 in local, regional institutions in the Gulf that have  
1573 expressed a real desire to benefit financially from this.

1574 Mr. {Barton.} Who makes the decision where--what  
1575 depository institution is to be used?

1576 Mr. {Feinberg.} Again, that would be between the  
1577 Administration and the fellow--and the Administration that I  
1578 have been consulting with is Tom Perrelli, the Associate  
1579 Attorney General, and at BP--

1580 Mr. {Barton.} But you have no definitive role in making  
1581 that decision?

1582 Mr. {Feinberg.} None.

1583 Mr. {Barton.} You are purely--make the decision what  
1584 the protocol is for claims, the claims process, and the

1585 decision making protocol for making decisions on the claims  
1586 and then being sure that there is adequate follow up and  
1587 documentation. Is that a fair statement?

1588 Mr. {Feinberg.} That is correct, and I want to make  
1589 sure the checks don't bounce, but that is absolutely  
1590 accurate.

1591 Mr. {Barton.} Okay. What reporting requirement, if  
1592 any, does the fund that you are going to oversee have to  
1593 report to the Congress on dispersion and operation of the  
1594 fund?

1595 Mr. {Feinberg.} It will be expressed reporting  
1596 requirements that all interested parties, starting with the  
1597 Congress, will have information, whether it is monthly or  
1598 biannually, frequent reporting as to how the claims are being  
1599 processed, what the statistics show, our claim rate, et  
1600 cetera.

1601 Mr. {Barton.} What transparency will there be for the  
1602 public, i.e., will there be a public website that shows  
1603 claims paid and who received the money and perhaps even  
1604 pending claims and the decision process by which a decision  
1605 is made on a claim?

1606 Mr. {Feinberg.} Yes. Now, we have got to be careful as  
1607 we were with the 9/11 fund that we don't disclose under the  
1608 umbrella of transparency individual names or private

1609 information, proprietary business information, but I am  
1610 completely in agreement with you, Congressman, in your  
1611 question that we have got to have a transparent database from  
1612 which people can review how we are doing and what our  
1613 strengths and weaknesses have been.

1614 Mr. {Barton.} I have one more, Chairman, one more  
1615 question, Mr. Chairman. I know that my time has expired.

1616 You in answer to the gentlelady from Florida's question,  
1617 you indicated that other decision makers will have decision  
1618 making authority over this \$20 billion fund and that your  
1619 authority is going to be restricted to certain dispersements.  
1620 Do you make decisions on compensation for oil and gas workers  
1621 who have lost their jobs?

1622 Mr. {Feinberg.} Yes. Not the moratorium rig workers,  
1623 though.

1624 Mr. {Barton.} I understand that. For fishermen--

1625 Mr. {Feinberg.} Yes.

1626 Mr. {Barton.} --and, you know, seafood--

1627 Mr. {Feinberg.} All individuals, all private  
1628 businesses, no government claims.

1629 Mr. {Barton.} Okay. So you are--the government claims  
1630 the decision maker is--

1631 Mr. {Feinberg.} BP.

1632 Mr. {Barton.} Well, they would--I wouldn't think we

1633 would allocate to them--what government official would  
1634 oversee their decision?

1635 Mr. {Feinberg.} No. I mean I think the government  
1636 official will send a claim for reimbursement, for cleanup, or  
1637 for lost tax revenue or whatever to BP for processing. That  
1638 is currently the plan.

1639 Mr. {Barton.} Mr. Chairman, do we--will we have the  
1640 ability to ask written questions for responses from the  
1641 panel?

1642 Mr. {Rush.} The Chair will address that issue once--

1643 Mr. {Barton.} I know my time is expired, and I  
1644 appreciate the Chair, and I thank you for your answers, Mr.  
1645 Feinberg.

1646 Mr. {Rush.} The Chair now recognizes Ms. Schakowsky for  
1647 5 minutes.

1648 Ms. {Schakowsky.} Thank you, Mr. Chairman, and I want  
1649 to thank all the witnesses.

1650 You know, I was listening to and looking through all the  
1651 testimony here, and I think that it would be good, for  
1652 example, for Mr. Daniels' questions, he asked a number of  
1653 questions, to be included among those that we present as our  
1654 own questions. I think they are very important and that he  
1655 deserves those answers, and so that we should include that in  
1656 the questions.

1657 Mr. {Rush.} They will be included in the written  
1658 questions that we would submit to the witnesses.

1659 Ms. {Schakowsky.} Thank you. I also wanted to ask  
1660 about the suggestion, I think it was Mr. Dow's suggestion,  
1661 that the government incentivize a--do an incentive for people  
1662 to do tourism in the region. Was that you or Mr. Malone?

1663 Mr. {Dow.} It was me.

1664 Ms. {Schakowsky.} Okay.

1665 Mr. {Dow.} It was part of three points of \$500 million  
1666 to get the perception, get the right information out, and  
1667 incentivize travel.

1668 Ms. {Schakowsky.} What--exactly what does that mean?  
1669 What is incentivize?

1670 Mr. {Dow.} There are several things that could be done.  
1671 They have been done in the past. Commerce Department runs  
1672 trade missions. There could be incentives where they don't  
1673 charge for those missions to get more people here. There is  
1674 opportunities to give meal tax deductions or some tax--things  
1675 done. There are many things that have been done in the past  
1676 throughout areas that will give people an advantage by going  
1677 to an area and an incentive to do so, and we have got a list  
1678 of them in that roadmap for recovery, ma'am.

1679 Ms. {Schakowsky.} Thank you. I think, Mr. Feinberg,  
1680 you may have answered this, but Mr. Malone said that he has

1681 personally spoken with a large number of business owners who  
1682 have yet to see a single payment, particularly the larger  
1683 ones. Are you suggesting that they re-file when you are up  
1684 and running or no?

1685 Mr. {Feinberg.} They won't have to re-file at all. We  
1686 will assume responsibility for those claims and accelerate  
1687 them as quickly as possible. As Mr. Malone has pointed out  
1688 to me and Governor Riley in Alabama has pointed out, we don't  
1689 want to reinvent the wheel by requiring people to re-file.

1690 Ms. {Schakowsky.} Okay, and Mr. Feinberg, Mr. Overton  
1691 was talking about the damage that has been done even though  
1692 there is no oil at all. Is that still true? At his resort.  
1693 This is clearly on the water, and so is his business eligible  
1694 then for compensation from the fund?

1695 Mr. {Feinberg.} His business is eligible insofar as he  
1696 has a claim where there has been no visible damage to the  
1697 beach. He would have--that is not the issue in that case.  
1698 What I don't know from that statement is how close is his  
1699 business to the beach, how dependent is it on the beach or  
1700 fishing or sightseeing or charter boats or what have you. So  
1701 it is the facts surrounding the overall claim that are going  
1702 to be critical in deciding eligibility in something like  
1703 that.

1704 Ms. {Schakowsky.} Yeah. This perception question is

1705 really hard to get your arms around, but maybe the biggest  
1706 source of damage long term, am I right, Mr. Brennan? Did you  
1707 want to comment on that?

1708 Mr. {Brennan.} Well, no. I think the best example is  
1709 to look at Hurricane Katrina and the impact on New Orleans,  
1710 the perception of the city as a damaged brand, and I think  
1711 you as a member of Congress understand perception. We have  
1712 to overcome that. It is just like BP is running these ads  
1713 trying to change the perception of their company. We need to  
1714 do a similar thing to change the perception of the  
1715 hospitality and tourism industries along the Gulf Coast.

1716 Ms. {Schakowsky.} Whose responsibility do you think,  
1717 Mr. Feinberg, or is it everybody's to proactively address  
1718 this issue?

1719 Mr. {Feinberg.} Well, I think it is BP's  
1720 responsibility. I think BP has done some things, nothing to  
1721 do with me. They clearly haven't done enough. They have  
1722 spent some money, I believe. From what I have read in the  
1723 newspapers they have spent some money promoting tourism in  
1724 the Gulf but others know better than I about that.

1725 Mr. {Dow.} I will address that. BP initially spent \$70  
1726 million, \$25 million for the State of Florida, \$15 million  
1727 for the three other States. Requests have been denied by the  
1728 Governor of Florida and by about ten Gulf Coast communities--

1729 not denied. They have not received any other information.  
1730 The Governor of Florida was denied, the other communities  
1731 have not heard anything back, and the challenge is it is \$70  
1732 million, and as I stated earlier, very little of that has  
1733 actually got to marketing. I think one of the most important  
1734 things this committee--that BP could do is isolate the funds  
1735 and say, let us get experts working on this, and let us be  
1736 sure they do that job, and I believe the gentleman to my  
1737 right could do a terrific job overseeing that because he has  
1738 proven himself. Thank you.

1739 Ms. {Schakowsky.} Yes. I thank all of you for your  
1740 efforts. Mr. Feinberg, you--and good luck on all your work.

1741 If I could, Mr. Chairman, just a point of personal  
1742 privilege, I have spent vacations many summers on the Pan  
1743 Handle of Florida, and these sugar white sand beaches were  
1744 just, of course, the lure. And the notion that the beaches  
1745 would be spoiled but also that the reputation of this area  
1746 would be hurt is just so painful. I can only imagine how it  
1747 is to all of you.

1748 So I thank you for being here.

1749 Mr. {Rush.} Mr. Stearns is recognized for 5 minutes.

1750 Mr. {Stearns.} Thank you, Mr. Chairman. Mr. Feinberg,  
1751 the question would be who is going to pay the salaries of the  
1752 employees that you hire to implement this program and

1753 disbursement the of \$20 billion?

1754 Mr. {Feinberg.} BP.

1755 Mr. {Stearns.} BP. And how many employees do you think  
1756 that you will expect? Can you extrapolate from your 9/11  
1757 experience?

1758 Mr. {Feinberg.} Well, with 9/11, which was a  
1759 relatively, thank goodness, a relatively modest, clean  
1760 cohort--

1761 Mr. {Stearns.} Right.

1762 Mr. {Feinberg.} --we had 475 employees. BP in paying  
1763 out \$230 million so far has hired about 1,500 at 35 claims  
1764 offices throughout the Gulf Region, and I think seven in  
1765 Florida. I am now putting together a budget for the Gulf  
1766 Coast Claims Facility. I think we probably wouldn't need  
1767 that many people, but I will know more about that in the next  
1768 week or two.

1769 Mr. {Stearns.} I understand. So it is roughly going to  
1770 be 1,500 or less, and--

1771 Mr. {Feinberg.} Correct.

1772 Mr. {Stearns.} --these employees will be paid by BP.

1773 Mr. {Feinberg.} Right.

1774 Mr. {Stearns.} I mean, by the BP funds.

1775 Mr. {Feinberg.} That is correct.

1776 Mr. {Stearns.} And the salary structure, is this going

1777 to be something like the private sector or the government--  
1778 the private sector or the government sector?

1779 Mr. {Feinberg.} Again, the Deputy Administrator of the  
1780 fund, Camille Biros, who is putting--setting up the budget,  
1781 she would have a better handle on that, but I can certainly  
1782 get you that information.

1783 Mr. {Stearns.} In 9/11 did you use--what standard did  
1784 you use for salaries?

1785 Mr. {Feinberg.} In salaries we used--Price Waterhouse  
1786 had a contract with the Department of Justice--

1787 Mr. {Stearns.} Okay.

1788 Mr. {Feinberg.} --that used largely private salaries.

1789 Mr. {Stearns.} Okay. I have here I think it is a four-  
1790 page claim form that BP used for commercial fishermen. I  
1791 notice on their form it does not have a notary public on it,  
1792 and it just--the people can fill it out. Do you intend to  
1793 use the same form, or are you going to come up with your new  
1794 form?

1795 Mr. {Feinberg.} New form.

1796 Mr. {Stearns.} New form. Okay, and I notice that with  
1797 BP that 43 percent of the claims are still waiting payment.  
1798 So that means are you going to take over and inherit all  
1799 those 43 percent, and does that mean that these people who  
1800 supposedly haven't got claims, lack of information, are you

1801 going to follow up on that?

1802 Mr. {Feinberg.} Yes. We will not require people to re-  
1803 file. Now, that 43 percent figure, I am not sure that figure  
1804 is accurate.

1805 Mr. {Stearns.} Okay.

1806 Mr. {Feinberg.} Because BP apparently has counted as a  
1807 claim somebody who makes an inquiry and gets a claim number  
1808 and never fills out the form. So I am not sure. I got to  
1809 get my hand on--I got to get a handle on that data.

1810 Mr. {Stearns.} Okay. Let me just give you a statement  
1811 and ask if you agree with this. Do you think everybody  
1812 should get reimbursed no matter where they are located if  
1813 they can prove loss of income because of this spill?

1814 Mr. {Feinberg.} No. No.

1815 Mr. {Stearns.} Because, you know, a family could say I  
1816 am in Tennessee, they are going to go to Pensacola, they say,  
1817 we are not going to go to Pensacola, we are going to go to  
1818 Tampa, and then the gas station on the interstate could say,  
1819 well, golly, I just didn't get that family to Tennessee and  
1820 make that claim. So, I mean, how are you going to work this  
1821 so that it is a fair thing?

1822 Mr. {Feinberg.} I have to listen to these experts that  
1823 are at this table like Mr. Malone, and Mr. Malone in a very  
1824 careful presentation laid out for me sort of the proximity,

1825 the zone where there is the greatest direct impact and said,  
1826 Mr. Feinberg, in that zone in Alabama that is the zone that  
1827 is the most directly impacted. Tourism. These are the  
1828 restaurants, the motels, the other sites, and with input from  
1829 experts I will try and answer that very question as to what  
1830 is the proximity where it is most likely that a claim should  
1831 be deemed eligible.

1832 Mr. {Stearns.} Mr. Feinberg, under 9/11 did you have  
1833 anybody, accounting firm come in and look at what you did?  
1834 Was there anybody not necessarily that you reported to but  
1835 somebody sort of like we have here, Inspector General, GAO,  
1836 can go into a government agency and sort of tell members of  
1837 Congress what is happening. Did you have that on the 9/11  
1838 commission?

1839 Mr. {Feinberg.} Constantly. The Office of Management  
1840 and Budget.

1841 Mr. {Stearns.} Okay. Now, you are not going to have  
1842 that here. Don't you think you should--you would even want  
1843 to have an Inspector General or a claims--or somebody that  
1844 could oversee this and report back to Congress on what you  
1845 are doing instead of you reporting back on what you are doing  
1846 yourself? Don't you think, I mean, I would think I would  
1847 like to have somebody checking up on me just to make sure  
1848 that I get the cross the dots--

1849 Mr. {Feinberg.} I love that idea. I think we are going  
1850 to do that. Now, we will have a separate question related.  
1851 What about--I have heard this from various Congressional  
1852 committees. What about fraud? Right. What about the  
1853 problem of fraud? Not so much auditing. It is just  
1854 fraudulent claims.

1855 Mr. {Stearns.} Right.

1856 Mr. {Feinberg.} The Department of Justice, Criminal  
1857 Fraud Division, is working with us directly.

1858 Mr. {Stearns.} You will refer them to the Department--

1859 Mr. {Feinberg.} Absolutely will have an internal  
1860 retained anti-fraud expert working within the facility to  
1861 audit and check for fraud, but I absolutely have no problem  
1862 with transparency in the form of Congressional oversight or  
1863 some sort of regular reporting by an independent person  
1864 checking on what we are doing.

1865 Mr. {Stearns.} Mr. Chairman, I think what Mr. Feinberg  
1866 is mentioning is something that this committee or some  
1867 committee in Congress should help him with this legislation  
1868 that allows him to report to or they provide sort of an  
1869 Inspector General type of accounting here. This is a huge  
1870 amount of money, \$20 billion, and I think the American  
1871 taxpayers obviously would like some kind of report, and  
1872 obviously we have great confidence in Mr. Feinberg, but I

1873 think at the same time he wouldn't mind having somebody to  
1874 counterbalance and show that everything is going--because  
1875 this is going to be 1,500 employees that are working in a way  
1876 that is--he can't control completely. So it is just a  
1877 thought.

1878 Thank you, Mr. Feinberg.

1879 Mr. {Rush.} Mr. Stearns, your point is well taken, and  
1880 it will be taken under consideration by this committee.

1881 Now, we recognize Mr. Green of Texas, recognized for 5  
1882 minutes.

1883 Mr. {Green.} Thank you, Mr. Chairman. I know you read  
1884 a statement earlier, and I would like to ask this question of  
1885 Mr. Feinberg. We know BP has paid about over \$200 million in  
1886 emergency payments, and the committee has heard complaints  
1887 about BP's claims process, and Mr. Malone describes the  
1888 process as erratic, somewhat convoluted, and at times  
1889 dysfunctional. I think that could probably apply to Congress  
1890 in some cases.

1891 But, Mr. Feinberg, I was hoping if you could comment on  
1892 how BP's processed these claims so far, specifically what  
1893 problems have you identified.

1894 Mr. {Feinberg.} I think BP deserves some credit here.  
1895 Most of these mass disasters that I have been involved in  
1896 over the years, when I get involved, I start sort of from

1897 scratch. There is nothing in place, and we have to build  
1898 from the beginning. While I am rushing to set up this  
1899 facility in just a few weeks, in August, BP continues to pay  
1900 claims.

1901 Now, the problem is that as my fellow witnesses have  
1902 pointed out accurately, BP is quick to pay the individual  
1903 wage loss claims. They are quick to pay claims where there  
1904 is physical destruction; oil on the beach or flowing  
1905 somewhere injuring property, destroying property. Where they  
1906 are reluctant or where they have less assuredness is business  
1907 interruption claims, lost profits, lost business, calculating  
1908 lost business, corroborating lost business, and that is why I  
1909 think the gentlemen that are here today testifying are  
1910 frustrated by BP, yeah, they paid \$230 million, but shouldn't  
1911 they be doing more on the business side?

1912 And I appreciate that, and when I set up this facility  
1913 ASAP we will focus on those business claims.

1914 Mr. {Green.} Okay, and so your testimony earlier that  
1915 the claims will be actually--what BP is doing--you are  
1916 monitoring those, and they are coming to you now instead of  
1917 BP directly.

1918 Mr. {Feinberg.} They will be in a matter of weeks, and  
1919 I will accelerate the payment of those claims.

1920 Mr. {Green.} Okay, and how do you plan to staff a Gulf

1921 Coast Claims Facility?

1922 Mr. {Feinberg.} We will keep the people that are there  
1923 now. We will train them in the new facility. We will keep  
1924 those that we like. We will hire additional local, local  
1925 vendors and local people in the four-state, five-state area,  
1926 as needed, and we will set up this new infrastructure in a  
1927 matter of weeks.

1928 We are doing it now actually.

1929 Mr. {Green.} Mr. Malone, do you have any response to  
1930 that? I know compared to Louisiana and Mississippi and  
1931 Alabama and obviously the upper, the Gulf Coast of Florida,  
1932 upper coast, have you seen the payments getting better and  
1933 more response?

1934 Mr. {Malone.} As Mr. Feinberg said, the small payments  
1935 to the individuals have been fairly routine matters. The  
1936 payments to businesses that are in excess of \$50,000,  
1937 \$100,000, and up, excess of \$1 million have been extremely  
1938 difficult to obtain.

1939 Mr. {Green.} Has it been because of documentation?

1940 Mr. {Malone.} It is very sporadic. There have been  
1941 some spells where they have written some companies some large  
1942 checks rather quickly. Other companies have been waiting  
1943 nearly 3 months for their first check.

1944 Mr. {Green.} Okay. Well, coming from where I am and

1945 obviously we were concerned about Galveston a couple of weeks  
1946 ago, but not that we don't have tar balls on a regular basis  
1947 but that wasn't the issue and I know in southeast Texas but  
1948 my concern, too, is if each of you could comment not only on  
1949 the BP's response but also the impact of the moratorium, the  
1950 hard 6-month moratorium we are seeing on whether it be  
1951 Alabama, Mississippi, or Louisiana.

1952           And what are you seeing on that, and those folks except  
1953 for the workers, they probably are allowed compensation. If  
1954 you are laid off of a rig, could you comment on that?

1955           Mr. {Malone.} Are you talking to me or Mr. Feinberg?

1956           Mr. {Green.} Yeah.

1957           Mr. {Malone.} I am in tourism, sir. I am not familiar  
1958 with what is going on in the oil and gas industry. I know  
1959 that our workers who are laid off get compensated. They go  
1960 to the State Unemployment Office, and what that doesn't pay,  
1961 then they get money from BP. I am just not familiar with the  
1962 oil and gas industry and what is going on with their workers.

1963           Mr. {Feinberg.} If a rig worker was laid off as a  
1964 direct result of the moratorium, BP agreed to set aside \$100  
1965 million, not part of the \$20 billion, a separate fund of \$100  
1966 million just for moratorium rig worker claims.

1967           Mr. {Green.} Has that been pretty widely advertised,  
1968 particularly in Louisiana? My colleague, Mr. Melancon, you

1969 know, that we are doing it, because I have folks in my own  
1970 district who work offshore. I have not heard, but the fear  
1971 is that they are not going to be able to continue to work.

1972 Mr. {Feinberg.} I think it has been fairly well  
1973 publicized, and BP is now deciding where to deposit that \$100  
1974 million, which will be earmarked only for unemployed  
1975 moratorium rig workers.

1976 Mr. {Green.} I know I am out of time. Do you know how  
1977 much of that \$100 million has been expended?

1978 Mr. {Feinberg.} I don't think any of it yet. I don't  
1979 think it has been deposited yet to pay out those claims.

1980 Mr. {Green.} Okay. Thank you, Mr. Chairman, for your  
1981 patience.

1982 Mr. {Rush.} Dr. Gingrey is recognized for 5 minutes.

1983 Dr. {Gingrey.} Mr. Chairman, thank you very much. We  
1984 have spent most of the morning listening to our witnesses and  
1985 asking questions and of course, most of the questions and the  
1986 testimony is around the issue of how we are going to get  
1987 paid. And, of course, everybody looks at Mr. Feinberg, of  
1988 course. He has got a tremendous job and responsibility in  
1989 seeing that that is done in a fair and equitable way. And it  
1990 is important, and you brought out the fact that time is of  
1991 the essence. I think Mr. Feinberg may have said that.

1992 The others of you have said, well, gosh, you know, I

1993 think Mr. Overton talked about Florida and even though there  
1994 are no tar balls washing up on the beaches, the effect on the  
1995 economy because of perception. And we talk about  
1996 individuals, rig workers, and fishermen, and people that, you  
1997 know, have these direct claims that are going to get  
1998 processed real quickly, but the small business men and women  
1999 across the country, the husband and wife that own the Motel  
2000 6, you know, maybe 100 miles, 70 miles I think was mentioned,  
2001 from the coast that are suffering because they depend on when  
2002 all those motels along the coast are full in peak seasons,  
2003 thank goodness they call up their friends 70 miles away and  
2004 say, hey, have you got a vacancy.

2005 I mean, how many of us know when we traveled to Florida  
2006 years ago with our parents that you would just drive miles  
2007 and miles and miles trying to find--or you saw these blinking  
2008 neon signs that said, ``no vacancy,`` and you would have to  
2009 go 70 miles inland.

2010 So, you know, there is a huge problem, and Mr. Feinberg,  
2011 it probably extends a lot further than we realize today as  
2012 far as economic losses. I want to real quickly, you know,  
2013 Rahm Emanuel, the Chief of Staff of the President, was  
2014 credited with making a statement, ``Well, let no crisis go to  
2015 waste.``

2016 Now, from the political perspective on our side of the

2017 aisle we would say that was--that is deplorable, but from a  
2018 policy statement, if that is what he was talking about, then,  
2019 in fact, I would agree that we should not let a crisis go to  
2020 waste, and we should make an attempt to make lemonade out of  
2021 these lemons, this huge lemon of the oil spill in the Gulf of  
2022 Mexico.

2023           And, you know what I think should be done, and I would  
2024 love your opinion on it, the President's state of the union  
2025 address said, you know, we are going to take \$30 billion of  
2026 the TARP money, the unspent TARP money. We gave--forced, in  
2027 fact, the nine or ten largest financial institutions in the  
2028 country to take that money eyen against their will, but it  
2029 has been paid back, not completely, but to a large extent,  
2030 and the President said, let us take \$30 billion of that money  
2031 and let us give it to--let us recapitalize the small banks  
2032 and help them make loans because small businessmen and women  
2033 can't borrow the money that they need to stay afloat.

2034           Wouldn't this be a great opportunity for the Federal  
2035 Government to listen to the President and to actually follow  
2036 through on this and get money available to small community  
2037 banks, not just in Florida, all along the Gulf Coast, indeed,  
2038 Georgia has 120 miles of coastline, and Florida and Georgia  
2039 are two of the States that are seeing banks close every week  
2040 on Friday, you know, or Saturday morning. You look to see,

2041 you know, which community bank is going under, and all these  
2042 jobs are lost as a result of it. All these small Mom and  
2043 Pops that invested 5, 10, 15, \$25,000 to start that bank  
2044 would be part of the start up, raise \$15 million or whatever.

2045 That money is totally wiped out. This would be a great  
2046 opportunity to turn lemons into lemonade and to get that  
2047 money in the hands of these small banks so that these  
2048 businesses that are waiting on Mr. Feinberg to adjudicate  
2049 their claims would have money to stay in business.

2050 I would like--Mr. Feinberg, we will start with you, but  
2051 I know this is not you all's area of expertise, but you all  
2052 are bright men, and you know what I am talking about, and we  
2053 need to get this conversation going.

2054 Mr. {Feinberg.} Am I safe if I say worthy of  
2055 consideration?

2056 Dr. {Gingrey.} How about damn worthy of consideration?

2057 Mr. Dow?

2058 Mr. {Dow.} Yes. Mr. Gingrey, I think it is an  
2059 admirable thought. When you talk about small businesses, you  
2060 look at the Gulf Coast, it is probably almost all small  
2061 businesses. New Orleans has big hotels and big--but if you  
2062 look at this Gulf Coast, this is made up of people who have  
2063 relationships with these small banks. People know they have  
2064 got their records and all that versus the larger banks, and I

2065 think it is all small business.

2066           And the other thing, I also think this is a phenomenal  
2067 opportunity. There will be another hurricane, there will be  
2068 another tsunami, there will be another earthquake, and this  
2069 is an opportunity for us to set in place how we deal with  
2070 these disasters so we don't have to reinvent the wheel, and  
2071 that is why I think this marketing fund we talked about is so  
2072 critical and that we can use this over and over again.

2073           But this is a great opportunity for the government to  
2074 learn and to really set a process for the future.

2075           Dr. {Gingrey.} Well, and I see my time is running out,  
2076 Mr. Chairman. I don't want to extend too long here, but  
2077 clearly, the President called for this to be done, it hasn't  
2078 been done. This Financial Regulatory Reform Bill, the reason  
2079 so many of us were opposed to it, it did nothing for Fannie  
2080 and Freddie, but as far as this provision for some of that  
2081 TARP money to the smaller community banks, it never happened.

2082           But it is not too late, and we need to really look into  
2083 this closer, Mr. Chairman. I hope we have an opportunity to  
2084 discuss it further.

2085           Mr. Chairman, I know some of the witnesses want to  
2086 respond to this. It is up to you whether or not--I will shut  
2087 up, and you can let them talk if they--you give them time.

2088           Mr. {Rush.} Witnesses have a response? Yes.

2089 Mr. {Daniels.} I must say I think it is a great idea,  
2090 but I would be remiss if I did not impress upon you that this  
2091 is still a liquid situation. Every day there are those of us  
2092 on the Mississippi Gulf Coast who are praying that the cap  
2093 stays. There is still oil in the water, and granted, the  
2094 discussion of payment is excellent. Your idea is excellent,  
2095 but BP doesn't have enough money when we talk about  
2096 perception over the years if the oil continues to come.

2097 So I think the idea of utilizing the community banks is  
2098 great, but what the people on the Gulf Coast needs is  
2099 reassurance. What they need, and only the Federal Government  
2100 can give this, by the way, is the reassurance that it is  
2101 safe. The reason--no matter how much advertisement BP does  
2102 or we do in the tourism industry, if you don't think it is  
2103 safe to go to the beach, then you are not going to take your  
2104 kids.

2105 So you esteemed gentlemen are the ones who are in charge  
2106 of the DMR, OSHA, the DEQ. You guys need to have at BP's  
2107 expense an army of scientists, biologists, and marine  
2108 biologists there assuring the rest of the world that it is  
2109 okay, and first, assure them that there is no more oil in the  
2110 water.

2111 So I think you have two components. I think Mr.  
2112 Feinberg and BP with \$20 billion will not be enough if we are

2113 still discussing this very fluid situation next year.

2114 Mr. {Rush.} Mr. Daniels, we are going to move on  
2115 because we have other members who want to question the  
2116 witnesses.

2117 Mr. Gonzalez is recognized for 5 minutes.

2118 Mr. {Gonzalez.} Thank you very much, Mr. Chairman. My  
2119 question will go to Mr. Feinberg, and I have had the benefit  
2120 of hearing your testimony in the Judiciary Committee, but I  
2121 wasn't able to ask a question. I want to ask it at this  
2122 time.

2123 At the time of your testimony last week before  
2124 Judiciary, that same morning Joe Scarborough, who is from  
2125 Pensacola, was broadcasting his show from Pensacola and the  
2126 beach, and he had a State Senator, and the State Senator made  
2127 a couple of comments, and so I will build my questions on the  
2128 comments.

2129 The first one was, look at our beaches. They are  
2130 beautiful, pristine, everything is fine. We are not getting  
2131 people here. So it is the perception, and you have referred  
2132 to this in the past, and I apologize. I wasn't here for all  
2133 the testimony, and that is Charlie Gonzalez is thinking of  
2134 going to Pensacola, but I am afraid there is oil, so I don't  
2135 go, no one is at the hotel, the motels. That hotel, motel  
2136 owner is a victim of some perception. It may be false. How

2137 are you going to handle that claim?

2138           What was disturbing to me was that the State Senator's  
2139 comment was, right now we have been dealing with BP on  
2140 claims. Can you imagine now we are going to have to deal  
2141 with the Federal Government? And you have already made it  
2142 very clear that you don't--that is not your boss, neither is  
2143 BP.

2144           But would you say to that State Senator? Why is it that  
2145 this Gulf Coast Claims Facility is superior to what was in  
2146 place prior to the agreement?

2147           And the second question is the one that I would like for  
2148 you to answer if you don't mind and then go to the perception  
2149 of the beaches being spoiled and such.

2150           Mr. {Feinberg.} I would like to think that with the  
2151 experience that I would bring and the confidence that the  
2152 President and BP had in selecting me to do this based on my  
2153 prior work in processing mass disaster claims, BP is an oil  
2154 company, not a claims facility, I would like to think that we  
2155 will be able much more efficiency, much more effectively to  
2156 process claims in a way that will engender the support of the  
2157 people that I am trying to help.

2158           All the talk in the world won't replace payments, and a  
2159 sense that people have and businesses have that there are  
2160 actually checks being paid to eligible Claimants. So the

2161 proof will be in the result in the next month, and I am  
2162 hoping with my fingers crossed that the President's  
2163 confidence in me and the Administration's confidence in me  
2164 and BP's confidence in me will result in the people in the  
2165 Gulf having confidence in me so that the program is working  
2166 and that it is credible.

2167 Mr. {Gonzalez.} And to the second question, and I don't  
2168 know--not to pre-judge any claims, but what do you do if the  
2169 perception was that there was oil on the beach when there  
2170 wasn't, but the business has suffered?

2171 Mr. {Feinberg.} You cannot need oil on the beach to  
2172 have a compensable claim. I want to emphasize this. Florida  
2173 law may require, I don't know. Attorney General McCollum has  
2174 a different view and probably the correct view, but you don't  
2175 need oil on the beach, you don't have to be unable to fish.  
2176 Perception is compensable.

2177 Now, the problem that Congressman Stearns and others  
2178 pose, well, what is the proximity requirement? What is the  
2179 dependence on that beach or on fishing or on shodder boats or  
2180 sightseeing? I will have to draw some lines on eligibility.  
2181 The lines will be based on proximity to the beach or to that  
2182 natural resources, fishing or what have you, the industry,  
2183 fishing, crabbing, oyster harvesting is easy. Motels,  
2184 restaurants depending on the motel and type of restaurant,

2185 legitimate, eligible, and how dependent is that claimant on  
2186 natural resources. And I will have to in the next, actually  
2187 in the next few weeks I am going to have to develop  
2188 eligibility criteria that will answer that question.

2189 Now, the Claimant still has to prove the claim.  
2190 Eligibility is one issue. Corroborating the claim by showing  
2191 that the spill caused my loss, that is another issue, but  
2192 that is what I will have to deal with.

2193 Mr. {Gonzalez.} Thank you very much, and I want to  
2194 thank the other witnesses, though I may not have a particular  
2195 question. Thank you for your testimony, and I yield back,  
2196 Mr. Chairman.

2197 Mr. {Rush.} The Chair recognizes Mr. Scalise of  
2198 Louisiana.

2199 Mr. {Scalise.} Thank you, Mr. Chairman.

2200 It has been talked about by a number of you about the  
2201 problems of perception, both with tourism, with food, the  
2202 fact that even where some areas have absolutely no oil, you  
2203 still got a double digit, if not over 50 percent drops in  
2204 people that are coming, and I want to start with you, Mr.  
2205 Brennan.

2206 When we talk about how to combat that, especially once  
2207 the oil, you know, and we are all praying that this well is  
2208 capped real soon, but there is still going to be oil that has

2209 got to be cleaned up, and there is still going to be  
2210 perception problems. I know our State has worked on some  
2211 different types of certification proposals to encourage FDA  
2212 to set up a formal process so that people can go out there  
2213 and actually have, all across the country have a clear  
2214 confidence level that if they are buying seafood, we know if  
2215 you can buy it, it is safe because our vendors aren't selling  
2216 seafood that is unsafe, but there is a perception and a  
2217 concern out there, and so a certification process would give  
2218 a higher level of confidence.

2219 First, can you talk about both that combined with  
2220 marketing? What is it going to take in your opinion to get  
2221 people to feel comfortable walking into a seafood restaurant,  
2222 not just in New Orleans but anywhere in the country, to know  
2223 if it is from the Gulf that it is safe?

2224 Mr. {Brennan.} Congressman, clearly there are two  
2225 issues here. You know, one is the damage brand of the entire  
2226 Gulf Coast as a tourist destination, and the other which you  
2227 just mentioned is the food safety concern, and there are a  
2228 number of regulatory agencies at the state and federal level  
2229 that are now evaluating the safety of the seafood on a daily  
2230 basis.

2231 And we need one consistent program that can become sort  
2232 of the goal standard that--so that people will feel

2233 comfortable. I had an opportunity to have dinner with a lady  
2234 the other night from Santa Monica, California. She said she  
2235 would never eat Gulf seafood because despite what they are  
2236 saying about it, she still believes that it is tainted in  
2237 some way. And there are probably many people around the  
2238 country that feel that way, and there are restaurants around  
2239 the country that are posting signs saying, we don't serve  
2240 Gulf seafood.

2241           So we have a serious issue here, and we need one  
2242 standard so that the country will feel confident that the  
2243 seafood that comes out of the Gulf is of--

2244           Mr. {Scalise.} Mr. Overton, we will just go down the  
2245 line.

2246           Mr. {Overton.} The seafood industry in general,  
2247 particularly when you talk about the fisheries of the Gulf of  
2248 Mexico, have been under-funded for a long time, the research  
2249 associated with it, and so, you know, back to the earlier  
2250 comments of how do we bring something good out of this  
2251 crisis, I think it is an opportunity for us to take some  
2252 funds and do some measurable data on the water columns, the  
2253 baselines, and know how many fish we have, how many have  
2254 been--what, you know, this class of fish, is it totally  
2255 destroyed, or is it partially destroyed? It will give us an  
2256 opportunity to really look at what our data should tell us

2257 today.

2258           We don't have the funding currently to do that, and if I  
2259 may, just one other point. When it comes to the perceptions,  
2260 and Mr. Feinberg may have a comment on this, the complexity  
2261 that we are faced with now is that we actually lose money in  
2262 September and in August. We don't make a profit. We make  
2263 our money in the other parts of the year, so what are we  
2264 going to do if we don't have a claim paid by then, and by the  
2265 way, for the record, I am not aware of any business owner in  
2266 Florida that has been paid a large claim as of yet.

2267           So what are we going to do? Are we going to become  
2268 servants to the bank and our debt service covenant ratios,  
2269 which are very important. Those covenants just can't be  
2270 broken, or do we go lay employees off because we need to make  
2271 that number? And that is what we are faced with.

2272           Mr. {Scalise.} Thank you, and I apologize, I have only  
2273 got a minute and a half left, and I have got a number of  
2274 other questions.

2275           Mr. Malone, if you can get me a copy of the presentation  
2276 that you made to Mr. Feinberg, it sounds like you all really  
2277 put some things together that made an impression on him. If  
2278 you would you be willing to share that--

2279           Mr. {Malone.} Yes, sir.

2280           Mr. {Scalise.} --with us as well, I would love to see

2281 that, too.

2282 Mr. {Malone.} Be happy to. Can I speak briefly to  
2283 another question about perception?

2284 Mr. {Scalise.} Real quick.

2285 Mr. {Malone.} Real quick.

2286 Mr. {Scalise.} I have got some questions for Mr.  
2287 Feinberg, and I have only got a minute now.

2288 Mr. {Malone.} Okay. The science community is doing our  
2289 region a terrible injustice. We tend to believe the EPA, the  
2290 regulatory bodies, but every week somebody, some scientist  
2291 from some university, it varies, is continually questioning  
2292 the quality of the water, quality of the air. As long as  
2293 those questions are out there, these misperceptions are going  
2294 to be--

2295 Mr. {Scalise.} All right, and I have got to get to my  
2296 questions for Mr. Feinberg. As you have heard some of these  
2297 comments from the panelists today, other conversations you  
2298 had, can you help give them some confidence that when we talk  
2299 about some geographical limitations, if you got a restaurant  
2300 in New Orleans, and it is 60 miles away from the point of  
2301 impact, how are you going to factor that in?

2302 Mr. {Feinberg.} I am going to factor that in.  
2303 Proximity makes it sort of a per se case. If you are right  
2304 on the beach or you are right by the Gulf, by the waters, it

2305 sort of--that is what I mean when I say proximity. It is  
2306 sort of easy.

2307 That doesn't mean if somebody has another facility  
2308 farther away they are automatically ineligible. We will take  
2309 a look at the facts.

2310 Mr. {Scalise.} Okay. Real quick, too. On the escrow  
2311 negotiations, are you kind of held back on what you can do to  
2312 start setting up your operation and cutting checks for that  
2313 to be completed, or can you start before they complete these  
2314 escrow negotiations?

2315 Mr. {Feinberg.} No. I am not held up. We are on  
2316 parallel tracks. The sooner the escrow is set up the better,  
2317 but meanwhile I am going forward setting up the  
2318 infrastructure.

2319 Mr. {Scalise.} Can you cut any checks before the escrow  
2320 negotiations occur?

2321 Mr. {Feinberg.} No, but I am confident that by the  
2322 second week of August, which is, you know, already too late,  
2323 I am hoping that the escrow should be up and running so that  
2324 there will be no inability to cut checks.

2325 Mr. {Scalise.} Okay, and then you said with the \$100  
2326 million, that is the only place to go for people who work on  
2327 rigs. There is really no place to go that I have heard of  
2328 for people that service rigs. Can they go to your fund?

2329 Would you pay them out of your fund? And if not, is just  
2330 unemployment their only option at this point?

2331 Mr. {Feinberg.} I don't know about unemployment. I can  
2332 tell you that unemployed rig workers who are unemployed  
2333 because of the government's moratorium don't have a claim  
2334 against the--

2335 Mr. {Scalise.} Once that--that \$100 million is going to  
2336 run out within 2 months if they start paying on it by any  
2337 estimate that we have been given, and so once that is  
2338 extinguished, do they have any recourse other than just going  
2339 on unemployment? They are still unemployed, and there is  
2340 still a moratorium after 2 months.

2341 Mr. {Feinberg.} I am just suggesting I doubt very much  
2342 that they would have a claim within this fund.

2343 Mr. {Scalise.} Okay, and then if you could give me  
2344 offline here the protocols for review board. As you are  
2345 setting up the process if somebody--

2346 Mr. {Rush.} Mr. Scalise.

2347 Mr. {Scalise.} --disagrees with your ruling and they  
2348 want to go to some kind of additional process--

2349 Mr. {Rush.} Mr. Scalise, this is your last question.

2350 Mr. {Scalise.} Thanks, and I yield back. Thank you,  
2351 Mr. Chairman.

2352 Mr. {Rush.} All right. The Chair now recognizes Mr.

2353 Sarbanes of Maryland.

2354 Mr. {Sarbanes.} Thank you, Mr. Chairman. Thanks to the  
2355 panel.

2356 Mr. Feinberg, I was going to ask you some questions.  
2357 You say that you are not privy to the negotiations that are  
2358 going on with respect to the escrow fund. Are you okay with  
2359 that? Does that--do you think that is better from your  
2360 standpoint? Worse? Or what is your perspective?

2361 Mr. {Feinberg.} I am neutral. As long as the money is  
2362 available when the Gulf Coast Claims Facility starts  
2363 processing claims and cutting checks, that is fine with me.

2364 Mr. {Sarbanes.} Do your decisions, are they immune from  
2365 challenge under whatever understandings have been--

2366 Mr. {Feinberg.} No.

2367 Mr. {Sarbanes.} No.

2368 Mr. {Feinberg.} No.

2369 Mr. {Sarbanes.} So if you and Mr. Malone are talking  
2370 about the appropriate zone, and the government things you  
2371 have drawn the zone too small, and BP thinks you have drawn  
2372 the zone too big, or someone who is on the outside of the  
2373 zone doesn't agree with your judgment call, are you  
2374 anticipating that there is going to be some challenge  
2375 presented to that? Or are you--or under the structure of  
2376 this arrangement is that not challengeable?

2377 Mr. {Feinberg.} Neither the government nor BP can  
2378 challenge my independence, but if an individual claimant,  
2379 business or an individual, doesn't like my eligibility  
2380 determination or doesn't like the amount of money that I have  
2381 awarded, that individual has two choices. The individual can  
2382 either, not either, both. First, the individual can seek an  
2383 appeal to three ex-Judges or an Appellant body that will  
2384 review my decision, and only then can the Claimant, who if he  
2385 or she is still dissatisfied, Congressman, can opt out of  
2386 this system altogether and go file a lawsuit.

2387 Mr. {Sarbanes.} Got you. Was it a condition of your  
2388 accepting this assignment that BP and the government agree  
2389 that your judgment calls would not be challenged by them?

2390 Mr. {Feinberg.} Yes.

2391 Mr. {Sarbanes.} Okay. Mr. Malone talked about how  
2392 there are people who--let us assume there is a good claim  
2393 coming down the pipeline, and when it eventually gets to you,  
2394 you are going to do the right thing, but it is not there yet,  
2395 and the business that is seeking those--that compensation is  
2396 in a position as Mr. Malone described where they may not be  
2397 able to hang on as against the obligations they face from  
2398 others, from third parties.

2399 Is there anything that can be done in your mind? Is  
2400 there--could you even though you are not set up and ready to

2401 go, is there some kind of comfort letter or something that  
2402 you can provide to that business that says, you know, by all  
2403 indications you will be in a position to submit your claim to  
2404 us once we are up and running, and you can use this letter  
2405 and present it to third parties who may be liening on you so  
2406 they understand that, you know, there is some recourse  
2407 available to them? Is that something that is possible?

2408 Mr. {Feinberg.} Yes. First, I am going to be up and  
2409 running in a matter of weeks. Now, that is too many weeks,  
2410 but I understand that. That is small solace to somebody who  
2411 is on--about to close their business. I will be up in a  
2412 matter of weeks.

2413 Secondly, if I know of that claim, I mean, BP is paying  
2414 claims. If there is a claim like that that I can't wait 2  
2415 weeks or 3 weeks, be it a letter or your promise or your  
2416 willingness to deal with me, if I know that claim, I will go  
2417 to BP for that claimant. I have done this already--

2418 Mr. {Sarbanes.} Okay.

2419 Mr. {Feinberg.} --to try and ease that transition.

2420 Mr. {Sarbanes.} So there is some recourse. I mean, if  
2421 businesses can be identified that are kind of caught in the  
2422 switches here, there is a way you can get that in front of  
2423 BP--

2424 Mr. {Feinberg.} Yeah.

2425 Mr. {Sarbanes.} --and say before it is too late, do  
2426 something here while we are in this transition period.

2427 Okay. All right. Thank you. I yield back my time.

2428 Mr. {Rush.} The Chair recognizes Dr. Burgess for 5  
2429 minutes.

2430 Dr. {Burgess.} I thank the Chairman for the  
2431 consideration. I am not part of this subcommittee, but I am  
2432 part of the full committee.

2433 Mr. Feinberg, if I understood correctly in your answer  
2434 to a question Mr. Barton asked that the framework that is  
2435 being set up surrounding your administering this fund is  
2436 actually being done in the White House by an Assistant  
2437 Attorney General, is that correct?

2438 Mr. {Feinberg.} The framework setting up my Claims  
2439 Facility is being done by me. The framework for setting up  
2440 the \$20 billion escrow fund, my understanding is, because I  
2441 am not privy to those negotiations, is between the Associate  
2442 Attorney General's Office and people at BP in Houston.

2443 Dr. {Burgess.} Now, at some point, though, those two  
2444 universes have to merge. Is that correct? Otherwise you  
2445 have a structure with no fund--

2446 Mr. {Feinberg.} You have got it.

2447 Dr. {Burgess.} --and they have got a fund with no  
2448 structure.

2449 Mr. {Feinberg.} That is right.

2450 Dr. {Burgess.} When that merging occurs, will we on the  
2451 Energy and Commerce Committee be made aware of what that  
2452 structure looks like and how the fund then subsequently is to  
2453 be administered?

2454 Mr. {Feinberg.} I would think so. You will certainly  
2455 be entirely up to date on what I am doing with the Claims  
2456 Facility and how that is working, what the protocol is, how  
2457 we are drawing on the money. You will have--there will be  
2458 full transparency as to what I am doing.

2459 Dr. {Burgess.} Well, let me just ask you this. When  
2460 you worked 9/11, it was before my time, but when you worked  
2461 administering that fund, who--for whom were you working?

2462 Mr. {Feinberg.} I was working for the Department of  
2463 Justice and Attorney General John Ashcroft.

2464 Dr. {Burgess.} So you received a paycheck from the  
2465 Department of Justice?

2466 Mr. {Feinberg.} I did--I worked on that assignment  
2467 entirely pro bono.

2468 Dr. {Burgess.} Okay. Had you been paid, though, likely  
2469 would have come from the Department of Justice?

2470 Mr. {Feinberg.} Department of Justice.

2471 Dr. {Burgess.} On this--are you working pro bono on  
2472 this account?

2473 Mr. {Feinberg.} No, I am not. The entire cost of this  
2474 fund, the Facility, Gulf Coast Claims Facility, must, of  
2475 course, be paid by BP. You can't ask the claimants to fund  
2476 any part of it. You can't ask the government to fund any  
2477 part of it.

2478 Dr. {Burgess.} Well, then that begs the question who is  
2479 signing our paycheck?

2480 Mr. {Feinberg.} I am sure that BP is signing not only  
2481 my paycheck but is signing the paycheck of everybody working  
2482 in this independent Gulf Coast Claims Facility.

2483 Dr. {Burgess.} Do you see any difficulty in maintaining  
2484 the independence with them holding the title of paymaster?

2485 Mr. {Feinberg.} I don't see any difficulty in  
2486 maintaining my independence. I certainly do see the  
2487 implication of your question, which is there could be a  
2488 perception that since BP is paying, shouldn't we have more  
2489 transparency or full disclosure, and I agree with that.

2490 Dr. {Burgess.} And I think that is where we would like  
2491 to be of service to you and provide some help to you. When  
2492 the 9/11 compensation fund was set up, my understanding, and,  
2493 again, I was not here, but that was set up under a  
2494 Congressional authorization or Congressional charter. Is  
2495 that correct?

2496 Mr. {Feinberg.} It was a federal statute.

2497 Dr. {Burgess.} Right, but it was as a direct result of  
2498 action taken in the United States Congress.

2499 Mr. {Feinberg.} That is right.

2500 Dr. {Burgess.} But this is a little different.

2501 Mr. {Feinberg.} Very different.

2502 Dr. {Burgess.} There has been no action taken in the  
2503 United States Congress, so if we invite you, for example, to  
2504 our Committee on Oversight and Investigations, if Chairman  
2505 Rush invites you back to this committee, may we expect your  
2506 attendance?

2507 Mr. {Feinberg.} You certainly may with honor.

2508 Dr. {Burgess.} Well, I want to say as the Ranking  
2509 Member on Oversight and Investigations and who knows what  
2510 will happen to the world after November but as the current  
2511 Ranking Member, we will welcome you back or welcome you to  
2512 that committee some time this fall when you actually get  
2513 funded to have a visit about how those funds are actually  
2514 being dispersed, and of course, we also will be terribly  
2515 interested in how the merging of the structure that you are  
2516 producing and the funding that is yet to happen.

2517 You know, we had a field hearing the 1st of June down at  
2518 Chalmette, Louisiana, Chalmette virtually destroyed in  
2519 Katrina, built back, and now they are being destroyed by the  
2520 oil spill and then subsequently the moratorium. There was a

2521 hotel operator there who talked about how he was keeping his  
2522 cash flow going by borrowing, and having run a business  
2523 before I know it is hard to keep your cash flow going if you  
2524 are borrowing. And I asked him who was co-signing his loans  
2525 with him, and he said his wife. I said, well, that is not  
2526 exactly what I had in mind. I was kind of hoping BP was co-  
2527 signing those notes with you, and he said, no such luck.

2528 Are we going to get to a point where that individual or  
2529 an individual in similar circumstance can continue to  
2530 maintain their business without facing future financial ruin?

2531 Mr. {Feinberg.} That will be my goal.

2532 Dr. {Burgess.} Thank you, Mr. Chairman, for your  
2533 courtesy. I will yield back.

2534 Mr. {Rush.} The Chair recognizes Mr. Melancon for 5  
2535 minutes.

2536 Mr. {Melancon.} Thank you, Mr. Chairman. I appreciate  
2537 you allowing me to waive on. If I would, I would like to  
2538 submit a statement for the record since I am not a member of  
2539 the subcommittee.

2540 Mr. {Rush.} Okay.

2541 Mr. {Melancon.} Thank you, sir. I would like to  
2542 welcome my friend, Ralph Brennan with the Restaurant  
2543 Association. We worked many years ago on a promotion for  
2544 Louisiana not only out of Louisiana but also internationally,

2545 and I guess my question to you is do you remember how many  
2546 years it took us to build that reputation once we got that  
2547 fund up and running?

2548 Mr. {Brennan.} Congressman, I don't remember the number  
2549 of years, but it is a long time.

2550 Mr. {Melancon.} And so we are right now kind of  
2551 reverting back to where we were, and we are going to have to  
2552 have some ability as well as Alabama, Mississippi, Florida,  
2553 and Texas to get that message back out once this Gulf has  
2554 been cleaned up. So it is a long time coming.

2555 Mr. {Brennan.} Yes, sir.

2556 Mr. {Melancon.} I guess, Mr. Feinberg, is there any  
2557 indication from BP of how long they are going to be in this  
2558 thing, or are they thinking that this \$20 billion is the all  
2559 to end all, and is it going to done then?

2560 Mr. {Feinberg.} BP has made it very clear publicly and  
2561 privately that if the \$20 billion isn't enough, and I  
2562 certainly hope it is, but if it isn't enough, they have  
2563 promised to honor any additional financial obligations that  
2564 might be their--its responsibility.

2565 Mr. {Melancon.} Mr. Feinberg, if I could, can you tell  
2566 me what the hell this Alabama lawsuit is about?

2567 Mr. {Feinberg.} I am sorry?

2568 Mr. {Melancon.} This Alabama lawsuit. What is that

2569 about? I mean, BP is the responsible party. They are  
2570 obligated not only for the money but paying for the  
2571 administration of it, so somebody is filing--Alabama I think  
2572 is filing suit.

2573 Mr. {Feinberg.} I am not--

2574 Mr. {Melancon.} That was something I had heard on the  
2575 news the other day. I was wondering what that was all about.  
2576 Maybe I didn't get my full information.

2577 Ralph, let me ask you as a person from Louisiana and for  
2578 the Mississippi folks, I spent quite a number of days along  
2579 the coast including the Mississippi Gulf Coast after Katrina.  
2580 We are all in this thing together. I fully support every  
2581 state that has been affected, whether it is from the storms  
2582 or whether it is from BP.

2583 I wasn't here for the opening statement, and I apologize  
2584 to all of you that--for that, but Ralph, is there anything  
2585 since the discussions have started that has come to your mind  
2586 that you wish you may have said or you might want to still say  
2587 while I still have 2 minutes and 30 seconds?

2588 Mr. {Brennan.} Congressman, all I would say is--and I  
2589 said this in my opening remarks, this is a long-term problem.  
2590 Unlike Katrina it was a fixed event, it was over, we knew  
2591 what we had to do. We don't know the long-term effects of  
2592 this on especially Louisiana, the tourism industry and the

2593 seafood industry.

2594           And so we have to take an approach today, and we have to  
2595 start today knowing it is going to be a long-term battle. I  
2596 think you mentioned that earlier. We can't just end this at  
2597 any date certain. It may go on for many, many years, and we  
2598 have had conversations with the tourism industry officials  
2599 and the seafood officials from Alaska, and after the Valdez  
2600 incident they told us it has taken 5 to 10 years for them to  
2601 overcome the effects of just that spill.

2602           Mr. {Melancon.} As I mentioned to my colleagues and  
2603 others that will listen and the media, what our problem is, I  
2604 guess, Mr. Feinberg, is what we don't see out there in the  
2605 marshes in the Gulf that are the concerns for us for the  
2606 future, and that is why, you know, knowing that you fully  
2607 well see the long term, it is not like a 9/11, we are  
2608 settled, and we are done, and we walk away. That is where I  
2609 may not be around either because the Lord doesn't wish it for  
2610 me or whatever, but I just hope that maybe that the people  
2611 will be made whole in some way, shape, or form.

2612           I want to thank the Chairman for having this hearing as  
2613 we continue to move forward to understand the problems that  
2614 are faced by the people of the Gulf Coast of this country and  
2615 hope that whatever we do the resolve will be such that it  
2616 will be a model for the future.

2617           So, Mr. Feinberg, I pledge you and your folks full  
2618 cooperation of my office as long as I am in office to help  
2619 you with this problem, and again, Mr. Chairman and Ranking  
2620 Member, thank you all for allowing me to waive onto the  
2621 committee.

2622           Yield back the balance of my time.

2623           Mr. {Rush.} That said, the Chair wants to inform all  
2624 the members, all the witnesses that you have been very  
2625 patient, you have participated and informed the subcommittee  
2626 far beyond our expectations, but we--and we certainly are  
2627 appreciative of your sacrifice and your time that you  
2628 submitted to this process. Mr. Dow, you had--

2629           Mr. {Dow.} Mr. Chairman, may I make one statement? One  
2630 of the more moving and impressive things that I have seen is  
2631 in September of 2008, you returned to the House on the Floor  
2632 to personally support the Travel Promotion Act which is now  
2633 law. I do appreciate you understand what promotion can do.

2634           Mr. {Rush.} Yes.

2635           Mr. {Dow.} Your heroism being there but most important  
2636 I am going to ask this committee and Congress if we can move  
2637 forward and push for a \$500 million fund. It is not in Mr.  
2638 Feinberg's purview, but if we do this, we can limit  
2639 significantly what is going to be spent in damages and  
2640 recovery, and you understand as well as anyone. Thank you,

2641 sir.

2642           Mr. {Rush.} The Chair does understand and however, the  
2643 committee will take that under consideration and give its  
2644 intense insight or intense interest in that, and we will use  
2645 it in the process to determine what our next step should be.

2646           But I want you to know that I do understand how  
2647 important it is.

2648           And the Chair as was indicated earlier, really  
2649 appreciates all the witnesses for their time. I know that  
2650 Mr. Feinberg does have a 12:30 deadline that he has to meet.  
2651 So with that in mind the committee now stands adjourned.

2652           [Whereupon, at 12:30 p.m., the Subcommittee was  
2653 adjourned.]