

**United States House of Representatives**

**Committee on the Judiciary**

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Chairman Conyers, Ranking Member Smith, members of the committee. I am Darryl Willis, Vice President, Resources, BP America.

On April 29, 2010, I accepted the role of overseeing BP's claims process, which was established in the wake of the explosion and fire aboard the Transocean Deepwater Horizon drilling rig and the ensuing oil spill. I am here to share information with you about that claims process.

This horrendous accident, which killed 11 workers and injured 17 others, has profoundly touched all of us. There has been tremendous shock that such an accident could have happened, and great sorrow for the lives lost and the injuries sustained.

I would like to make one thing very clear: BP will not rest until the well is under control and we discover what happened and why, in order to ensure that it never happens again. As a responsible party under the Oil Pollution Act of 1990, we will carry out our responsibilities to mitigate the environmental and economic impact of this incident.

I would also like to underscore that the causes of the accident remain under investigation, both by the federal government and by BP itself. I am not involved in the investigation process and have no independent knowledge of it. I thus am not in a position to answer questions about the incident itself or the investigation.

The BP claims process is integral to our commitment to do the right thing. We will be fair and expeditious in responding to claims. We have already paid out nearly \$30 million in claims, and we will continue to operate the claims process for as long as economic losses caused by the oil spill continue. We understand how important it is to get this right for individuals and businesses, as well as for state and local governments.

Before describing our process to you, however, I'd like to add a personal note. My ties this Gulf Coast run deep. I was born and raised in Louisiana, and I went to college and graduate school there. At age 70, my mother lost her home of 50 years in Hurricane Katrina, and the recovery process was time-consuming and sometimes frustrating. I know firsthand that people in this region cannot afford lengthy delays in addressing economic losses caused by this spill. BP is committed to ensuring that they do not experience them.

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<sup>1</sup> The data described throughout this testimony is accurate to the best of my knowledge as of 9 a.m., Wednesday, May 26, 2010 when this testimony was prepared. The information that we have continues to develop as our response to the incident continues.

Over the last few weeks, I have been traveling to communities affected by the spill. I have been to the parishes along the Gulf Coast in Louisiana and I have been in Mississippi and Alabama. I have participated in town halls, talked to people impacted by the spill, and fielded numerous inquiries about the claims process. I wish circumstances were different, but it has been a privilege to live and work again among the residents of the Gulf Coast.

### **Establishing the claims process**

Let me now tell you about our claims process.

The explosion occurred late on April 20, and the Transocean Deepwater Horizon rig sank late on the morning of April 22. BP initiated the claims process on April 24 and had a toll-free call center in place on April 25. As noted, I personally became involved on April 29.

On that day, I traveled to Venice, Louisiana, a coastal community on the front lines. I spoke with local fishermen and shrimpers. Although BP had two claims offices open by that time, we did not yet have an office in Venice. I committed to stay in Venice until a BP claims office was opened.

On Saturday, May 1, at 8 a.m., we opened the doors to our new Venice claims office. We had approximately 100 claimants come through that same day, and have had a total of about 1000 since.

That we were able to stand up a Venice claims center so quickly, I think, illustrates the tone and standard for our operations going forward: we will expand our claims process as expeditiously as possible and avoid any unnecessary delay. The pace and scale of our claims effort is unprecedented. It is larger and has grown more quickly than any before or since the passage of the Oil Pollution Act of 1990.

Even before this event, BP had a relationship with a company called ESIS – they are trained to respond quickly and professionally to significant events. Organized in 1953, ESIS is part of the ACE Group, headed by ACE Limited. The ESIS Claims team assisting BP was developed in 1995 and has extensive experience. ESIS has handled over 200 incidents, both small and large. The company is well known as a leader in its field. Speaking personally, I have been impressed by the professionalism and dedication of our ESIS colleagues in providing the backbone of our claims process.

### **Claims operations**

We now have a call center operating 24 hours a day, seven days a week. Potential claimants can call 1-800-440-0858 for instructions on documentation needed to support a claim and to receive an in-person appointment time at one of our claims office. We now have nearly 700 people assigned to handle claims, with over 400 experienced claims adjusters on the ground working in the impacted communities.

Twenty four walk-in claims offices are operating in Louisiana, Mississippi, Alabama and Florida. They are located in:

**Alabama:** Bayou La Batre; Foley; Orange Beach.

**Florida:** Apalachicola; Crawfordville; Fort Walton Beach; Gulf Breeze; Panama City Beach; Pensacola; Port St. Joe; Santa Rosa Beach;

**Louisiana:** Belle Chasse; Cut Off; Grand Isle; Hammond; Houma; New Orleans; Pointe-a-La-Hache; St. Bernard; Slidell; Venice;

**Mississippi:** Bay St. Louis; Biloxi, Pascagoula.

Spanish and Vietnamese translators are available in several offices.

We have also established an on-line claims filing system to further expand and expedite our capacity to respond to potential claimants. It is available at [www.bp.com/claims](http://www.bp.com/claims).

We will continue adding people, offices and resources as required and are committing the full resources of BP to making this process work for the people of the Gulf Coast states.

### **Lost income claims**

Our early focus was on the individuals and small businesses whose livelihoods have been directly impacted by the spill and who are temporarily unable to work because of it. These are the fishermen and shrimpers with the greatest immediate financial need – they often have minimal savings and rely on their monthly income to pay bills and feed their families.

BP is providing expedited interim payments to those whose income has been interrupted. Within 48 hours of receiving supporting documentation, the claim will be evaluated, and the claimant will be notified if an advance payment will be provided.

The interim payment is intended to replace roughly one month's lost income, based on the documentation provided by the claimant. This interim payment will be adjusted based on additional documentation. The check for the advance payment will be available at the nearest BP Claims Center, the location of which will be communicated to the claimant. Alternative arrangements can be made if this method of check delivery is not feasible.

Claimants will continue receiving income replacement for as long as they are unable to earn a living as a result of injury to natural resources caused by the spill. Subsequent checks will be generated automatically and mailed in a manner similar to a payroll system. So a claimant receiving income replacement need only go through the claims process at the beginning, and will not need to return to the claims center to get subsequent checks.

Over 26,000 claims have been filed and approximately 12,000 have been paid, totaling over \$36 million, mostly in the form of lost income interim payments. We intend to continue replacing this lost income for those impacted for as long as the situation prevents them from returning to their work.

Of course, these interim lost income payments are just one element of the economic loss for which we are taking responsibility. I would now like to address other types of claims that BP will pay and how we will assess them.

### **Guiding principles**

We have stated clearly and repeatedly that BP will pay all “legitimate” claims. Members of Congress and the general public have been asking what that means. I’d like now to outline the guiding principles around assessing a legitimate claim.

The claims process was established to fulfill our obligations as a designated “responsible party” under the Oil Pollution Act of 1990 (“OPA”). Thus, we are guided by the provisions of OPA ’90 — as well as by US Coast Guard regulations — when assessing claims.

I am not an attorney and therefore cannot speak to particular legal interpretations or applications of OPA ’90. I can, however, reiterate that BP does not believe that the \$75 million cap in the OPA ’90 statute is relevant. We expect to exceed it, and we will not seek reimbursement from the Oil Spill Liability Trust Fund.

BP’s obligations are not, however, limitless. The law defines the types of claims that a “responsible party” must cover. Under OPA ’90, BP must pay specific categories of damages caused by the spill:

- Removal and cleanup costs;
- Property damage;
- Subsistence use of natural resources;
- Net lost government revenue due to injury, destruction or loss of property or natural resources;
- Lost profits/earnings due to injury, destruction or loss of property or natural resources;
- Increased or additional public services.

The Coast Guard has a significant role in overseeing our claims process, in addition to being responsible for the National Pollution Fund. The Coast Guard has nearly 20 years’ experience in deciding OPA claims, and it has developed detailed specific guidance for determining whether a claim is legitimate under OPA. We will rely on its

experience and guidance in determining which claims are legitimate. But throughout, our intent is to be efficient, practical and fair.

## **Documentation**

Some have also asked about the documentation we require as part of the claims process.

The documents we ask for are not onerous, and we are not requesting them in order to delay paying legitimate claims. We think the public will understand that we need documentation to prevent fraudulent claims and to substantiate the amount of money owed for a given claim.

The majority of our claims paid to date have related to lost income. For these claims, we have generally requested the previous year's tax returns to estimate lost income – without question this is the most reliable verification of income. If that documentation is not available, we have accepted other forms of documentation that should be reasonably available, such as a fishing license, boat registration (in the case of a boat owner), trip tickets or some other proof of income.

Obviously, as claims become more complex, documentation requirements will increase. But larger businesses and state and local governments should be have the ability to satisfy enhanced documentary requirements.

We are trying to make sure that people with legitimate claims are paid quickly.

We have not required and will not require any claimant to waive any legal rights where we make an interim payment on a claim. That is, where we make an interim payment for a claim pursuant to OPA, we will not require or request a release or any other waiver of liability.

## **Independence of the process**

Questions have been raised about the independence of our process.

As I mentioned before, the entire process is overseen by the Coast Guard, as required by law. In addition, OPA provides for the National Pollution Fund, also overseen by the Coast Guard.

Any claim that we deny or that a claimant believes has been underpaid can be submitted to the federal Oil Spill Liability Trust Fund (the "NPF"). If the Coast Guard determines that the claim should be paid, the Coast Guard will pay the claimant out of the NPF – and the Coast Guard will then have a right to seek reimbursement from BP.

Second, claimants do not give up any rights to pursue litigation or participate in litigation against BP. While we hope to avoid such outcomes, this option also serves as an independent check on our process.

I have personally received extensive positive responses about our claims process. It is not a perfect process and likely never will be perfect. But we are committed to improving it, in response to reasonable suggestions, and we will continue to do so.

### **Conclusion**

In closing, let me make clear once more our intention to do the right thing. This is a very difficult situation – I volunteered for this assignment because I'm passionate about Gulf Coast. It's my home and I want to be part of the solution. No one is more invested than I am in making sure that we respond to claims in a fair, reasonable, and expeditious manner.

The residents, businesses, and state and local governments in the Gulf are key to our operations.

Moreover, the eyes of the world are upon us. President Obama and members of his Cabinet have visited the Gulf region and made clear their expectations of BP. So have members of Congress, as well as the general public.

We know that we will be judged by our response to this crisis, and our claims process is a critical aspect of this. I am confident that we will meet this challenge. As our senior management has made clear, the entire resources of the company are behind us.

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