

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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