AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 111–1152

IMPACT OF THE DEEPWATER HORIZON OIL SPILL ON SMALL BUSINESS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

MAY 27, 2010

Printed for the Committee on Small Business and Entrepreneurship

Available via the World Wide Web: http://www.fdsys.gov

U.S. GOVERNMENT PRINTING OFFICE

73–187 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

ONE HUNDRED ELEVENTH CONGRESS

MARY L. LANDRIEU, Louisiana, *Chair*
OLYMPIA J. SNOWE, Maine, *Ranking Member*

JOHN F. KERRY, Massachusetts
CARL LEVIN, Michigan
TOM HARKIN, Iowa
JOSEPH I. LIEBERMAN, Connecticut
MARIA CANTWELL, Washington
EVAN BAYH, Indiana
MARK L. PRYOR, Arkansas
BENJAMIN L. CARDIN, Maryland
JEANNE SHAHEEN, New Hampshire
KAY HAGAN, North Carolina

CHRISTOPHER S. BOND, Missouri
DAVID VITTER, Louisiana
JOHN THUNE, South Dakota
MICHAEL B. ENZI, Wyoming
JOHNNY ISAKSON, Georgia
ROGER WICKER, Mississippi
JAMES E. RISCH, Idaho

DONALD R. CRAVINS, JR., *Democratic Staff Director*
WALLACE K. HSUEH, *Republican Staff Director*

C O N T E N T S

Opening Statements

	Page
Landrieu, Hon. Mary L., Chair, and a U.S. Senator from Louisiana	1
Snowe, Hon. Olympia J., Ranking Member, and a U.S. Senator from Maine	3
Shaheen, Hon. Jeanne, a U.S. Senator from New Hampshire	5
Cantwell, Hon. Maria, a U.S. Senator from Washington	7
Murkowski, Hon. Lisa, a U.S. Senator from Alaska	8
Vitter, Hon. David, a U.S. Senator from Louisiana	10

Witnesses

Rivera, James, Associate Administrator for Disaster Assistance, U.S. Small Business Administration	11
Zukunft, Rear Admiral Paul, Assistant Commandant for Maritime Safety, Security, and Stewardship, U.S. Coast Guard	15
Willis, Darryl, Vice President for Resources, BP America	33
Voisin, Mike, Owner, Motivatit Seafoods	41
Sunda, Carmen, Director, Greater New Orleans Region, Louisiana Small Business Development Center	45

Alphabetical Listing and Appendix Material Submitted

Cantwell, Hon. Maria	
Testimony	7
Landrieu, Hon. Mary L.	
Testimony	1
Murkowski, Hon. Lisa	
Testimony	8
Rivera, James	
Testimony	11
Prepared statement	13
Response to post-hearing questions from Chair Landrieu	62
Shaheen, Hon. Jeanne	
Testimony	5
Prepared statement	6
Snowe, Hon. Olympia J.	
Testimony	3
Sunda, Carmen	
Testimony	45
Prepared statement	48
Response to post-hearing questions from Chair Landrieu	75
Vitter, Hon. David	
Testimony	10
Voisin, Mike	
Testimony	41
Prepared statement	43
Willis, Darryl	
Testimony	33
Prepared statement	35
Response to post-hearing questions from Chair Landrieu	70
Zukunft, Paul	
Testimony	15
Prepared statement	17
Response to post-hearing questions from Chair Landrieu	67

IMPACT OF THE DEEPWATER HORIZON OIL SPILL ON SMALL BUSINESS

THURSDAY, MAY 27, 2010

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Washington, DC.

The Committee met, pursuant to notice, at 2:34 p.m., in Room SR–428A, Russell Senate Office Building, Hon. Mary L. Landrieu (chair of the committee) presiding.

Present: Senators Landrieu, Cantwell, Shaheen, Snowe, and Vitter.

OPENING STATEMENT OF HON. MARY L. LANDRIEU, CHAIR, AND A U.S. SENATOR FROM LOUISIANA

Chair LANDRIEU. Good afternoon. I would like to call the Small Business Committee to order.

I have called this special Committee hearing together today to focus our Committee's attention on the impacts of the Deepwater Horizon oil spill on businesses in the Gulf of Mexico. We know that this current disaster is continuing to unfold, and there are some immediate and very serious impacts on businesses and individuals and families.

I would like to begin by taking a moment to reflect on the crew members that were killed in this terrible incident, who lost their lives, as well as those that were injured. I have been able to meet with some of the families, and the stories and the heartache are hard to repeat. We want to remember them as we begin, and there are many, many other individuals that have been affected, not, of course, as deeply and as personally, but we are going to focus on that today.

As we begin, I would like to remind all of us that Louisiana and the Gulf Coast supply a tremendous amount of seafood for our nation. In 2008, commercial fishermen in the Gulf of Mexico harvested 1.27 million pounds of fin fish and shellfish and generated over $659 million in revenue. Depending on the season, up to 40 percent of our nation's commercial seafood harvest comes from the Gulf of Mexico. This is an extraordinary asset that is at risk, and the individuals that work in this business.

Louisiana seafood is a $2.4 billion industry, and it is responsible for more than 27,000 jobs. For every one of these direct jobs in the energy and seafood industry—and I have not even mentioned the energy industry yet—there are countless other related businesses dependent on them for commerce, not the least of which are our

very famous restaurants in New Orleans, Louisiana, and the Gulf. Other businesses like ice houses, processors, grocery stores, B&Bs, hotels, large hotels, convention centers, and the suppliers that supply those businesses, et cetera, are all being affected. Today's hearing will focus on the impacts of the oil spill on the thousands of small businesses that are being affected as we speak. We are particularly interested in making sure that we are doing everything we can to help them.

Two weeks ago, SBA Administrator Karen Mills and I went down to the region together. I have been down many other times, as she has, but we were able to travel together. I was heartened to see the response of the SBA and their many disaster centers, that they are stepping up, Mr. Rivera, but we need to do more. We will hear testimony from not only you, who are here in Washington, but people on the ground. We are looking forward to that testimony.

We will also hear from BP and their claims office. They are the fourth largest company of any kind in the world, the third largest oil company in the world, and we expect their response to be commensurate with that size to put tremendous resources to this effort.

To date, it looks as if BP has accepted its obligation to pay all of the obligations both to the Federal Government, the State government, and local governments. I am very interested in them living up to their responsibility to the above-mentioned, but also to small businesses. I said when I went down this week—and this was a direct quote, "If you made $50,000 last year and you cannot work this year because of BP and the accident, BP is going to write you a check for $50,000. If your business made $1 million last year and you cannot work this year, BP is going to make your business whole."

"There is no question," I said, "who will pay these bills to individuals, to business, to the parish, and to the government. Those bills will be paid in full."

This hearing is about how to make this promise come true, so we will go through a series of questions in just a moment. Lastly, we will get an update from the Small Business Administration to talk about the update of their centers, and then from the Coast Guard, and then, most importantly, from our fishermen and small businesses that are being affected in the Gulf Coast.

I want to say that this will be a series of hearings that this Small Business Committee intends to have until we are sure that the claims process is the right process to be in place. Our people do not need more loans that they cannot pay. They do not need, you know, arbitrary deferrals with balloon payments at the end. They need real help right now to make sure that they are able to weather this actual, very terrible storm that is brewing in the Gulf literally.

I would like to turn it over to my Ranking Member, Senator Snowe, for a brief, if you do not mind, Senator, opening statement and then recognize Senator Shaheen, and then I am going to recognize Senator Murkowski, who is a Senator from Alaska and a great colleague of ours who has some direct experience in the Exxon Valdez. Having been a leader from the State of Alaska, I thought she should perhaps start off this hearing with some thoughts about

how her fishermen and constituents either were or were not supported through this so we can make sure we do a better job this time.

Let me turn it over to Senator Snowe.

OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, RANKING MEMBER, AND A U.S. SENATOR FROM MAINE

Senator SNOWE. Thank you. Thank you, Chair Landrieu, for holding this hearing on what is now the largest oil spill in the history of this nation. I am pleased to welcome our colleague Senator Murkowski, who is the Ranking Member of the Energy and Natural Resources Committee, to talk about the claims process for affected individuals, small businesses, and lessons learned in the wake of the Exxon Valdez spill back in 1989, as well as what worked in the State of Alaska.

I want to welcome our panelists. I know Mr. Rivera was here last week. We thank you for being here again this week. And to Admiral Zukunft, I appreciate the fact that you are here on behalf of Admiral Allen, as well, who I know is in the Gulf today and obviously addressing a very serious situation. We did not want to take him away from that.

I also want to express our thanks to the second panel as well, and Mr. Voisin, who is an oysterman from Houma, Louisiana and having to experience firsthand the devastation of this tragedy.

Today, 37 days after the Deepwater Horizon drilling rig exploded and sank, tragically claiming the lives of 11 workers, there is news that the top kill technique may yet succeed in finally plugging the leak, and we hope that that effort continues to work. The oil that has spilled in the interim is now fouling the wetlands and beaches of Louisiana, the Chair's state, soiling birds and wildlife, driving tourists away. That it took so long to implement a technique we still are not sure will be the final solution is certainly unconscionable.

Furthermore, it was not until this morning that the Government released a revised estimate of the daily flow rate, suggesting that the amount of oil spilled is 2½ to 4 times higher than previously thought, 12,000 to 19,000 barrels per day, 3 to 5 times higher than the 4,000-barrel worst-case scenario estimate that BP included in its exploration plan that was rubber-stamped by the Federal Government in approving drilling operations. These new figures demonstrate that this spill can now be as much as 3 times larger than the Exxon Valdez accident.

That it has taken more than a month to get an accurate assessment of the amount of oil spilled is emblematic of the dysfunctional relationship and the lack of urgency on the part of Federal agencies responding to this crisis that have allowed BP to dictate the pace and tenor of the response.

I was further disturbed this past Tuesday to hear Admiral Allen quoted as saying he is satisfied with the coordination that is going on between BP and the Federal Government. We should be anything but satisfied. Every day that we fail to develop a solution is another day when jobs and communities' entire way of life are destroyed.

Yet, thus far, BP has only responded to 10,000 of the 25,000 claims filed, and as this chart shows—and I am going to demonstrate it right here—it certainly illustrates the convoluted process by which small businesses must first seek recovery from BP, and if the company does not respond or denies the claim—and BP has 90 days to do the processing for each of the claims—the claimant can either sue BP and incur the costs and the uncertainties inherent with litigation, or attempt recovery through the Oil Spill Liability Trust Fund. And if their claim is over $10,000, that requires a forensic accounting by the Coast Guard, which would add more months of delay. So in many cases, it might be half a year before BP or the fund provides compensation.

Well, what about small businesses? Which small businesses could sustain 6 months of no income while they wait to recover damages for an egregious wrong for which they bear no responsibility? That is the point today, that the SBA and the Federal Government must understand and respond to the level of urgency given that the people's jobs, their livelihoods, their way of life, and their businesses are literally at stake.

Today I expect answers from BP, the Coast Guard, and the SBA on what is being done to help these innocent small businesses who face tremendous uncertainty about the future as it becomes abundantly clear that the effects of this disaster will continue to devastate the fishing waters, the local communities, the economies, and the culture of the Gulf Coast region for years or even decades.

Specifically, I want to know why BP is not making fishermen whole. A payment of $5,000 for fishermen who bring in that much in a single day's catch in the water alone is unacceptable. Payments need to be reflective of their total losses, and these fishermen need certainty from BP on how the company is going to replace their lost profits from this season and possibly years into the future.

Why is the SBA pushing loans on these businesses when many of them already have debt from Hurricane Katrina? They do not want to take on additional debt, and they do not know if their businesses will even survive this calamitous, man-made disaster. The SBA should be helping small businesses get money from BP, not more loans from the Government. Who is coordinating the assistance for small businesses? Clearly, the Federal Government is sitting back and letting BP figure out how to stop the oil spill, and from all accounts to date, the administration is also letting BP dictate how and if small businesses are being compensated for their losses.

My staff visited the SBA's Disaster Recovery Centers in Port Sulphur and Venice, Louisiana, last week, and it is clear that there is no coordination between the SBA, the SBDCs, the Coast Guard, and BP. There should be a one-stop shop for businesses so that they are not receiving mixed messages, having to drive all over town to fill out applications and producing the same documents multiple times.

Is the Administration going to demand that BP reimburse the SBA for the $1.7 million being spent per month on the agency's field operations, not to mention the subsidy costs, processing costs, and 30 years' servicing costs of any loans made to affected busi-

nesses? Finally, is BP hiring small businesses to help with the clean-up and disaster response?

According to reports, BP is talking a good game, but hundreds of workers and small business owners are standing on the docks ready to work while BP is contracting with only a select few. I believe it is fitting that BP will answer questions and hear comments from an oysterman, Mike Voisin, who is here representing hundreds of fishermen in the Gulf who have been disabled because of BP's disregard.

It is incumbent upon BP to look these entrepreneurs in the eyes and explain how they intend to work with them to alleviate the burden that they have created. It is paramount that over the coming weeks we continue to ramp up the pressure on BP and all the Federal agencies who are so far falling behind and failing the people, the small businesses, and communities that have been devastated by this disaster.

Thank you, Chair Landrieu.

Chair LANDRIEU. Thank you, and I would just say that we want to make sure that the agencies of the Federal Government have the laws that they can respond appropriately to this situation. That is what this hearing is about, and there will be many hearings about that at every level in almost every committee of Congress.

Senator Shaheen.

OPENING STATEMENT OF HON. JEANNE SHAHEEN, A U.S. SENATOR FROM NEW HAMPSHIRE

Senator SHAHEEN. Thank you, Chair Landrieu, for holding this hearing, and Ranking Member Snowe. I just want to say that my heart goes out to the people of Louisiana and all of the Gulf States who are directly suffering the consequences of this disastrous spill. I know that you, Chair Landrieu, are doing everything you can to help those people who have been affected, as are the other Senators representing the Gulf States.

Our goal here is to try and make sure that all of the small businesses that have been affected are getting the help that they need, and that BP and the contractors that it hired who are to blame, who are deemed to be blamed for this spill pay to make sure everyone whole.

I will submit the remainder of my statement for the record, Senator Landrieu, but I think this hearing is very important and I appreciate your holding it.

[The prepared statement of Senator Shaheen follows:]

Senate Committee on Small Business and Entrepreneurship
Hearing on the Impact of the Deepwater Horizon Oil Spill on Small Businesses
May 27, 2010
Opening Statement of Senator Jeanne Shaheen

Madame Chair, let me first say that my heart goes out to the people of Louisiana and of all the Gulf states who are directly suffering the consequences of this disastrous oil spill. I know you and the other Senators representing Gulf states are working very hard to make sure the people affected are getting the assistance they need.

I am sure many small businesses, especially those in the fishing and tourism industries, will suffer significant losses because of this disaster and thousands of working men and women will be out of a job.

While we won't know the full extent of the costs of the current spill for some time, we do know this: BP made a profit of $16.6 billion last year. In fact, from 2001 to the 1st quarter of this year, BP made $152.5 billion in profits. That's roughly $45 million a day.

Yet, under current law, BP is only responsible for $75 million of the expected billions of dollars in economic damages it has caused. This makes no sense and too me is completely unacceptable.

I believe the small businesses and individuals who have been injured should be made whole. There should be no question about that. The question is – who should be responsible for compensating small businesses and individuals for their economic losses?

To me the answer is clear. BP and the contractors it hired are to blame for this disaster and they should be fully responsible for paying to make the small businesses and people affected whole. American taxpayers should not foot the bill for the negligence of BP or its contractors.

Thank you, Madame Chair, for scheduling this important hearing.

Chair LANDRIEU. Thank you, Senator Shaheen. I really appreciate that.

Senator Cantwell.

OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Chairwoman Landrieu, and thank you for holding this hearing. Like many of my colleagues, we have deep concerns about the Deepwater Horizon oil spill, and not only the issues as it relates to the oil spill but what it does to the economy in the area.

The Deepwater Horizon oil spill is an environmental tragedy of monumental proportions. We also must recognize that it has a human tragedy of monumental proportions. Not only have 11 men already died in the original explosion, but the oil spill damaged the Gulf of Mexico, and its coastlines will touch countless families, jobs, and small businesses. Virtually no part of the region's coastal economy will go unscathed.

As Chair of the Commerce Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, I held a hearing 1 year ago on the nation's blue economy and the role of oceans and coastlines in our nation's economic future. At that hearing Senator Snowe and I heard results of the newly released report, "State of the U.S. Ocean and Coastal Economies," and according to that report, our nation's ocean economy directly supports 2.3 million jobs and contributes $138 billion to our gross domestic product. Further, coastline counties contribute 50 million jobs and $5.7 trillion to the U.S. economy. Anything that jeopardizes our oceans and coastal environment jeopardizes the economies of those regions and countless small businesses that depend on them.

So, Madam Chairman, I am glad we are having this hearing. Moving forward, we need to learn the hard lessons that we learned from the Exxon Valdez oil spill that taught us some very valuable lessons. It taught us that major oil spill devastation lasts for decades after the oil is gone, and over 20 years after the Exxon Valdez oil spill, Pacific herring fisheries still show no sign of recovery.

It also taught us that improperly doing a clean-up can also be as harmful as the original spill, and so we need to learn from that lesson. And it taught us that many of the worst impacts for citizens and small business came from the trauma of the clean-up and the litigation following the spill, tearing entire communities apart.

We need to move forward on answers that will help these communities, and so I thank you and Senator Snowe for holding this meeting, and I hope that we can cut to the chase in making sure that these small businesses get compensated.

I thank the Chair.

Chair LANDRIEU. I thank you.

Senator Cantwell serves both on this Committee and on the Commerce Committee, as does Senator Snowe, that has jurisdiction over the Coast Guard, so we hope to do some of these hearings jointly until we get to the bottom of some of these questions.

Senator Murkowski, I would like to have you begin.

STATEMENT OF HON. LISA MURKOWSKI, A U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Madam Chair, for the invitation to spend just a few minutes with this Committee to not only speak about Alaska's experience when they faced the disaster of an oil spill back in 1989, but to also share with you a proposal that I have just introduced that would allow for an expedited claims process, which I think will be helpful and would hope that this Committee would consider.

I will just take a point of personal privilege and say it is a delighted to be in front of your Committee, a Committee that is clearly dominated by my female colleagues, and it is a good feeling. I wish I could come to more committees like this. But, again, I thank you for your leadership.

We had an opportunity on Monday to fly over the spill and to share that experience with four of our other Senate colleagues as well as Secretary of Interior and Secretary of Homeland Security. And as one who has, again, lived in a State where we had our own disaster, there was so much that I saw looking down that reminded me of where Alaska was 20-some-odd years ago. And it brought back in my mind those very difficult times, very difficult times for our families, our fishermen, our communities, and it was not just the environmental disaster, as Senator Cantwell has recognized. There is the immediate impact of the disaster that is upon you and how you deal with that on a day-to-day basis. But to know that so many of the claimants in the Exxon Valdez lived with this as part of their daily life for 20 years as they pursued finality through the courts, this was and is a tragedy unto itself in that there was disaster at the time and then there was emotional disaster that continued, and there was no closure for these people that were damaged. There was no closure for these communities that were damaged.

You can deal with clean-up aspects of it, but when you have not been able to sign off on this issue because of fights and the ongoing stress of what you have dealt with, this is a disaster on its own. We cannot allow this to be repeated to those people in the Gulf of Mexico, to those families that you represent.

Now, we have got three members of the Energy Committee sitting up there on the dais as well. You know that on Tuesday the Energy Committee held a hearing on the existing liability compensation that applies with the Deepwater Horizon spill. I think we can recognize that there is not a shortage of avenues to pursue damages. The amount of limitations on liability is one where BP has stated repeatedly—and it has been reinforced by the administration and all members that I have come across—that there is no limit on the amount that BP and others can eventually be required to pay. But the concern here is there is a shortage of quick, efficient, fair mechanisms to pay the claims to those who are desperate and in immediate need of help. And when we were down there in the gulf and we listened to the representative from the fishermen, the representative from the charter boat operators, Mike Voisin from the oystermen, what they need now is they have got a boat payment that must be made, and they cannot get their

boats out into the water. They have got a home mortgage that needs to be paid, and they have no income coming in.

Again, I will remind the Committee, after the Exxon Valdez it took 20 years for the final settlement, and in the case that we are dealing with now, with Deepwater Horizon, you are dealing with small businesses and individuals who depend on the resources of the ocean, of the marshes or the beaches for their employment, for their sustenance, and this is truly a situation where justice delayed can be and will be justice denied.

We have met with many of the affected communities, the fishermen, but many of the community organizations representing the victims are really frightened, they are outraged at the prospect of losing their identities to this spill. And they are not comfortable—they are not comfortable with letting the responsible party administer the claims process, and given the accounts of spill compensations that they have heard coming out of Alaska, you can hardly blame them for that.

So the concern about where we are, we have discussed the liability cap issue in the Energy Committee, but raising the liability cap under OPA 90 is—well, it is something that I absolutely support, and we are working on that issue. It does not get the Deepwater Horizon claims paid more quickly. BP is making an effort to play the claims. You have mentioned that, Madam Chair. They have set up dozens of claims offices. They have expended millions in this effort already. But BP is not an organization with the administrative skills or the experience and the capacity to handle such an unprecedented process. And those that are filing the claims, quite honestly, are concerned about the fairness aspect of having BP judge the legitimacy and the amount of their claims.

So I have introduced legislation that establishes this expedited claims procedure. An administrator would be put in place to quickly and fairly resolve the claims for economic damages that are caused by the disaster. The act would establish an Office of Deepwater Claims Compensation that would provide timely, fair compensation on a no-fault basis to persons and State and local governments that have incurred the damages from the Deepwater Horizon spill.

The residents and local governments of the gulf region would have options for pursuing their claims either in court or under the expedited claims process. The bill provides for a claimant assistance program, including assistance for the claimants, training for nonprofit organizations, and State and local government entities to provide the assistance.

One of the things that we are hearing is people are saying, "Well, I have got to go on the Internet. I do not know how to do it. I do not now where to go. I do not know what to do. And there is nobody there to help."

The goal is to provide a system that allows the recovery of damages through a process that will not require the citizens of the gulf to go out and hire lawyers. We have all heard those stories about those that really got rich were the lawyers in the case. We do not want these individuals to have to give up a large percentage of their damages award and participate in a decades-long process.

So this act will establish multiple resource centers. I know your concern, Madam Chair, was making sure that these services are available where the people are. You do not want to have to send them to Houston to go resolve their claims. These resource centers need to be located in existing Federal offices. They will assist claimants with the preparation and filing of their claims. We establish an advisory committee on the Deepwater Horizon compensation that will consist of representatives of claimants and responsible parties and persons with expertise in marine and coastal ecology, oil spill remediation, fisheries management, and administering compensation programs. And these individuals will then advise the administrator.

There are also some other provisions that protect the interests of the claimants, provisions that require the administrator to notify and assist those who may file incomplete claims. Oftentimes you file it. You think you are in queue, and nobody tells you that you have not completed your claim. So it is a process that is designed to work for the claimant, not necessarily a process that is designed to work for BP or for the Coast Guard or for anybody else, but designed to work for the claimant.

So I would encourage the Committee to take a look at what we are proposing we would like to work on this with you so that we ensure that those who have been damaged, those who are continuing to see the fear approach their shores, that we have a process that treats them fairly and expeditiously.

And with that, Madam Chair, I thank you for the time that you have given me.

Chair LANDRIEU. Thank you, Senator Murkowski, and I just want to say—then I am going to recognize Senator Vitter, who has just come, for a short opening statement and then turn it over to our panel—how grateful I am for you stepping up and filing this bill. This Committee will look very hard at your bill. I do not know if it will be assigned to this Committee in terms of jurisdiction, but you can rest assured that we will look at every aspect of it and make our own recommendations as to how it can be improved or give it support as much as we can, because you have hit the nail on the head, and your experience, having dealt with Valdez, can be a great help to us. I look forward to working with you, as we have in many ways on the Energy Committee, on this subject.

Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, A U.S. SENATOR FROM LOUISIANA

Senator VITTER. Thank you, Madam Chair. I want to thank you for this hearing. It is a very important topic involved in this disaster, and I want to thank our colleague Lisa for her enormous contribution on this expedited claims idea.

We have a combined bill, and half of it is that, which is essential, and the other half is removing the economic damage cap for BP for this event immediately, which they have said that they will not use the present $75 million cap.

So I would hope that really immediately, by UC hopefully, we could pass those two concepts put together, which I think are very important and timely and necessary for this event, removing the

cap for this event while we debate longer-term policy and this very important expedited claim process. And I have been reaching out to many folks, Senator Durbin today, Senator Menendez, others, and I would think this is something we absolutely can and should do quickly on a bipartisan basis.

But, again, I want to thank Senator Murkowski for her great work on this.

Chair LANDRIEU. Let's go to our first witness, if we could. Mr. Rivera, you were just here last week, and let me do a brief introduction. He is the Associate Administrator for the SBA's Office of Disaster Assistance. He has provided leadership in a number of capacities at the SBA since he started his career in 1989. So if you do not mind—and then we are going to go right to Rear Admiral Zukunft, Assistant Commandant for Maritime Safety, Security, and Stewardship, who oversees the claims office that the Coast Guard is now running based on the act of 1990. Let us start with you, Mr. Rivera.

STATEMENT OF JAMES RIVERA, ASSOCIATE ADMINISTRATOR FOR THE OFFICE OF DISASTER ASSISTANCE, U.S. SMALL BUSINESS ADMINISTRATION

Mr. RIVERA. Good afternoon, Chair Landrieu, Ranking Member Snowe, and members of the Committee. Thank you for inviting me back to discuss SBA's continuing efforts to help small businesses affected by the Deepwater Horizon oil spill. Chair Landrieu, I want to thank you for speaking on this issue at National Small Business Week and for your overall leadership in our response efforts.

Many small business owners who earn their living fishing in the gulf—as well as seafood retailers, boat yards, shipping companies, processing plants, and other coastal small businesses—are facing significant financial losses from having to shut down operations. The SBA has undertaken several efforts to help these small businesses survive and make it through these tough times.

First, we have set up a network of 28 outreach centers throughout the gulf region to provide individual assistance to small businesses. We currently have 13 in Louisiana, 5 in Mississippi, 2 in Alabama, and 8 in Florida. We have deployed 55 staff in Louisiana and 32 in Mississippi, Alabama, and Florida. These are experienced customer service representatives—many of whom speak two or more languages. They have already met with hundreds of small business owners, and they have answered hundreds more phone calls from small business owners who are interested in applying for Federal and State assistance.

Already, we have started approving our first Economic Injury Disaster Loans, which can help small businesses meet ordinary and necessary expenses. These loans offer working capital of up to $2 million, with a low 4-percent interest rate and terms up to 30 years to businesses that cannot obtain credit elsewhere. We are currently turning around these applications within 5 days in the gulf region, which is well within our overall goal of 18 days, and a dramatic reduction from our turnaround times during Katrina.

Another step we have taken is to allow existing SBA disaster loan borrowers to request a deferment. If a small business has been current on their existing SBA disaster loan for the past 90 days,

we are granting them up to 12 months of deferment. Thus far, SBA has issued 64 deferments for those who have suffered both from a hurricane or previous disasters, in addition to the Deepwater Horizon oil spill.

In addition, we are working closely with our network of resource and lending partners. For example, we are strongly encouraging the lenders who participate in our 7(a) and 504 guaranteed loan programs to offer deferment relief to businesses that have been impacted. We are also coordinating with Small Business Development Centers in the gulf region, many of whom are collocated at our outreach centers. They have been helping to assist fishermen and other small businesses in filing claims and obtaining other assistance.

And I should note that while we are working in the gulf coast today, our 1,400 employees and our reserve force of over 2,000 are responding to 47 other disaster declarations, including the flooding in Tennessee where we are collocated with FEMA in 30 disaster recovery centers.

We firmly believe that our ability to respond effectively to disasters is a direct result of the improvements SBA has made internally. Over the past few years, we have increased the number of workstations from 300 to 1,750 in the Fort Worth facility. We have added 25 loan officers and a 10-person legal team who are solely dedicated to the oil spill. I should also mention that we have also invested in technology that allows borrowers to apply online, and about one-third choose this method.

Although our response has been quick, effective, and thorough, we know our persistence will be paramount. We are not letting up, and both the Administrator and I are committed to getting the job done right.

I look forward to further describing these efforts and to answering your questions. Thank you.

[The prepared statement of Mr. Rivera follows:]

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Testimony of James Rivera
Associate Administrator for Disaster Assistance
U.S. Small Business Administration

Before the
U.S. Senate Committee on Small Business & Entrepreneurship

"The Impact of the Deepwater Horizon Oil Spill on Small Businesses"

May 27, 2010

Good afternoon Chair Landrieu, Ranking Member Snowe, and members of the Committee. Thank you for inviting me back to discuss SBA's continuing efforts to help small businesses affected by the Deepwater Horizon oil spill. Chair Landrieu, I want to thank you for speaking on this issue at National Small Business Week and for your overall leadership in our response efforts.

Many small business owners who earn their living fishing in the Gulf—as well as seafood retailers, boat yards, shipping companies, processing plants and other coastal small businesses—are facing significant financial losses from having to shut down operations. The SBA has undertaken several efforts to help these small businesses survive and make it through these tough times.

First, we have set up a network of 28 outreach centers throughout the Gulf Region to provide individual assistance to small businesses. We currently have 13 in Louisiana, 5 in Mississippi, 2 in Alabama, and 8 in Florida. We have deployed 55 staff in Louisiana, and 32 in Mississippi, Alabama and Florida. These are experienced customer service representatives – many of whom speak two or more languages. They have already met with hundreds of small business owners, and they've answered hundreds more phone calls from small business owners who are interested in applying for Federal and state assistance.

Already, we've started approving our first Economic Injury Disaster Loans, which can help small businesses meet ordinary and necessary operating expenses. These loans offer working capital of up to $2 million, with a low 4 percent interest rate and terms up to 30 years to businesses that cannot obtain credit elsewhere. We are currently turning around these loan applications within 5 days in the Gulf Region, which is well within our overall goal of 18 days, and a dramatic reduction from our turnaround times during Katrina.

Another step we have taken is to allow existing SBA disaster loan borrowers to request a deferment. If a small business has been current on their existing SBA disaster loan for the past 90 days, we are granting them up to 12 months of deferment. Thus far, SBA has

issued 64 deferments for those who've suffered both from a hurricane or other previous disasters, in addition to the Deepwater Horizon oil spill.

In addition, we're working closely with our network of resource and lending partners. For example, we're strongly encouraging the lenders who participate in our 7(a) and 504 guaranteed loan programs to offer deferment relief to businesses that have been impacted. We are also coordinating with Small Business Development Centers in the Gulf Region, many of whom are co-located at our outreach centers. They're helping to assist fisherman and other small businesses in filing claims and obtaining other assistance.

And I should note that while we are working in the Gulf Coast today, our 1,400 employees and our reserve force of over 2,000 are responding to 47 other disaster declarations, including the flooding in Tennessee where we are co-located with FEMA in 30 disaster recovery centers.

We firmly believe that our ability to respond effectively to disasters is a direct result of the improvements SBA has made internally. Over the past few years, we increased the number of workstations from 300 to over 1,750 in our Fort Worth facility, where we've added 25 loan officers and a 10-person legal team who are solely dedicated to the oil spill. I should also mention that we've also invested in technology that allows borrowers to apply online, and about one-third choose this method.

Although our response has been quick, effective, and thorough, we know our persistence will be paramount. We are not letting up, and both the Administrator and I are committed to getting the job done right.

I look forward to further describing these efforts and to answering your questions. Thank you.

Chair LANDRIEU. Thank you.
Admiral.

STATEMENT OF REAR ADMIRAL PAUL ZUKUNFT, ASSISTANT COMMANDANT FOR MARITIME SAFETY, SECURITY, AND STEWARDSHIP, U.S. COAST GUARD

Admiral ZUKUNFT. Good afternoon, Chair Landrieu and Ranking Member Snowe and distinguished members of the Committee. Thank you for the opportunity to appear before you to discuss the loss of the mobile offshore drilling unit, Deepwater Horizon, and the ongoing response to this truly unprecedented spill.

As the Commandant's Assistant Commandant for Marine Safety, Security, and Stewardship, I have been immersed in this event since 10:35 p.m. on the 20th of April in all facets involving the spill and certainly some of the issues that we have come here to discuss today. As you know, this tragic event began with a fire and explosion aboard the Deepwater Horizon. For the Coast Guard, first among our concerns were the safety and rescue of those in peril. And as we know, we commemorate the loss of those 11 crew members who were honored in a ceremony just 2 days ago in Jackson, Mississippi.

I would also like to acknowledge the motor vessel Damon B. Bankston, an offshore supply vessel that was on scene and very instrumental in the rescue of the 115 survivors following the tragic loss of the Deepwater Horizon.

As you know, the Deepwater Horizon was a foreign-flagged—Marshall Islands—mobile offshore drilling unit; however, the crew was comprised completely of U.S. citizens as required to operate on the outer continental shelf. Also, it carried a Certificate of Compliance issued by the Coast Guard before it was allowed to operate, and this Certificate of Compliance was issued in July of 2009 and was due to expire in 2011. There were no outstanding safety deficiencies from the July 2009 examination.

The Coast Guard shares jurisdiction with Minerals Management Service relating to offshore activities. To ensure we approach our respective responsibilities in a coordinated fashion, we have developed a series of memorandums of agreement with Minerals Management Service which ensure that we have the right degree of interoperability and that we have a clear process for investigating accidents. In essence, the Coast Guard has the lead for the safety systems of the vessel, wherever that may be, while MMS has oversight of the sub-surface activity as it relates to drilling operations.

We have yet to establish the reasons for this casualty. To understand what happened, the Coast Guard and Minerals Management Service are jointly conducting a formal Marine Board of Investigation. There are hearings ongoing today in Kenner, Louisiana, to address the vessel and drilling operations. This investigation is due to conclude not later than 27 January 2011.

Unprecedented in its scope, complexity, and indeterminate nature, the spill has required an extraordinary unified response across all levels of government. Under the Oil Pollution Act and the National Contingency Plan, we have established this as a Spill of National Significance. Admiral Allen, who stood down as the Commandant of the Coast Guard on the 25th of May, continues to

serve as the National Incident Commander and has oversight of this spill. He is in charge. Admiral Papp, our 24th Commandant, will be in the region tomorrow as well to look at what forces the Coast Guard may require to enhance the response effort occurring across the region.

As we talked about the claims process, as the Coast Guard is dealing with activities surface, sub-surface, and mitigating impacts as oil reaches shore, has been working with BP. The Federal on-scene coordinator directs the activity, the day-to-day activity, and including that is claims adjudication. One of the concerns is the make-up of those submitting claims, to include those that do not speak English as a primary language, to ensure that we have specifically Vietnamese and adjusters that can speak Spanish as well. Over 438 adjusters have been deployed to the area, and there have been over 26,000 claims submitted. Over $32 million in damages has already been awarded, and to date, none of those claims have been denied.

Subject to your questions, I look forward to our further dialogue. Thank you.

[The prepared statement of Admiral Zukunft follows:]

U. S. Department of Homeland Security

United States Coast Guard

Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-0921
Phone: (202) 372-3500
FAX: (202) 372-2311

TESTIMONY OF
REAR ADMIRAL PAUL ZUKUNFT
ASSISTANT COMMANDANT, MARITIME SAFETY, SECURITY AND STEWARDSHIP

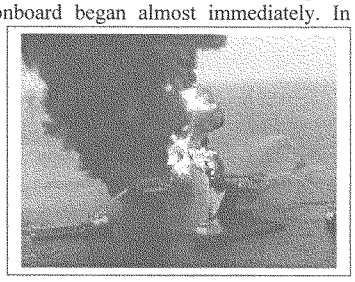
ON THE
DEEPWATER HORIZON FIRE AND MC 252 OIL SPILL

BEFORE THE
SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP
MAY 27, 2010

Good morning Chairwomam Landrieu and distinguished members of the committee. I am grateful for the opportunity to testify before this committee on the subject of the BP Deepwater Horizon oil spill currently ongoing in the Gulf of Mexico.

On the evening of April 20, 2010, the Transocean-owned, BP-chartered, Marshall Islands-flagged Mobile Offshore Drilling Unit (MODU) DEEPWATER HORIZON, located approximately 72 miles Southeast of Venice, Louisiana, reported an explosion and fire onboard. This began as a Search and Rescue (SAR) mission—within the first few hours, 115 of the 126 crewmembers were safely recovered; SAR activities continued through April 23rd, though the other 11 crewmembers remain missing.

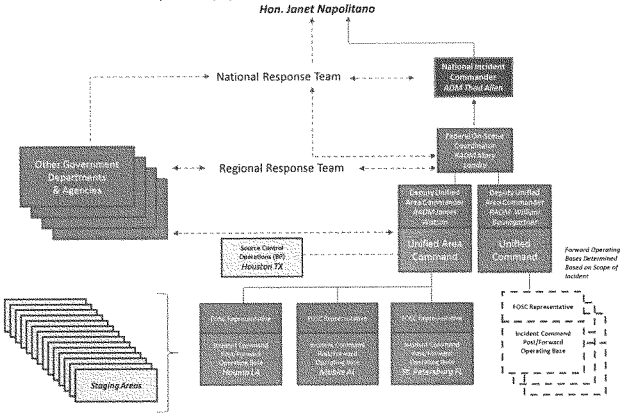
Concurrent with the SAR effort, the response to extinguishing the fire and mitigating the impacts of the approximate 700,000 gallons of diesel fuel onboard began almost immediately. In accordance with the operator's Minerals Management Service (MMS)-approved Response Plan, oil spill response resources, including Oil Spill Response Vessels (OSRVs), were dispatched to the scene. After two days of fighting the fire, the MODU sank into approximately 5,000 feet of water on April 22nd. On April 23rd, remotely operated vehicles (ROVs) located the MODU on the seafloor, and, on April 24th, BP found the first two leaks in the riser pipe and alerted the federal government. ROVs continue to monitor the flow of oil.



As the event unfolded, a robust Incident Command System (ICS) response organization was stood up in accordance with the National Response Framework (NRF) and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). ICS is utilized to provide a common method for developing and implementing tactical plans to efficiently and effectively manage the response to oil spills. The ICS organization for this response includes Incident Command Posts and Unified Commands at the local level, and a Unified Area Command at the regional level. It is comprised of representatives from the Coast Guard (Federal On-Scene Coordinator (FOSC)), other federal, state, and local agencies, as well as BP as a Responsible Party.

U.S. Government Response

Principal Federal Official for Domestic Incident Response (Secretary of Homeland Security) Pursuant to HSPD-5
Hon. Janet Napolitano



The federal government has addressed the Gulf Oil Spill with an all-hands-on deck approach from the moment the explosion occurred. During the night of April 20th—the date of the explosion—a command center was set up on the Gulf Coast to address the potential environmental impact of the event and to coordinate with all state and local governments. After the MODU sank on the 22nd, the National Response Team (NRT), led by the Secretary of Homeland Security and comprised of 16 Federal agencies including the Coast Guard, other DHS offices, the Environmental Protection Agency (EPA), National Oceanic and Atmospheric Administration (NOAA), Department of Interior (DOI), as well as Regional Response Teams (RRT), were activated.

On April 29, Secretary Napolitano declared the event a Spill of National Significance (SONS), which enhanced operational and policy coordination at the national level and concurrently allowed Admiral Allen's appointment as the National Incident Commander (NIC) for the Administration's continued, coordinated response. The NIC's role is to coordinate strategic communications, national policy, and resource support, and to facilitate collaboration with key parts of the federal, state and local government.

The NIC staff is comprised of subject matter experts from across the federal government, allowing for immediate interagency collaboration, approval and coordination. While the FOSC maintains authorities for response operations as directed in the National Contingency Plan, the NIC's primary focus is providing national-level support to the operational response. This means providing the Unified Command with everything that they need – from resources to policy decisions – to sustain their efforts to secure the source and mitigate the impact. This will be a sustained effort that will continue until the discharges are permanently stopped and the effects of the spill are mitigated to the greatest extent possible. Beyond securing the source of the spill, the Unified Command is committed to minimizing the economic and social impacts to the affected communities and the nation.

UNIFIED RECOVERY EFFORTS

The Unified Command continues to attack the spill offshore. As of May 26, 2010, over 266,000 bbls of oily water have been successfully recovered using mechanical surface cleaning methods. Further, approximately over 705,000 of surface dispersants have been applied to break up the slick, and controlled burns have been used as weather conditions have allowed. In addition to the ongoing offshore oil recovery operations, significant containment and exclusion booms have been deployed and staged strategically throughout the Gulf region. These booms are used to protect sensitive areas including: environmental and cultural resources, and critical infrastructure, as identified in the applicable Area Contingency Plans (ACPs). To date, almost two million feet of boom have been positioned to protect environmentally sensitive areas. Seventeen staging areas have been established across the Gulf Coast states and five Unified Incident Commands. The Secretary of Defense approved the requests of the Governors of Alabama (up to 3,000), Florida (up to 2,500), Louisiana (up to 6,000), and Mississippi (up to 6,000) to use their National Guard forces in Title 32, U.S. Code, status to help in the response to the oil spill.

VOLUNTEERISM AND COMMUNICATION WITH LOCAL COMMUNITIES

A critical aspect of response operations is active engagement and communication with the local communities. Several initiatives are underway to ensure regular communications with the local communities.

1. Active participation and engagement in town hall meetings across the region with industry and government involvement.

2. Daily phone calls with affected trade associations.

3. Coordination of public involvement through a volunteer registration hotline (1-866-448-5816), alternative technology, products and services e-mail (horizonsupport@aol.com), and response and safety training scheduled and conducted in numerous locations.

4. More than 7,100 inquiries received online via the response website (www.deepwaterhorizonresponse.com) with more than 6,121 inquiries completed, with 4-hour average time of response.

5. Over 568,000 page hits on response website.

6. Over 110 documents created/posted to response website for public consumption.

7. News, photo/video releases, advisories to more than 5,000 media/governmental/private contacts.

8. Full utilization of social media including Facebook, YouTube, Twitter and Flickr.

9. Establishment of Local Government hotlines in Houma, LA (985-493-7835), Mobile, AL (251-445-8968), Robert, LA (985-902-5253).

MODU REGULATORY COMPLIANCE REQUIREMENTS

43 U.S.C. § 1331, *et seq.* mandates that MODUs documented under the laws of a foreign nation, such as the DEEPWATER HORIZON, be examined by the Coast Guard. These MODUs are required to obtain a U.S. Coast Guard Certificate of Compliance (COC) prior to operating on the U.S. Outer Continental Shelf (OCS).

In order for the Coast Guard to issue a COC, one of three conditions must be met:

1. The MODU must be constructed to meet the design and equipment standards of 46 CFR part 108.
2. The MODU must be constructed to meet the design and equipment standards of the documenting nation (flag state) if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR part 108.
3. The MODU must be constructed to meet the design and equipment standards for MODUs contained in the International Maritime Organization Code for the Construction and Equipment of MODUs.

The DEEPWATER HORIZON had a valid COC at the time of the incident, which was renewed July 29, 2009 with no deficiencies noted. The COC was issued based on compliance with number three, stated above. COCs are valid for a period of two years.

In addition to Coast Guard safety and design standards, MMS and the Occupational Safety and Health Administration (OSHA) also have safety requirements for MODUs. MMS governs safety and health regulations in regard to drilling and production operations in accordance 30 CFR part 250, and OSHA maintains responsibility for certain hazardous working conditions not covered by either the Coast Guard or MMS, as per 29 U.S.C. § 653 (a) and (b)(1).

COAST GUARD / MMS JOINT INVESTIGATION RESPONSIBILITIES

On April 27th, Secretary Napolitano and Secretary of the Interior Ken Salazar signed the order that outlined the joint Coast Guard-MMS investigation into the Deepwater Horizon incident.

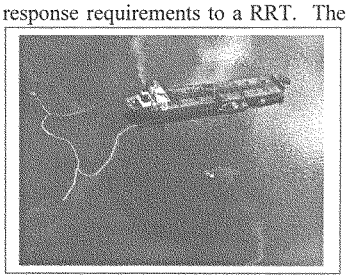
Information gathering began immediately after the explosion—investigators from both agencies launched a preliminary investigation that included evidence collection, interviews, witness statements from surviving crew members, and completion of chemical tests of the crew. The aim of this investigation is to gain an understanding of the causal factors involved in the explosion, fire, sinking and tragic loss of 11 crewmembers.

The joint investigation will include public hearings, which have already begun in Kenner, LA. The formal joint investigation team consists of equal representation of Coast Guard and MMS members. The Coast Guard has also provided subject matter experts and support staff to assist in the investigation.

LESSONS LEARNED FROM PAST RESPONSES

The Coast Guard has been combating oil and hazardous materials spills for many years; in particular, the 1989 major oil spill from the EXXON VALDEZ yielded comprehensive spill preparedness and response responsibilities.

In the 20 years since the EXXON VALDEZ, the Coast Guard has diligently addressed the Nation's mandates and needs for better spill response and coordination. For example, a SONS Exercise is held every three years. In 2002, the SONS Exercise was held in New Orleans to deal with the implications of a wellhead loss in the Gulf of Mexico. In that exercise, the SONS team created a vertically integrated organization to link local response requirements to a RRT. The requirements of the RRT are then passed to the NRT in Washington, D.C, thereby integrating the spill management and decision processes across the federal government. The response protocols used in the current response are a direct result of past lessons learned from real world events and exercises including SONS.



Although the EXXON VALDEZ spill shaped many of the preparedness and response requirements and legislation followed to this day, other significant events since 1989 have generated additional lessons learned that have shaped our response strategies. For example, the M/V COSCO BUSAN discharged over 53,000 gallons of fuel oil into San Francisco Bay after colliding with the San Francisco-Oakland Bay Bridge in heavy fog. Through the recovery of over 40 percent of the spilled product, the Unified Command recognized improvements were needed in some areas. As a result, new guidance and policy was developed to better utilize volunteers in future responses. Additionally, standard operating procedures for emergency notifications were improved to ensure better vertical communications between the federal responders and local governments. Furthermore, steps were taken to pre-identify incident command posts (ICPs) and improve booming strategies for environmentally sensitive areas.

Most recently, the Coast Guard led a SONS exercise in March, 2010. Nearly 600 people from over 37 agencies participated in the exercise. This exercise scenario was based on a catastrophic oil spill resulting from a collision between a loaded oil tanker and a car carrier off the coast of Portland, Maine. The exercise involved response preparedness activities in Portland, ME; Boston, MA; Portsmouth, NH; Portsmouth, VA; and Washington, DC. The response to the SONS scenario involved the implementation of oil spill response plans, and response organizational elements including two Unified Commands, a Unified Area Command, and the NIC in accordance with the National Contingency Plan and national Response Framework. The exercise focused on three national-level strategic objectives:

1. Implement response organizations in applicable oil spill response plans
2. Test the organization's ability to address multi-regional coordination issues using planned response organizations
3. Communicate with the public and stakeholders outside the response organization using applicable organizational components

The SONS 2010 exercise was considered a success, highlighting the maturity of the inter-agency and private oil spill response capabilities and the importance of national-level interactions to ensure optimal information flow and situational awareness. The timely planning and execution of this national-level exercise have paid huge dividends in the response to this potentially catastrophic oil spill in the Gulf of Mexico.

ROLE OF THE OIL SPILL LIABILITY TRUST FUND

The Oil Spill Liability Trust Fund (OSLTF), established in the Treasury, is available to pay the expenses of federal response to oil pollution under the Federal Water Pollution Control Act (FWPCA)(33 U.S.C. § 1321(c)) and to compensate claims for oil removal costs and certain damages caused by oil pollution as authorized by the Oil Pollution Act of 1990 (OPA) (33 U.S.C. § 2701 *et seq.*). These OSLTF uses will be recovered from responsible parties liable under OPA when there is a discharge of oil to navigable waters, adjoining shorelines or the Exclusive Economic Zone (EEZ).

The OSLTF is established under Revenue Code section 9509 (26 USC §9509), which also describes the authorized revenue streams and certain broad limits on its use. The principal revenue stream is an 8 cent per barrel tax on oil produced or entered into the United States (see the tax provision at 26 U.S.C. § 4611). The barrel tax increases to 9 cents for one year beginning on January 1, 2017. The tax expires at the end of 2017. Other revenue streams include oil pollution-related penalties under 33 U.S.C. § 1319 and § 1321, interest earned through Treasury investments, and recoveries from liable responsible parties under OPA. The current OSLTF balance is approximately $1.6 billion. There is no cap on the fund balance but there are limits on its use per oil pollution incident. The maximum amount that may be paid from the OSLTF for any one incident is $1 billion. Of that amount, no more than $500 million may be paid for natural resource damages. 26 U.S.C. § 9509(c)(2).

OPA further provides that the OSLTF is available to the President for certain purposes (33 U.S.C. § 2712(a)). These include:

> Payment of **federal removal costs** consistent with the NCP. This use is subject to further appropriation, except the President may make available up to $50 million annually to carry out 33 U.S.C. § 1321(c) (federal response authority) and to initiate the assessment of natural resource damages. This so-called "emergency fund" amount is available until expended. If funding in the emergency fund is deemed insufficient to fund federal response efforts, an additional $100 million may be advanced, one time, from the OSLTF subject to notification of Congress no later than 30 days after the advance. See 33 U.S.C. § 2752(b). Additional amounts from the OSLTF for Federal removal are subject to further appropriation.
>
> Payment of **claims for uncompensated removal costs and damages**. Payments are not subject to further appropriation from the OSLTF. 33 U.S.C. § 2752(b).
>
> Payment of federal administrative, operating and personnel costs to implement and enforce the broad range of oil pollution prevention, response and compensation provisions addressed by the OPA. This use is subject to further appropriation to various responsible federal agencies.

National Pollution Funds Center (NPFC) Funding and Cost Recovery

The NPFC is a Coast Guard unit that manages use of the emergency fund for federal removal and trustee costs to initiate natural resource damage assessment. The NPFC also pays qualifying claims against the OSLTF that are not compensated by the responsible party. Damages include real and personal property damages, natural resource damages, loss of subsistence use of natural resources, lost profits and earnings of businesses and individuals, lost government revenues, and net costs of increased or additional public services that may be recovered by a State or political subdivision of a state.

In a typical scenario, the FOSC, Coast Guard or EPA accesses the emergency fund to carry out 33 U.S.C. § 1321(c), i.e., to remove an oil discharge or prevent or mitigate a substantial threat of discharge of oil to navigable waters, the adjoining shoreline or the EEZ. Costs are documented and provided to NPFC for reconciliation and eventual cost recovery against liable responsible parties. Federal trustees may request funds to initiate an assessment of natural resource damages and the NPFC will provide those funds from the emergency fund as well.

OPA provides that all claims for removal costs or damages shall be presented first to the responsible party. Any person or government may be a claimant. If the responsible party denies liability for the claim, or the claim is not settled within 90 days after it is presented, a claimant may elect to commence an action in court against the responsible party or to present the claim to the NPFC for payment from the OSLTF. OPA provides an express exception to this order of presentment in respect to State removal cost claims. Such claims are not required to be presented first to the responsible party and may be presented direct to the NPFC for payment from the OSLTF. These and other general claims provisions are delineated in 33 U.S.C. § 2713 and the implementing regulations for claims against the OSLTF in 33 CFR Part 136. NPFC maintains information to assist claimants on its website at www.uscg.mil/npfc.

NPFC pursues cost recovery for all OSLTF expenses for removal costs and damages against liable responsible parties pursuant to federal claims collection law including the Debt Collection Act, implementing regulations at 31 CFR parts 901-904 and DHS regulations in 6 CFR part 11.

Aggressive collection efforts are consistent with the "polluter pays" public policy underlying the OPA. Nevertheless, the OSLTF is intended to pay even when a responsible party does not pay.

OSLTF and the Deepwater Horizon

On May 12th, the Administration proposed a legislative package that will: enable the Deepwater Horizon Oil Spill response to continue expeditiously; speed assistance to people affected by this spill; and strengthen and update the oil spill liability system to better address catastrophic events. The bill would permit the Coast Guard to obtain one or more advances -- up to $100 million each -- from the Principal Fund within the Oil Spill Liability Trust Fund to underwrite federal response activities taken in connection with the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon. To deal more generally with the harms created by oil spills as well as to toughen and update these laws, the bill would, for any single incident, raise the statutory expenditure limitation for the Oil Spill Liability Trust Fund from $1 billion to $1.5 billion and the cap on natural resource damage assessments and claims from $500 million to $750 million.

In order to help those impacted by the oil spill get claims and benefits quickly, the legislative package proposes Workforce Investment Act provisions which would assist states in providing one-stop services for those affected by the oil spill, including filing claims with BP, filing unemployment insurance/Oil Spill Unemployment assistance claims, accessing job placement, training and workforce services, accessing SNAP, child care, or other social service benefits, and applying for SBA Disaster Loans.

The emergency fund has been accessed by the FOSC for $68 million as of May 23, 2010. BP, a responsible party, is conducting and paying for most response activities. The Coast Guard requested and received an advance of $100 million from the OSLTF Principal Fund to the emergency fund as authorized by 33 U.S.C. § 2752(b), because the balance remaining in the emergency fund was not adequate to fund anticipated federal removal costs. BP and Transocean have been notified of their responsibility to advertise to the public the process by which claims may be presented. As of May 24th, 23,960 claims have been opened with BP, and nearly $28 million has been disbursed; though Transocean has also already been designated as a responsible party, all claims are being processed centrally through BP.

CONCLUSION

Through the National Incident Command, we are ensuring all capabilities and resources—government, private, and commercial—are being leveraged to protect the environment and facilitate a rapid, robust cleanup effort. Every effort is being made to secure the source of the oil, remove the oil offshore, protect the coastline, include and inform the local communities in support of response operations, and mitigate any impacts of the discharge.

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

Chair LANDRIEU. Thank you very much.

Let me begin, and we will go through as many rounds as our time allows. Let me start with the SBA. The SBA announced they would provide up to $2 million in working capital for business loans in Louisiana, Mississippi, Alabama, and Florida. As you have heard, however, many of our businesses are weary of taking on additional debt, particularly because they are paying off loans from 2005 to 2008. I want to submit for the record that there are currently 11,745 loans outstanding in the Gulf. There are 7,575 in Louisiana, 2,226 in Mississippi, and 1,744 in Texas, for a total of 11,074. We have also broken down the outstanding balances by parish in Louisiana for the record. Our people have borrowed up to the hilt.

What is the idea that BP has in terms of turning these loans more into advances, if you will, using the BP claim as collateral as opposed to using someone's house or boat that they might have already put up to get the last loan, they might be short on collateral for this one?

So, Mr. Rivera, let me ask, do you have the authority under the current law to do this, to use BP's promise of payment, designated liability under the law, and statements on the record that they will pay these claims as collateral? Yes or no?

Mr. RIVERA. Our goal is to get disaster assistance to victims as quickly as possible, and we do have the authority based on, you know, how you have described the claims process. Our experience has been that we can get quicker assistance when we deal directly with the borrower. We have some tools that we have been using. For example, of the 64 individuals, 20 of them are homeowners who have lost their jobs because of the oil spill, in relation to the oil spill.

Chair LANDRIEU. Before we get to the specific 64, I just want to be clear for the record, because this is very important. You are testifying that you currently have authority, you believe, in the current law to make up to a $2 million loan to anyone that can show legitimate loss of income relative to this spill and use the BP claim as collateral?

Mr. RIVERA. Yes, ma'am.

Chair LANDRIEU. Yes.

Mr. RIVERA. We can make up to $2 million loans, but if I can explain——

Chair LANDRIEU. Go ahead.

Mr. RIVERA. If I can explain, our interaction with the borrower is much more efficient when we provide—our process is much more efficient when we provide directly with the disaster borrower, and we can disburse the process much quicker when we do not take the assignment approach, versus if we were to take the assignment approach, our experience has been that we have to get the acknowledgment from the oil companies, from the——

Chair LANDRIEU. And that has not been successful in the past?

Mr. RIVERA. No, ma'am. We have not been successful in the past.

Chair LANDRIEU. So you are testifying that although you have the authority to do that, when you have tried to do it, you have not had very good success?

Mr. RIVERA. Yes, ma'am.

Chair LANDRIEU. And you are saying that going the regular route, which is requiring these borrowers to put up some kind of collateral, is easier?

Mr. RIVERA. It is much more—it is a faster process, and, again, from a collateral perspective, we take whatever collateral is available. So if they already have a first lien in place on their house or they have a mortgage on their house, we will take a second lien or a third lien or whatever collateral is available.

Chair LANDRIEU. Okay. I am just going to say now that is not going to be sufficient. On behalf of the people that I represent, the last thing they need is more loans. We are going to have to try to figure out a way to force these companies to either use their promise of a claim as collateral and expedite that process or come up with some additional ways to get them the help that they need.

Let me ask the Coast Guard, could you just very quickly say under the new law which was passed—not by this Congress or this Administration, and most certainly not by this Chairman, this law that is up here, complicated, convoluted, and uncoordinated response to the oil spill for small business, which was passed, I think, through the Commerce Committee in 1990, putting the Coast Guard in charge of this, can you comment about why you think this process is not working and what we could do to change it?

Admiral ZUKUNFT. Madam Chair, our first objective is for the responsible party to be forthcoming and resolve claim—claim resolution.

Chair LANDRIEU. Have you analyzed this situation up here—because this is what the current situation looks like, and it does not look very promising to me—and do you have some recommendations as to how we can get it changed?

Admiral ZUKUNFT. We are closely monitoring the claims process as we speak, and for that reason, the Federal on-scene coordinator has directed the ramp-up of adjusters to facilitate the processing of these claims. As I mentioned, over 26,000 claims have been submitted. None to date have been denied; $32 million has already been outlaid, and there is no indication that BP will hold to its $75 million threshold.

For any claim that is denied, then it would come under our oversight of the Oil Spill Liability Trust Fund, and then we can provide relief, and then at that time we would look to seek compensation from the responsible party.

Chair LANDRIEU. Okay. I am going to take just 30 more seconds and give the same to my colleagues. I think that you are going to hear not just from our Committee but from the second panel that this claims process is not working as well as it should, and I just want to go on record that it has been in place for 20 years, since 1990, and it may need some changing. This Committee is going to be very focused on getting that done.

Ranking Member Snowe.

Senator SNOWE. Thank you, Madam Chair. I am going to yield to Senator Vitter because he has to leave for another meeting. Thank you.

Senator VITTER. Thank you very much, Senator, and I will be brief, and I do have to leave for another meeting, but thank you for that courtesy.

I would like to direct this to Mr. Rivera primarily. this is a very important question that has come up, a practical question for people on the ground, and the question is: If they get an SBA disaster loan, does BP have to pay back the principal and interest and administrative costs of that? There are a lot of them taking disaster loans on the assumption that BP, by definition under law, is going to cover that. I think that would be fair and just, but I want to give them the right advice about what the law is. So what is the answer to that question?

Mr. RIVERA. Well, as you know, the President has been very clear that BP is the responsible party, and they will be held accountable for the impact.

Senator VITTER. Mr. Rivera, I know all that. Under Federal law, is BP legally obligated to pay SBA disaster loans that people take out?

Mr. RIVERA. You know, I am not sure.

Senator VITTER. Can we get your counsel to give us a written answer?

Mr. RIVERA. Sure.

Senator VITTER. Because that is something that comes up every day on the ground, and I want to be able to give people good advice.

Mr. RIVERA. We will get back with you for the record.

Senator VITTER. Okay. And I do not mean to cut you off, but it comes down to what the law is now so we can advise people. I certainly think BP should cover it, but that is not the question. Second question, real quick, is: Under OPA Section 2713(f), there is a mandatory loan program for fishermen. It says, "The President shall establish a loan program under the fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure." I had asked you in our last Small Business hearing why that had not been done, because it seems to me that is a mechanism for immediate help. Is there an Administration answer about why that mandatory program has not been set up?

Mr. RIVERA. I apologize. I do not have a response for that either, but we will, you know, get with our staff and our general counsel, and we will get a response back to you.

Senator VITTER. Okay. Admiral, OPA is also under the Coast Guard. Do you know why that mandatory program has not been begun?

Admiral ZUKUNFT. Senator, as you know, the program exists currently, there are no monies allocated to that particular account. I will say and for the record we have not encountered any claims delays, and it is an issue that we are very sensitive to, to the point where particularly in Louisiana that has been especially hard hit, we have established Coast Guard liaison officers, lieutenant commanders and commanders assigned to each parish president in Terrebone, Saint Bernard, Plaquemines, and Jefferson parishes to look at both the response effort and also to ensure that this claims adjudication process does not become cumbersome. And as a boat owner and having fished Barataria Bay on many an occasion, I am

very sensitive to the work life situation down there, and we cannot wait 90 days or 100 days.

So we as a service are very sensitive to the needs and the livelihood that is at jeopardy as a result of this catastrophic spill.

Senator VITTER. Okay. I think I heard the first part of your answer, there is no money. There is $1.6 billion in the OPA trust fund. This is under OPA. This is a mandated program. Can you all between the two of you respond why this has not been set up?

Admiral ZUKUNFT. There is a $1 billion cap applied to each incident, so under the Oil Spill Liability Trust Fund, there is that $1 billion cap by law. And so that is the cap that we work with within the Oil Spill Liability Trust Fund. As a result, that is why we are leaning on the responsible party to provide due payment in a timely manner so we do not accelerate the drawdown of that $1 billion cap.

Senator VITTER. And I have no issue with that. I am simply asking why a mandated program has not been established.

Thank you. Thanks, Senator.

Chair LANDRIEU. Thank you.

Senator Snowe.

Senator SNOWE. Thank you, Madam Chair.

I am trying to make sense of this process right now for the immediacy, both as the Chair and Senator Vitter have indicated, these are extraordinary circumstances and people need assistance. They need to be made whole. That is what you continue to hear in all the programming and the coverage of this disaster. And I am not clear how they are being made whole at this point.

Now, Mr. Rivera, you are saying that you have 28 centers throughout the Gulf region. How many loans have you issued? Before I get to the idea of even issuing loans, I am not hearing any coordination with BP. That is what I am trying to understand, because you are issuing loans—there are a lot of costs to these individuals to take out a loan, and why foist loans on them when BP should be directly reimbursing these individuals and these businesses as opposed to seeking loans? This seems to be a very tough process to put these individuals through. So why are they going through SBA?

Mr. RIVERA. We are just providing them with another avenue of assistance from the perspective of, you know, we have a loan program, it is in essence a bridge loan while they are working on the claim with BP.

Senator SNOWE. Okay. I just cannot understand why this is not all being coordinated. It has to be one-stop shopping. And, Admiral Zukunft, you are working through this law here, I presume. Correct?

Admiral ZUKUNFT. That is correct.

Senator SNOWE. And then you have BP with its own centers, mediation process, does it not, for processing claims? What do you do? You get the reimbursements from BP? You charge them through the trust fund?

Admiral ZUKUNFT. No, we work with BP, and a mischaracterization of the National Contingency Plan and the role of the Federal on-scene coordinator that has complete oversight of the spill, and now we have elevated that to a level where now Ad-

miral Allen is the National Incident Commander dealing with all matters pertaining to this response, including claims adjudication. Admiral Allen has a personal daily dialogue with BP on level of response, including resolution of claims, to ensure that BP is doing all it can within its capacity, including multilingual claim adjusters, to get to the very heart of the issue here today to ensure that there is no delay, no bureaucracy in resolving claim matters.

Senator SNOWE. Okay. So for those who go through SBA, how many loans have you issued, Mr. Rivera, through SBA?

Mr. RIVERA. We have approved 23 for $831,000.

Senator SNOWE. So 23 loans. Throughout your 28 centers?

Mr. RIVERA. Yes, ma'am. We opened the centers a couple of weeks ago, as you know, and we are processing those, on average, within 5 days.

Senator SNOWE. See, but I do not understand why there should be any difficulty for a business owner or individual who has been directly affected financially by this disaster that they do not directly—are not able to directly get a reimbursement from BP immediately. I just do not understand this, because going through your process in SBA, if you are a catalyst at solving it and doing one-stop shopping, I mean, that would be one thing. But you are doing a parallel approach to that that ultimately has to come to some resolution for this individual in terms of BP being required to reimburse them for the cost of securing that loan and in terms of having to offer any collateral if that is a requirement, and it generally is in SBA loans; that this is a loan that is serviced by the Government for up to 30 years.

I just do not know why this is not being done immediately through BP, that you are not coordinating that effort. I just think this is making life infinitely harder for individuals in the final analysis in getting a true accounting. Now they have taken out additional loans, incurred additional costs, and somehow they have got to resolve that eventually with BP. Why not just do this up front in coordination together? You have got a lot of centers. Obviously, I gather BP has centers. You have centers, Admiral, correct? Everybody has centers. Why can't you all get together, just have one-stop shopping? Is that possible? Why isn't that possible? Can either one of you give me an answer to that?

Chair LANDRIEU. Please answer.

Admiral ZUKUNFT. I will be glad to answer. Yes, the first stop is the responsible party, and then going——

Senator SNOWE. Right. Could you go over to that responsible party's center? I mean, move everybody over there? Can't everybody get together under one roof, you know, and if they have a number of centers, then be part of that one center so that you can resolve these issues, help to expedite it?

Admiral ZUKUNFT. I believe it would be helpful—and I do not have the information with me, you know, where these claim processing centers are located, and then also to be able to track from, you know, time claim is submitted to time claim is paid. I believe we can get that information to you, but I do not have that information available right now.

Senator SNOWE. Well, you know, according to recent reports, over 26,000 claims have been submitted with payments of more than

$36 million. This represents 12,194 claims paid just in Louisiana by BP thus far. I mean, they have 400 claim centers. So I just do not understand why this cannot all be sort of funneled under the same roof so that it can expedite this process, not to mention less than 10 percent of the claims paid have gone to businesses outside of the fishing industry, and most of the claims paid to those who are in the fishing industry are not complete claims. They are just installments of $5,000 or $2,500, depending on their profit history and boat size. That is hardly enough to get by in the final analysis. I mean, they need more certainty than this rather than sending them through a bureaucratic treadmill here. I think we really have to resolve this, and we would like to have some recommendations from you folks. We ought to be able to funnel all of this into one process to make life easier and to make them as whole to the extent possible rather than just sort of these incremental payments over time that is going to make their lives even more miserable under these harsh circumstances.

Chair LANDRIEU. Thank you, Senator.

Senator Cantwell.

Senator CANTWELL. Thank you, Madam Chair, and I am sorry I stepped out for a while. I wanted to get on the conference call that Admiral Allen had—or I guess I should say Incident Commander Allen—so I missed some of the testimony. But I wanted to go back to Mr. Rivera on the issue of the payment. You know, it sounds good. I know that in the Exxon Valdez oil spill, the Alaska Operations Director at that time said, "You have had some good luck, and you do not realize it. You have Exxon and we do business straight. We will consider whatever it takes to keep you whole." That is what they said at the time.

Also, the chairman of Exxon at that time said, "We will also meet our obligations to all those who suffer damage from the spill."

Now, we know that took a long time. That was the statement on the ground. So I wanted to ask you whether you believe that BP will really pay all legitimate claims. And do you trust this process?

Mr. RIVERA. You know, we cannot—we have been very clear that BP is a responsible party, and, you know, I am not sure what else to say from that perspective. You know, we provide the loan program for those individuals that are interested in trying to obtain bridge financing while they are working on their claim.

Senator CANTWELL. Let me ask this differently, Rear Admiral. I want to be clear to make sure I understand the process. If a small business files a claim and BP delays in paying that claim, they can go back to the Coast Guard and protest that, and the Coast Guard could pay that money directly to the small business out of the Oil Spill Liability Trust Fund. Is that correct?

Admiral ZUKUNFT. That is exactly correct. Then we would submit a claim against the responsible party based on the claim submittal, but that payment to the small business would be made out of the trust fund. We would seek relief then from the responsible party for that payment.

Senator CANTWELL. And how long would that take? How long do you think that process would take?

Admiral ZUKUNFT. The worst case could be up to 90 days, and we are very sensitive to what that time limit is.

Senator CANTWELL. So 90 days from when the protest by—if BP says no, I do not—I mean, let us just take shrimp fishermen, for example. They say, you know, we are owed damages now—I mean, as I understand it, Madam Chair, the industry is being shut down at this moment.

Chair LANDRIEU. Some parts of it, yes.

Senator CANTWELL. So you have segments of people who will be losing their jobs and shutting their factories. Say if BP says, "Well, you know what? I know we said we would pay all legitimate claims, but first we are going to have a little legal battle with Transocean and Halliburton over who caused what end of the problem, so we are not going to pay the claim until we are sure we are legitimately responsible."

So, okay, you get that answer back from them. You are saying now 90 days later the Coast Guard could decide to go ahead and make that payment to those shrimpers for that compensation of loss.

Admiral ZUKUNFT. Right, and that 90 days is probably the worst case. Again, if these are small incremental amounts, these are made quite expeditiously by the Coast Guard. Again, our indication right now is the fact that we have not had to adjudicate any of these. There have not been any claim denials to date of those nearly 27,000 claims that have been submitted.

Senator CANTWELL. And in that process, then, if BP turned around and had a claim against—you know, basically protested, do you have a review process for that?

Admiral ZUKUNFT. We do indeed.

Senator CANTWELL. And how long? Is that included in the 90 days?

Admiral ZUKUNFT. That would be during that 90-day review process.

Senator CANTWELL. How long do you think it would take, then, before the $75 million would be gone from the Liability Trust Fund?

Admiral ZUKUNFT. We have only seen the beginning of this spill. If this top kill were to be effective today, it will be at least another 60 days to remove the oil that is there, and it will be an additional—it will be years to do the full natural resource assessment in terms of the long-term impact, especially to the shellfish industry. So this will go on for some time.

Senator CANTWELL. Thank you. Well, again, Madam Chair, I appreciate you and Senator Snowe having this hearing. Four years after the Exxon Valdez oil spill, the local community became so frustrated—I am glad our colleague from Alaska was here to give testimony, and I think looking at her bill is important. But 4 years after that, people were so frustrated at the Exxon spill and at the Federal Government that they were ignoring the long-term impacts in the area and the livelihood of those businesses that they actually formed a blockade, the Valdez Narrows, and 60 boats formed a wall stopping oil tanker traffic for 2 days until they got a response. So we do not want to get to that. We do not want to get to that level of frustration, and so I hope that we can get answers for the people of the Gulf, and I appreciate your leadership in this area for your region.

Chair LANDRIEU. Thank you, Senator Cantwell.

I just want to follow up with one question, if we could, and then go to our second panel. I want to get clear from the SBA, following up on what Senator Vitter said, because this is very important. You have testified that the SBA is authorized to use the claim from BP, but you testified that it is difficult to press that claim. Is that correct? Yes or no.

Mr. RIVERA. Yes, ma'am. That is correct.

Chair LANDRIEU. So one strategy would be for us to help you make it less difficult to press that claim with BP. Correct?

Mr. RIVERA. Yes, that would be a good strategy. But from our perspective, our experience has told us to provide the disaster assistance directly and more expeditiously to the small business. It is just easier for us to deal directly with the borrower and then have them—while they go through the claims process with BP——

Chair LANDRIEU. I appreciate that, Mr. Rivera, but, you know, a lot of us are not interested in what is easier for the Small Business Administration right now. We are interested in what is easier, less stressful for these businesses that have been through quite a bit. So we are going to press that.

But I want to ask you this: Does the Small Business Administration have the authority now to defer payment of principal and interest on a case-by-case basis? Do you have that authority now, and are you exercising it for the loans that are outstanding?

Mr. RIVERA. Yes, ma'am.

Chair LANDRIEU. Do you know how many people have requested loan deferrals of principal and interest in the Gulf since the spill?

Mr. RIVERA. We have 64 currently that we have deferred.

Chair LANDRIEU. Okay. Now, under the current law, however, while you can defer principal and interest, it is my understanding that that interest continues to accrue? Yes or no.

Mr. RIVERA. Yes, that is correct.

Chair LANDRIEU. So you will need a law change in order to have that interest forgiven or some portion of it forgiven?

Mr. RIVERA. Well, we do not currently have the authority to forgive any part or any portion of a loan.

Chair LANDRIEU. Some of us have recommended, as you know, for some of that to be forgiven to give some help to the 11,700 businesses that are struggling to pay these loans back as well as to try to expedite different opportunities for them moving forward.

And my last question: Of the 27,000 claims that have been requested of BP, what is the average amount of those claims or a median to give us an understanding? We are talking about $5,000, $10,000, $20,000, or $2,000?

Admiral ZUKUNFT. These are mostly in the $2,000 to $2,500 range.

Chair LANDRIEU. Okay. I need an average, and I would like you to submit it in writing. I need the median and I need an average, because I want to understand two different things here. It is important. We have 27,000 claims that have been filed. I am going to guess they are approximately anywhere from $1,000 to $10,000, relatively small. The SBA, on the other hand, has the authority to lend up to $2 million. Some businesses need more than $5,000 right now. May I suggest this: $5,000 is not going to get them very

far. There has got to be something between the $2 million loan possibility and a submitted claim for $5,000 every 30 days to help these businesses, and that is what this hearing is about.

We have got to go to the second panel. I am going to ask the second panel to come up, and thank you all very much.

The second panel will come forward, and I will introduce them as they come because our hearing is going to end at 4 o'clock.

Mr. Darryl Willis is Vice President for BP America. He is currently overseeing the claims process, so he can give us some understanding of the 27,000 claims that are being filed and how that is being taken care of. Mr. Willis, if you will have a seat, please.

Mr. Voisin is a Board Member of the Gulf oyster industry. Mike is owner of Motivatit Seafoods and has been in my view an extraordinary, strong voice for not just the oystermen but for fishermen in many places.

Ms. Carmen Sunda is the Director of the Louisiana Small Business Development Center. Carmen, you have got more than 25 years of experience. You are a veteran. You have been through Hurricanes Katrina and Rita, so you have a pretty good handle of what many of the businesses in this area have been facing.

Mr. Byron Encalade is the owner of Escalade Fisheries in East Pointe a la Hache in Plaquemines Parish—he is seated in the audience. Thank you very much for being here—one of the minority oystermen in our area who is here to testify on a different Committee, and we are very grateful to have his presence.

Let us start with you, Mr. Willis, if we could, please.

STATEMENT OF DARRYL WILLIS, VICE PRESIDENT FOR RESOURCES, BP AMERICA

Mr. WILLIS. Chairwoman Landrieu, Ranking Member Snowe, members of the Committee——

Chair LANDRIEU. Please push this closer to your mouth. Thank you.

Mr. WILLIS. Okay. 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 this never happens again. As a responsible party under the Oil Pollution Act of 1990, we will carry out our obligations 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. So I am prepared to answer your questions regarding the

claims process. I cannot, however, respond to inquiries about the incident itself or the investigation.

Above all, I want to emphasize that the BP claims process is integral to our commitment to do the right thing. We will be fair and expeditious in responding to all claims. To date, we have paid out more than $37 million in claims. We understand how important it is to get this right for the residents and businesses, as well as for the state and local Governments.

To that end, we have established 24 walk-in claims offices operating in Louisiana, Mississippi, Alabama, and Florida, and a call center is operating 24 hours a day, 7 days a week. We have also established an online claims filing system to further expand and expedite our capacity to respond to potential claimants. All together, we have nearly 700 people handling claims with over 400 experienced claim adjusters on the ground working in the impacted communities. 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.

Our focus is on the individuals and small businesses whose livelihoods have been directly impacted by the spill and who are temporarily out of work. These are fishermen, crabbers, oyster harvesters, and shrimpers with the greatest immediate financial need. BP is providing expedited interim payments to those whose income has been interrupted. Approximately 13,500 claims have already been paid, as I said, totaling over $37 million.

The claims process was established to fulfill our obligations as a designated "responsible party" under the Oil Pollution Act of 1990. Thus, we are guided by the provisions of OPA 90—as well as by U.S. 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 intend to use the $75 million cap in the OPA 90 statute to limit our obligation to pay these claims. We expect to exceed it, and we will not seek reimbursement from the Oil Spill Liability Trust Fund.

In conclusion, I would like to add a personal note. My ties to the Gulf Coast run deep. I was born and raised in Louisiana. I went to high school there, college, and graduate school there. My family spent many summers vacationing along the Gulf Coast. My mother lost her home of 45 years in Hurricane Katrina, and the recovery process was time-consuming and at many times frustrating. I know firsthand that the people in this region cannot afford lengthy delays in addressing economic losses caused by this spill. I volunteered for this assignment because I am passionate about the Gulf Coast. It is the place I call home, and I want to be a part of the solution.

With that, I welcome your questions.

[The prepared statement of Mr. Willis follows:]

United States Senate

Committee on Small Business & Entrepreneurship

Darryl Willis

Vice President, Resources, BP America

May 27, 2010[1]

Chair Landrieu, Ranking Member Snowe, 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

[1] 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.

economic losses caused by this spill. BP is committed to ensuring that they do not experience them.

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.

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.

Chair LANDRIEU. Thank you, Mr. Willis, and that is very comforting for those of us looking for some comforting messages these days, and we appreciate that. You have got a big job ahead. We want to try to help you do it.

Mr. Voisin.

STATEMENT OF MIKE VOISIN, OWNER, MOTIVATIT SEAFOODS

Mr. VOISIN. Thank you, Senator Landrieu and Senator Snowe, for this opportunity to speak to you, The Louisiana seafood community, of which my family has been a part for now eight generations—I am seventh generation—if I push the button, it is better?

Chair LANDRIEU. Go ahead. That is better.

Mr. VOISIN. Okay. Of which I am seventh generation and my sons are eighth generation, comprises about 17,000 commercial fishermen. It indirectly affects over 31,000 jobs and has an overall influence of over 91,000 jobs. Last year, we accumulated in the neighborhood of $2.9 billion worth of seafood sales. We are number one in shrimp, oysters, crawfish, alligator. We are number two in blue crab and fin fish, and our overall production ranks us number two in the country, behind Alaska, at about 1.5 billion pounds annually here in the Gulf of Mexico.

The tragic event that occurred on April 20th was a tragedy in the Louisiana community. We have an oil and gas community that produces subsea, sub-ocean floor resources and harvests that resource similar to us in the fishing community that harvest that resource above the sea floor. It was a tragedy. Half of my family works in the oil and gas community. Half of them work in the seafood community. It was a tragic event and one that hopefully will not be repeated.

You know, the world generally is not interested in the storms that you encounter but whether or not you bring in the ship. And I am here to tell you that we will bring the ship in. This is a challenging moment in time. The seafood community is challenged by this.

The claims process at BP as set up, in my opinion, at this point is adequate to accomplish the goals to help people back to the dock. We met with BP probably 8 days after the event occurred, and what we saw was a willingness for them to put in place a response that would be adequate to satisfy the needs of the seafood community. Is it a perfect response? No. But it is very adequate. You have to remember this is our fifth major disaster in a 5-year period, and we are used to 2½- to 3-year delays. We saw claim checks being written in 2½ to 3 weeks. It was almost miraculous in a lot of people's minds that we could see that occur. It will not be perfect, but it is much better than what we have seen in the past.

Today we are beginning to see some processing plants sit idle and challenges relating to that. We are in the middle of our spring larval reproductive cycle in the gulf, and there is lots of concern about what is going to happen there.

We are concerned long term. One of the greatest challenges today is probably the emotional stability of a lot of people. A lot of people are on edge as a result of a lack of knowledge about what is going to occur as a result of this.

I would like to thank the Chairwoman for putting in the Southeast Hurricane Small Business Disaster Relief Act of 2010 and support that concept of aiding some of these people that have Small Business Administration loans so that they could get some interest relief. That is critical at this point. They are in debt up to their ears or eyeballs, or however you want to say it, recovering from four major events over a 5-year period.

The seafood community is a good community. It is one, as I have said, my family has been in a long time.

You know, Charles Darwin said one time, "It is not the strongest of the species who survive nor the most intelligent, but the most responsive to change." And I have lived in South Louisiana, and I can tell you that people there are very resourceful, probably the most resourceful people I have ever met. They will change. They will adapt. They will accomplish working through this challenge. Will it be a perfect challenge? No. Will we respond accordingly and appropriately at every step? No. But I will assure you we will come out on the other end better than we did prior to April 20th. This tragedy hopefully will help us turn the lemons that we have been dealt into lemonade, and I stand here and I am ready to answer any questions. And I am glad I am sitting next to Mr. Willis because, honestly, the seafood community has built a relationship with BP that I think is positive towards helping us rebuild a better South Louisiana.

[The prepared statement of Mr. Voisin follows:]

Testimony of Mike Voisin

Owner of Motivatit Seafoods

Houma, Louisiana

May 27, 2010

My name is Mike Voisin and I'm a Board Member of the Gulf Oyster Industry Council. I am the owner of Motivatit Seafoods, an oyster processing and farming company in Houma, Louisiana. Motivatit Seafood is a family-owned business, established in 1971. I am a 7th Generation oysterman dating back to 1770 when the first Voisin arrived in Louisiana from France.

We currently employ over 200 Captains and Deckhands that harvest oysters along Louisiana's coast and employ over 100 individuals at our 2 processing plants in south Louisiana. We produce annually on our 10,000 acre oyster farm approximately 20 million pounds of in-shell oysters annually. This generates about 15 million dollars in annual sales.

The Louisiana Seafood Community is made up of 17,000 commercial fishermen indirectly affecting over 31,000 jobs with an overall influence of over 91,000 jobs. Total seafood sales total $2.9 billion. We are #1 in production of shrimp, oysters, crawfish and #2 in blue crabs and finfish with an overall production of over 1.5 billion pounds. Louisiana produces over 250 million pounds of in-shell oysters annually that accounts for over 30% of all oysters produced in the United States. The Gulf of Mexico states produce over 500 million in-shell pounds of oysters annually which account for over 65% of all oysters produced in the United States of America.

On May 24, 2010, Commerce Secretary Gary Locke declared a fisheries disaster for commercial and recreational fisheries in the Gulf of Mexico, as a result of the ongoing impact of the Deepwater Horizon oil spill. NOAA had closed portions of the Gulf of Mexico to fishing based upon the trajectory of the spill since May 2, 2010. These fisheries closures allowed the SBA to provide Economic Injury Disaster Loans. The fisheries closures, as of May 24th, covered 19 percent of Federal waters in the Gulf of Mexico.

Soon after the challenging events of April 20th, representatives of the Louisiana seafood community met with BP and encouraged them to use the assets of fishing vessels to help with challenge. Soon thereafter, BP announced a vessel of opportunity program and have signed up

over 11,000 seafood harvesting vessels to help with this challenge. We also encouraged BP to establish a program to bring our harvest vessels and processing plants back to normal operations. They responded appropriately by establishing an aggressive and appropriate claims program that enables processing plant workers, fishermen and processers to make claims and to receive funds to be able to bridge financially this challenging concern.

I thank the committee for the opportunity to testify today. I am happy to represent the seafood community on this panel. I look forward to any questions you may have.

Chair LANDRIEU. Thank you, Mr. Voisin.
Ms. Sunda.

STATEMENT OF CARMEN SUNDA, DIRECTOR, GREATER NEW ORLEANS REGION, LOUISIANA SMALL BUSINESS DEVELOPMENT CENTER

Ms. SUNDA. Chair Landrieu, Ranking Member Snowe, members of the Senate Committee on Small Business and Entrepreneurship, I am Carmen Sunda, Director of the Louisiana Small Business Development Center Greater New Orleans Region. I appreciate the opportunity to tell you of our experience with small businesses in crisis since the BP oil spill.

I would like to thank you, Senator Landrieu, and SBA Administrator Karen Mills for your visit to New Orleans on May 10th to open the Business Recovery Centers and meet with local officials. Senator, this is the third time in 5 years that the Louisiana Small Business Development Center has mobilized to assist businesses impacted by disaster events. Long-term technical assistance over these 5 years has included business strategies, revised business models, relocation strategies, assistance with loans, cash flow projections, financial statements, and even marketing the business globally. SBDC also provides business continuity strategies to prepare for any business interruption. Since 2005, we have assisted thousands of small businesses in recovering and rebuilding.

On May 3, 2010, the Greater New Orleans Region SBDC collaborated with local partner Seedco Financial and staffed the Southeast Louisiana Fisheries Assistance Center in Belle Chasse, Louisiana. At that time, this was the only assistance center open, and in 3 days, nearly 200 businesses sought assistance. By May 10th, there were ten business recovery centers opened, and by May 17th, 12 business recovery centers were open. Since May 3rd, the SBDC has assisted over 800 impacted businesses.

The LSBDC learned how to respond with Katrina/Rita. We improved it with Gustav/Ike, and now the SBA, the SBDC, the LED partnership is responding to the BP crisis fairly smoothly. Regrettably, we are getting good at this.

We do truly appreciate the coordinated effort of the SBA. LSBDC will be working with these impacted businesses for a long time to come.

Nearly all the impacted businesses are seasoned disaster survivors, as my colleague has said. And for the fisheries, fishing is just not what they do. It is their culture, their heritage. Some of them have expressed that no amount of money in the world can pay them for their heritage. We need to try to appreciate and understand the deep cultural issues.

A lot of businesses tell us, "We know how to prepare and recover from storms, but this is worse than any hurricane we have ever had." People cannot really estimate the long-term losses or the long-term impact because they cannot define "long term." Does it mean this season, a few years, a lifetime? To think that this will effect more than this season is unthinkable, and for many this was the season. Yet they are all aware that the damages being done is going to change their lives immeasurably. The uncertainty is probably the most devastating part of it.

As has been stated many times, most of these businesses that were impacted already have disaster loans on their homes and businesses from Katrina/Rita and Gustav/Ike. Even with the deferments on existing disaster loans and deferments on the payments of the new loans, they are still afraid they will not be able to pay the loans and that they will lose their property, their home, their boats. This is what they express to the SBDC. They all ask us the same question: "What if BP does not pay enough money on my BP claim? How am I going to pay these loans back without income?"

We are also seeing a multiplier effect that goes beyond the fisheries, the docks, and the seafood processors. We have charter boats and vacation property owners whose customers have canceled. They have no income. We have beauty salon operators, interior decorators, and construction contractors with decreased sales and contracts on hold or canceled; real estate owners with rental properties by people who cannot pay the rent.

A tugboat owner whose contracts were put on hold; he has $10,000 a month in insurance. BP has told him that his tugboat is not eligible for vessels of opportunity because he is too big.

We have got a used car dealership that his monthly sales are down $20,000.

Tackle shops report sales down 80 percent. In fact, if he does not get some relief soon, he is going to be out of business in 6 weeks.

And some of the retail sporting goods stores that are miles away from the coast, up in the Jefferson Parish area, report the same 80-percent drop in fishing-related sales.

A Mardi Gras business has severe cash flow challenges because this is the time of year that the Krewes put their downpayments on all the stuff. And the customers that they have have lost income or are so uncertain about the future, they are not spending the money now.

And then we had a manufacturer of crab traps trying to figure out how to retool and manufacture something else to keep from going out of business.

In addition to assisting these businesses with economic injury, we are also assisting the businesses with the SBA loan disaster deferments and help them through the BP claims process and, most especially, making sure that all their business accounting records and documentations are current in anticipation of the next BP claim phase.

We also have in the SBDC two Vietnamese consultants and one Hispanic. Two of our consultants, as you know, are very experienced in the fisheries and speak fluent Vietnamese, so that has been a big help.

In closing, the SBDC would like express support for Senator Mary Landrieu's SBA disaster assistance relief legislation. The small businesses in our region are still struggling daily. The current economic crisis due to the BP spill just complicates the businesses' full recovery. In many cases, the largest debt payment is the SBA disaster loan, and many small businesses have had to lay off employees or reduce staff hours to part-time. So this waiver of the interest on the SBA disaster loans of up to $15,000 would real-

ly make a huge difference for these businesses and jobs would be saved.

Thank you. I would be happy to answer your questions.

[The prepared statement of Ms. Sunda follows:]

Greater New Orleans Region
3330 North Causeway Blvd., Suite 422
Metairie, LA 70002
Phone: 504-831-3730 Fax: 504-831-3735

Senate Hearing Written Testimony – BP Oil Spill - May 27, 2010
Presented by
Carmen Sunda, Director
Louisiana Small Business Development Center, Greater New Orleans Region

Chair Landrieu, Ranking Member Snowe, Members of the Senate Committee on Small Business and Entrepreneurship, I am Carmen Sunda Director for the Louisiana Small Business Development Center Greater New Orleans region, servicing the parishes of Orleans, Jefferson, St. Bernard, Plaquemines, St. James, St. John, St. Charles, Assumption, Terrebonne and Lafourche. I very much appreciate the opportunity to tell you of our experience with small businesses in crisis since the BP Oil Spill.

I would like to personally thank Senator Mary Landrieu and SBA Administrator Karen Mills for their visit to New Orleans on May 10, 2010 to open the Business Recovery Centers and meet with local officials. Senator Landrieu, you and Administrator Mills truly set the tone for the commitment between the SBA disaster team, the local SBA office and SBDC staff. You also provided an opportunity for a discussion with other local partners including lenders and chambers. This discussion was particularly important as not only is this the third disaster in five years, but many businesses are already heavy with debt and disaster debt as they have struggled to regain full economic recovery.

Background of Louisiana Small Business Development Center Network Disaster Response

This will be the third time in five years that the Louisiana Small Business Development Center Network (LSBDC) has mobilized to assist businesses impacted by disaster events. Since 2005, the Louisiana Small Business Development Center Network has assisted thousands of small businesses in recovery, rebuilding, and expansion.

Responding to the Katrina/Rita disaster was a learning curve for LSBDC. However, after just a few short months, the LSBDC was able to mobilize and provide SBDC staff at 2 DRC's and through outreach in the impacted area and over the next 3 years provided assistance to thousands of small businesses.

Long term technical assistance has included revised business strategies and business models, relocation strategies, assistance with loans, cash flow projections, financial statements and assistance in marketing the business globally. The LSBDC also began working with small businesses on business continuity strategies in order for them to be better prepared for any type of business interruption in the future.

In 2008 when Gustav/Ike again struck the Gulf Coast Region, the LSBDC along with funding partners Louisiana Economic Development and the SBA were much better prepared. The LSBDC network implemented their disaster response plan and within a week of the storm's passing LED, LSBDC and SBA had opened Business Recovery Centers for impacted businesses. Some of these recovery centers co-located with SBDC centers and SBDC staff was available with the SBA disaster staff. This provided a coordinated, improved and more efficient disaster response operation. Businesses had easy access to SBDC consultants and SBA disaster staff. LSBDC consultants continued to assist businesses in recovery and rebuilding strategies and strategies to improve business operations. It can be noted that it was our experience that as a group the fishermen were much better prepared for the impact of Gustav/Ike.

As the vigilant champion of the small business owner, LSBDC and the LSBDC Greater New Orleans Region has been in the trenches through the past five years of disaster recovery and has continued to position programs and services to address small businesses' ongoing challenges for full economic recovery. The LSBDC 2010 initiatives focus on business continuity, access to capital, business expansion and job creation.

Louisiana Small Business Development Center Network Response to Small Businesses Impacted by the BP Oil Spill

In the last week of April 2010, the LSBDC took action to address what was becoming a major impact to small businesses in the coastal regions. LSBDC State Director contacted funding partner Louisiana Economic Development to again set up a coordinated effort between SBA, LED and the LSBDC. LSBDC GNOR consultants conducted outreach in Venice, Louisiana in an effort to assess the needs of the impacted fisheries and other small businesses. LSDBC GNOR quickly collaborated with local partner Seedco Financial to develop and implement a response for those most vulnerable businesses. On May 3, 2010 the LSBDC GNOR and Seedco Financial staffed the Southeast Louisiana Fisheries Assistance Center, located in Belle Chasse, Louisiana and opened the Center full time. The Southeast Louisiana Fisheries Assistance Center was established about two years ago and was well known to the fisheries. On May 3, 2010, this was the only assistance center opened and in three days nearly 200 businesses mostly fisheries had received assistance including evaluating the impact of the BP oil spill on their livelihood.

During the week of May 3, 2010, LSBDC, LED and SBA coordinated the opening of Business Recovery Centers and on May 10, 2010, ten centers were open to assist impacted businesses including the Southeast Louisiana Fisheries Assistance Center in Belle Chasse. Two additional Business Recovery Centers were opened on May 17, 2010, bringing the total of Business Recovery Centers to 12 centers in eight impacted parishes. These centers are staffed with SBA and an SBDC consultant. In addition, since May 10, 2010, the SBA and SBDC have conducted outreach and participated in nearly a dozen or more Town Hall meetings and outreach events.

The LSBDC consultants in the Business Recovery Centers are providing services that include assessing business economic injury, evaluating the business's strength and cash flow projections, counseling on how to best overcome the effects of the disaster, and most importantly, reviewing options to ensure each business makes decisions that are appropriate for its situation. LSBDC is also assisting businesses with any SBA disaster or other loan deferments. All consultants have updated information on other assistance available such as food stamps, BP claims and process and other issues. Some of the Business Recovery Centers include the SBA, SBDC and Catholic Charities, Dept of Social Services and BP claims staff.

The LSBDC would also like to say how much we appreciate the coordinated effort of the SBA with their local

LSBDC partner. This is very important to the impacted businesses and their recovery as the LSBDC will be working with these businesses long after the SBA disaster team has gone and on many more business issues than just loans. This has been most collaborative effort with the SBA disaster team we have ever experienced. The SBA disaster team staff is very supportive. They understand how the SBDC can assist the businesses beyond an SBA disaster loan. We provide each other information and are becoming a well oiled team. For example, the SBA disaster deferment letter was a joint effort, LSBDC had the template ready when SBA arrived on May 10, 2010, together we tweaked it, and now assisting clients with an SBA disaster loan deferment is a cooperative effort.

We learned with Katrina/Rita got better at it with Gustav/Ike and now the SBA/SBDC/LED partnership for the BP disaster response is a fairly smooth operation. Regrettably, we are getting good at this.

The LSBDC GNOR covers 10 parishes and normally has 7 full time employees, 5 PT employees and 2 graduate students. Some of the LSBDC GNOR normal operations staff is maintaining the normal operations of the SBDC, assisting clients not as yet impacted by the BP spill. In order to respond to the impacted businesses due to the BP spill, LSBDC put 8 additional experienced SBDC consultants on short (60 days) contracts. Fortunately the LSBDC has a number of experienced consultants who have worked with LSBDC during the last five years and are available for contract work. These 8 additional consultants are being paid through the LSBDC network's regular funds and carry forward funds. In three weeks, almost $30,000 has been paid to the contract consultants and there is always a need for additional funds after a disaster.

To date the LSBDC GNOR has assisted over 800 impacted clients (over 600 since May 10, 2010).

Issues and Challenges of Impacted Businesses

Nearly all of the impacted businesses are seasoned disaster survivors. Many are quite worried, stressed and scared. They appear in many cases to be "shell shocked". They cannot believe this is happening to them again. This is extremely devastating for the fisheries and the coastal communities. Fishing is just not what they do. Fishing is their culture, their heritage. Some have expressed that no amount of money in the world can pay them for their heritage. Many have no clue what they would do, if they cannot fish. Fishing is all they know. Some clients are only functional literate. This is anticipated to create much trauma in the family and for the children. We need to appreciate and to try to understand the deep cultural issues.

Many are having an extremely hard time coming to grips with impact. Businesses tell us that "we know how to do hurricanes and can recover from storms, but this is worse than any hurricane we have ever had". The worst part is that it has no foreseeable ending. People can't estimate the value of their long-term losses or the long-term impact, because they can't define "long-term" – does it mean this season, a few years, a life-time? To think that this will effect more than this season is *unthinkable*. Yet they are all acutely aware that the damage being done is going to change their lives immeasurably, indefinitely. The uncertainty is devastating.

Many of the people impacted have disaster loans on their homes and businesses, from Katrina/Rita, Gustav/Ike. They are afraid to make another loan, even if they defer the existing loans and don't have to start paying on the new SBA EIDL for a year. They are afraid they still won't be able to pay the notes and that they will lose their property – home, boats, whatever. They all ask the same question, "what if BP does not pay enough money on my BP claim, how will I pay these loans back without income"?

The anxiety and anger is turning to depression. Some of the businesses in the impacted communities are there

not because they have been fisherman all their lives, but because they moved there to "live and work their dream". We have seen grown men break down and cry.

We have had clients report that local banks rejecting non disaster loan deferment requests. This is a two fold challenge. The client cannot pay the non disaster loan and the local banks would be challenged if their local customers cannot pay the loans.

While the LSBDC team is assisting many fisheries and directly related seafood industry businesses (docks, seafood processors), we are also seeing the multiplier effect. Here are some examples.

- Charter boats and vacation property owners whose customers won't risk the cost of airfare, lodging, etc. if they can't fish or enjoy the beach.
- Beauty salon operators, interior decorators, and construction contractors who have seen a drop in business/sales, have had contracts and orders put on hold or cancelled.
- Real estate owners with rental properties occupied by fishermen who can't pay the rent. Client anticipates that the situation will get worse. Client does not want to evict anyone, because vacant property is uninsurable.
- Tugboat owner who is in limbo with a number of outstanding service contracts for projects that were scheduled to take place. Once the oil spill happened, those contracts were all put on hold while the companies waited to see what would happen with the oil spill. Now that the oil spill has moved into the area, it is unclear when the contracts will pick up again, but it certainly won't happen for quite awhile. Thus, they have not done any work in a month. They have $10,000/month in insurance costs for the boats. BP has told them that they are not eligible for Vessels of Opportunity because the boats are too large.
- Businesses connected to off shore drilling report that these contracts and sales are at a standstill.
- A used car dealership stated his monthly sales are down about $20,000.
- Tackle shop owner reported his sales are down 80% over same time last year. He can maybe hold on for 6 more weeks before closing doors. He has a large inventory because this is his busiest time of the year.
- Local retail sporting goods stores hours and many miles away from the coast report the same 80% drop in sales from the fishing/bait and tackle part of their business.
- A local resident in impacted coastal community is very concerned that if her house floods from a future storm, the oil will get into her house and she will have no place to live because of oil contamination.
- A Mardi Gras business has severe cash flow challenges as this is the time of year that Krewe members make a down payment. Many of the clients have had loss of income or are so uncertain about the future that they are not spending the money now. Without the down payments inventory cannot be ordered and work cannot begin on costumes.

- A manufacturer of crab traps is trying to figure out how to retool and manufacture something else to keep from going out of business.

Small Businesses and the SBDC Experience with BP Claims and SBA Disaster Loans

The BP claims staff that the SBDC meet and interact with all express their commitment to assist the impacted businesses. Our experience through interaction with the BP claims staff is that BP staff is apologetic and state publically that BP is the responsible party and will pay legitimate claims. Businesses have reported much confusion about the claims process and even BP has admitted that they "do not have a template" for this type of situation. BP Claims staff report that they are evaluating and revising how they handle the claims as they go, especially as they come across issues that must be immediately addressed such cultural and language challenges and barriers. Many businesses report to SBDC staff that they are worried about what the next step is in the claims process after the initial ($2,500 to $5,000 payments). Many businesses express concern and anxiety about how much BP will be able to pay them. Businesses state that the initial claims money will not go far and it is not enough to meet even one months operating costs in some cases.

SBDC is assisting businesses with the BP claims process by making sure all the business accounting records and documentation is current and in order in anticipation of the next BP claim phase.

Many small businesses come into the BRC for the information on SBA Disaster Loans but take a wait and see attitude. SBDC staff anticipates more loan applications in the coming weeks as businesses run out of money. As stated early many impacted businesses already have disaster debt along with other debt. Prior to the BP event, the SBDC had been working with an increasing number of businesses with cash flow challenges. These cash flow challenges vary, but a typical case is that sales are not enough to support the amount of debt. The SBDC has seen many businesses without debt before Katrina that are now debt heavy and cannot take on any more debt. In many cases, the current economic crisis due to the BP spill just complicates the business's cash flow issues.

The LSBDC would like to express support for Senator Landrieu's SBA Disaster Interest Relief Legislation. As has been expressed many times, small businesses in our region still struggle daily with a number of recovery issues. In many cases the largest debt payment is the SBA disaster loan. As a result of the cash flow issues, small business owners have had to layoff employees or reduce staff hours to part time. The waiver of interest on the SBA disaster loans of up to $15,000 would make a huge difference for many of the small businesses in our region. Jobs would be saved and the increased cash flow would be a much welcome relief for these businesses in their recovery efforts. The SBA Disaster Interest Relief would especially be welcomed as so many of the same businesses are now adversely impacted by the BP spill.

Issues and Challenges for the Louisiana Small Business Development Center Network

Chairwoman Landrieu, disasters are as unplanned as are the costs to respond to them. That unfortunately, works for SBDCs as well as it does for SBA loans and loan making. There is a critical need to consider the technical assistance costs at the same time we consider the anticipated costs of SBA disaster loan assistance. In your state, the Louisiana Small Business Development Center has established itself as the long term provider of technical assistance. We have clients like Jamie Bergeron, who recently testified before this committee and has been working with the LSBDC since hurricane Katrina. We have worked tirelessly with Tina Emenes and Ronee Holmes who both have received over 500 hours of assistance since 2005.

We ask the committee to ensure that technical assistance funds are requested when disaster loans funds are appropriated.

The LSBDC is stretched extremely thin in assisting the ever changing and increasing number of challenges and businesses impacted by the BP oil spill. Currently the LSBDC is using our own funds to pay for the extra consultants needed to staff the Business Recovery Centers. Our network is attempting to staff 12 Business Recovery Centers, conduct two day outreach visits to local communities, and maintain regular services to clients. We believe we will be providing technical assistance to businesses impacted by the BP Oil Spill for at least the next 2 to 3 years.

Chair LANDRIEU. Thank you very much. I think all three of your testimonies were really terrific and right on point.

Let me start with you, Mr. Willis, and I think that Ms. Sunda has outlined beautifully in her testimony the atmosphere, the situation, and the breadth of the impacts of this. While we focus a great deal on the independent oil and gas industry, which has also been put on pause while these reviews take place and the thousands of jobs and we focus on fisheries, I think her touching on Mardi Gras Krewes and beauty salons and camp operators and B&Bs and hotels helps us understand, unfortunately, the potential of the expansion of the economic negative impacts in this region. So I want to ask you this: The SBA testified that under the law they are authorized to use the BP claim as collateral, therefore, basically putting you all on the hook to pay these loans back if someone wanted to borrow $50,000 or $100,000 or $1 million based on actual income data, tax receipts, et cetera. Are you of the understanding that that could be a process that would work for you all? Are you willing to consider using your responsibility under the law as collateral? Or would you suggest that we try this a different way?

Mr. WILLIS. Chairwoman Landrieu, we are responsible for the damages that have been caused by this spill, and my answer to your question is that our bias would be for a person, a business, not to take out a loan but to file a claim and get reimbursed through the claims process. We have a process that is efficient. We have processed many individual claims. So far we have processed some smaller business claims, but we are prepared to process larger, more complex business claims.

Just to give you an example, when we started this process, it was going to take about 30 to 45 days to process an individual claim. Being from Louisiana, having been fishing and shrimping and crabbing, I knew that people needed money faster than 30 or 45 days, so we cut our 45-day process down to a 48-hour process and very simple documentation that would get money into the hands of the community quickly.

If we do not fulfill our obligation to pay a claim within 90 days, it goes over to the Coast Guard for them to make a decision. What we announced yesterday was that we were putting an intermediary in place to make sure that as we evaluate claims, we are doing it in a fair, efficient, practical way. But I would encourage a business, before they take a loan, to file a claim.

Chair LANDRIEU. Okay. Let me ask you this: Are you prepared to take claims up to $1 million?

Mr. WILLIS. Yes.

Chair LANDRIEU. Are you prepared to take claims up to $5 million?

Mr. WILLIS. Yes.

Chair LANDRIEU. Are you prepared to take claims up to $10 million?

Mr. WILLIS. I would assume so.

Chair LANDRIEU. Okay. Are you prepared to take claims, let us say, up to a certain amount that would cover them through 6 months and then take a second and third claim from the same—I mean, as long as they are legitimate and they show you, because

this could go on for a year, 2 years, as has been testified. We do not know how some of these impacts are going to be. So you are not only open to take large claims but potentially process multiple claims for the same claimant?

Mr. WILLIS. What I will say is that we are going to make sure—my job is to make sure that the process we put in place for individuals and businesses is practical, is reasonable, and is fair, and it is expeditious. So I want to pause and say that although we are paying individual claims in 48 hours, it is going to take a little bit longer to pay business claims because they are more complex. There is more data that is going to be required to understand and substantiate the claim and to prove that it is a legitimate claim. But we realize that this is not going to end when the well stops flowing, that we will have to be in this for the long haul, and we will be.

Chair LANDRIEU. Okay. Ms. Sunda, what are you suggesting to businesses that come, if they do have reservations about loans? Are you able to give them some information about this claims process? And what are your business people telling you about their ability to access BP's claims process?

Ms. SUNDA. That was a long question, but I think I got it.

Chair LANDRIEU. Okay. I am sorry.

Ms. SUNDA. Chair Landrieu, when someone comes in, we look at all their options, and the first thing we ask is do they have an existing SBA disaster loan. That is number one. And so the first thing we do is put the paperwork through to get that loan deferred.

Then the second question almost simultaneously: Do you have a disaster loans? Have you filed your BP claim? And so we are able to get information from the BP people on the ground, and so I, too, like Mike here, our experience has been that they are pretty open and you can get to them rather quickly, so we get good information, to answer your question.

Chair LANDRIEU. So would it be fair to say that you are encouraging them to seek relief through the claims process first and then only fall back on loans if there is some trouble or situation that is not being handled appropriately through claims?

Ms. SUNDA. Correct. And many of them come for the information. You know, our job is to arm them with information, so they come for the information about all the options available to them, and then many would take the new application but take a wait-and-see attitude.

Chair LANDRIEU. One more question. When you defer these loans, which you can do on a case-by-case basis, which you are doing and we are grateful for the 11,000 folks in the Gulf—the 11,700 that have them, you are not yet able, however, to waive the interest without action by this Congress. Correct?

Ms. SUNDA. Correct.

Chair LANDRIEU. Okay. Senator Snowe.

Senator SNOWE. Thank you all for being here today.

Mr. Willis, in the processing of claims—and I mistakenly mentioned 400 earlier, claim centers. It is 400 individuals and 2,400 claim centers. Is that correct?

Mr. WILLIS. It is 400 individuals in 24 claim centers.

Senator SNOWE. In 24, right.

Mr. WILLIS. Centers across the four states along the Gulf Coast.

Senator SNOWE. In four states, okay. First of all, I would be interested to know what percentage of claim amount has not been paid overall?

Mr. WILLIS. We have received—we have paid—let me start with the number that is in my head. We have paid around 13,000 claims, and we have received around 27,000 claims.

Senator SNOWE. And what about the amounts? What is the average amount? And what is the percentage of the claims—I mean, what is submitted by individual small business owners——

Mr. WILLIS. Right. So 90 percent of the claims have been submitted by individuals; 10 percent of the claims have been submitted by small businesses. Of the claims that have been paid, 88 percent have been paid to individuals, 12 percent to small businesses to date.

Senator SNOWE. Okay. What is the average claim?

Mr. WILLIS. The average claim is $3,100. That is the average if you just sum it all up.

Senator SNOWE. Are these claims—I mean, obviously that is a limited amount given the duration that they expect to be out of service or out of business. So what does that represent as a percentage of a claim on average, the $3,100?

Mr. WILLIS. I do not understand your question. I am sorry.

Senator SNOWE. Well, if you are paying an individual $3,100, did they file a claim for $20,000? That is what I am trying to understand here.

Mr. WILLIS. I understand. Typically, what we have been doing—and I will tell you how it works, actually. I was at one of our claims centers in Venice, Louisiana. Actually, I opened it up on the 8th of May. And what happens is a person comes in who has been hurt or damaged by this spill, and we ask them to bring their claims number, and we ask them to bring some substantiating documentation with them, either a tax return, a paycheck for 2 weeks, a deposit slip showing how much they made, or even trip tickets or fish tickets, just something to substantiate their monthly income. And with that information and the application, they can walk into a claims center—and I have seen it for myself—and 45 minutes after providing their documentation, walk out with a check compensating them for 30 days' worth of income.

Senator SNOWE. So the $3,100 represents 30 days of income?

Mr. WILLIS. The average, and it is a dangerous number to look at because the mean is actually a little bit higher than that. But the average is $3,100.

Senator SNOWE. Well, what is BP's estimate in terms of being able to turn this around for individuals and fishermen who are depending on the sea or marina owners or restaurants that are all dependent on the fishing industry? That is a very limited period of time, wouldn't you think, the 30 days?

Mr. WILLIS. Yes, and what is going to happen is if this spill continues for another 30 days, they will automatically receive a second payment.

Senator SNOWE. Okay, so——

Mr. WILLIS. And if it continues another 30 days, they will receive a third payment, as long as they are being affected by the spill.

Senator SNOWE. Okay. And if they, for example, submitted a full claim, when would they receive a full claim? How long would this go? On a monthly basis——

Mr. WILLIS. That is actually——

Senator SNOWE. What do you consider to be a full claim? On a monthly basis? I mean, what if this is of 6 months' duration? Obviously, given what has happened here and the enormity of it and being able to clean this up, many of these individuals may be out of business for a long period of time. At what point are you going to determine that they need to be paid more in advance?

Mr. WILLIS. We are going to keep them whole for the damages that they have experienced and the income that they have lost. What we have done is put what I would call an interim process in place to get money into the community quickly. We could have designed the perfect process and processed the perfect claim, but it probably would have taken longer than 48 hours to get money into the hands of the community. So what we have been trying to do is to get money in the community, and we are going to refine this process as we go along. But the main thing we are going to do is to make sure every person who has a legitimate claim and it has been substantiated gets the money that they are due.

Senator SNOWE. So a prompt payment is immediate?

Mr. WILLIS. I am sorry?

Senator SNOWE. Is a prompt payment immediate, you know, in providing the individual with a payment? How quickly do they receive their payment?

Mr. WILLIS. Yeah, yeah, I mean, I will give you an example. I was in Venice—the example I mentioned, I was in Venice and I actually witnessed people going in and in 45 minutes coming out with a check. Some people were leaving within 25 minutes. It just depends on the complexity of your claim. If you are a boat captain and you have your boat registration and your fishing license, it is easier. But if you are a deckhand, there is a little bit more documentation that is required, because we have to confirm with your captain that you actually work on a specific boat, and it just takes a little bit longer.

Senator SNOWE. One other question. What does BP determine to be a legitimate claim?

Mr. WILLIS. A legitimate claim, and really we are looking at the guidance as it is described in OPA. Essentially it is around damages that are directly caused by the spill, losses to earnings that are directly caused by the spill. We expect that claims will be substantiated with some documentation. We will cover all costs that are reasonable and necessary. And through the whole process, our goal is to be practical, efficient, and fair. The damages that we are talking about are damages and property destruction, wages that have been lost as a result of the spill, or loss of use of the natural resource to live, net government losses, as well as increases in public services due to the impacts of the spill.

Senator SNOWE. Now, is there a reason why less than 10 percent of the claims have gone to businesses outside of the fishing industry, such as restaurants?

Mr. WILLIS. No, not at all. Actually—and I can speak to that. When this process started about 3½ weeks ago, my primary con-

cern, our primary concern was making sure the fishermen, the oystermen, and the shrimpers were sorted and taken care of. We are actually spooling up the business components of this as we speak. As of last night, we have currently 1,500 complex business claims that are currently being reviewed for payment.

Senator SNOWE. Mr. Voisin, what is it that you believe should be done immediately that is not being done?

Mr. VOISIN. Senator Snowe, I am actually almost in shock of how much is being done. I do not know what else can be done. I am really amazed at the quick response that we have dealt with.

Now, from an emotional standpoint, hopefully they can get this thing shut down, and I think that will begin to calm a lot of the fears that we are dealing with in the Gulf Coast. We are used to 14-day events, 4 or 5 leading up to a hurricane, which is our major event; 2 or 3 when you leave and you evacuate, then you come home; and then 3 or 4 days to evaluate the damages—not repair it in 3 or 4 days, but we are used to 14 days of being on real edge. This is 38, I think, or 39 today, whatever it is, and people have lived on that edge.

So there are a lot of edgy challenges going on in the Gulf at this point, but in terms of response, I cannot say that—from a local government, state government, Federal government, BP as a responsible party, the seafood community working together with all of that, I cannot think of one thing that we could be doing a lot faster and a lot better. I would tell you if I could. I would have already shared it with Darryl and his crew.

Senator SNOWE. Well, you are seventh generation, which is absolutely remarkable in the oyster industry. That is absolutely extraordinary. So we want you to continue.

Mr. VOISIN. My two sons who work for me and my daughters are anxious. They want to continue as well.

Senator SNOWE. Thank you.

Chair LANDRIEU. Let me ask just another question to BP, and we will have to wrap up in just a few minutes. In your testimony, you mentioned that under the Oil Pollution Act, you are responsible for increased or additional public services resulting from the spill. The Coast Guard indicated in their testimony the trust fund is available to reimburse Federal agencies for operations. The SBA has increased its staff by 125 employees to respond to this disaster and set up 28 business recovery centers. Will BP reimburse the SBA for these and other costs associated with this disaster? Yes or no?

Mr. WILLIS. Any costs that have been incurred that are directly associated with responding to this claim that were reasonable and necessary will be covered by BP.

Chair LANDRIEU. Okay. Thank you. It is good to hear that this claims process is working, at least, Mr. Voisin, from your position, and I have heard mixed reviews. You are more positive, but I do appreciate the position that you are in to give that view. The claims process is working, but if this continues to go on and other businesses are, you know, affected for a longer period of time, we have already heard of some cancellations of conventions and some cancellations of vacation rentals, et cetera, along the Gulf, even in places where there is no oil. We are just not sure of the extent of this, and some of these claims may rise much greater, Senator

Snowe, than the $3,100, I can promise you. We have got to be prepared to meet people at much higher levels, of course, when they are legitimate and there is documentation.

I am glad the SBA, though, is down there in force as well to give another level of support. Of course, grants and advances are much preferable to loans, but it is probably better to have everything available than just, you know, one choice. We hope that you all will continue, though, to work as closely together as possible.

We are going to look at the claims process, expediting it, that Senator Murkowski talked about, and many of the colleagues are looking at that. We will continue to have hearings to make sure that these businesses are staying in business, that these people who have been so traumatized from several events in recent years do not lose another home, another boat, or their future over this incident.

Does anyone have any final words?

Mr. VOISIN. Thank you, Senator Landrieu. I just thought a little bit more about the question Senator Snowe asked. If there was one thing that I could wish for in all of this, it is that people would realize that the seafood in the marketplace is safe today. Louisiana is only partially closed. There are no closures in Mississippi, Alabama, or Florida. There is a tremendous amount of safe seafood in the market. NOAA, FDA, and EPA have all been testing, as well as the state health agencies. In Louisiana, only about 50 percent of the fishing grounds are closed. That is creating a lot of challenges, but the seafood in the market is safe, and we want people to feel comfortable with that, that we are precautionarily closing areas. They are being closed well in advance of any of the oil that is moving into the area. They are being tested organoleptically and also for hydrocarbons before reopenings occur. So seafood in the market is safe, and that is the one concern we have, is people will—the brand of Gulf seafood is already being challenged. We need that challenge to go away.

Thank you.

Chair LANDRIEU. A very good note to leave on.

The meeting is adjourned. Thank you.

[Whereupon, at 4:14 p.m., the Committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

Chair Mary L. Landrieu
Small Business Committee Hearing: "Impact of the *Deepwater Horizon* Oil Spill on Small Businesses"

Questions for James Rivera, U.S. Small Business Administration

Question #1 – BP Oil Spill Disaster Loans:

SBA has announced that they would provide up to $2 million in working capital disaster loans for businesses in Louisiana, Mississippi, Alabama and Florida impacted by the BP oil spill. As you have heard, many businesses are weary of taking on more debt – especially as many are still paying off loans from 2005/2008. In last week's hearing I inquired about the loan process and what businesses can expect in terms of collateral for loans. During the hearing, you indicated that SBA had existing authority to use an assignment of BP claim payments as collateral for these loans.

- **Just to confirm, can businesses use an assignment of BP claim payments as collateral for these loans? (Yes/No)**
    - **Does SBA require legislation to allow BP claims to be used as collateral for disaster loans? (Yes/No)**
- **It is my understanding that SBA may have attempted to use claims from the *Exxon Valdez* and *Murphy Oil* disasters towards disaster loans. Can you outline whether the liable companies in those situations (Exxon and Murphy Oil) were supportive of assigning a business claim as collateral?**
    - **Please indicate whether SBA has approached BP about this situation and what their response has been to the agency.**

Agency Response:

- Yes, businesses could use an assignment of BP claim payments as additional collateral for an SBA disaster loan. No, SBA does not require legislation to allow BP claim payments to be used as collateral for these loans. However, SBA has not historically considered potential claim recoveries to be a reliable, predictable and readily available form of collateral, and consequently potential claim recoveries are not considered a substitute for repayment ability and credit history.

- We do not know whether Exxon and Murphy Oil were supportive of assigning a business claim as collateral. Several claims against Exxon were assigned to SBA but no claims against Murphy Oil were assigned to SBA. SBA is evaluating the protocols issued by the Gulf Coast Claims Facility regarding the Facility's standards and claims processes. That process will continue to move forward as the facility's standards and procedures are implemented.

Question #2 – 2008 Disaster Funding Issues for SBDCs:

In the 2008 Emergency Supplemental, there was about $10 million for Small Business Development Centers nationwide to assist businesses impacted by disasters that year. For example, in Louisiana our SBDCs were awarded almost $3 million in additional grant funds for Hurricanes Gustav and Ike. It is my understanding that only $76,000 of those funds has been spent to date (about three percent). The LA SBDC office has recently hired seven (7) new business continuity consultants and opened a new center in Thibodaux, LA. There has been a recent increase in requests for services as a result of the oil spill and significant overlap exists in the industries affected by both the 2008 hurricanes and the oil spill.

The language from the Supplemental restricts remaining available funds for SBDCs to "technical assistance to small business concerns affected by flooding and other natural disasters in calendar year 2008." This language excludes these funds from being used to help small businesses impacted by recent disaster (such as the oil spill). One could argue that there is significant overlap in the industry sectors and small businesses affected by both disasters – in particular that the oil spill has exacerbated conditions for these businesses.

- **Are the LA SBDCs allowed to use 2008 disaster funding to assist businesses impacted by the oil spill, provided these businesses are located in areas also impacted by the 2008 hurricanes?**

Agency Response:

- The language in Public Law 110-329 as signed into law on September 30, 2008, was very specific. It provided supplemental appropriations in the amount of "$10,000,000, to remain available until September 30, 2009, for grants under section 21 of the Small Business Act (15 U. S. C. 648) to small business development centers to provide technical assistance to small business concerns affected by recent hurricanes, flooding, and other natural disasters in calendar year 2008." Given that the Deepwater Horizon Oil Spill did not occur until calendar year 2010, using the 2008 disaster funding provided by Public Law 110-329 to assist businesses impacted by the oil spill would be appropriate only if the business had not fully recovered from the 2008 hurricanes.

- **Does SBA require legislation to remedy this situation or can SBDCs serve businesses with these funds if they were impacted by the 2008 hurricanes and have also been impacted by the oil spill?**

Agency Response:

- See the above response. The Agency is of the view that existing authority is adequate to allow SBDC's to use 2008 Disaster funds to continue to assist those businesses still

recovering from the 2008 natural disasters, whose recovery has been further burdened or delayed by the Deepwater Horizon Oil Spill.

Question #3 -- SBA Deferment of Disaster Loan Payments:
The Small Business Act authorizes the SBA to defer payment of principal and interest on a case-by-case basis. During that time, however, interest still accrues. This is helpful to some businesses in the short term but, as the deferment ends, they receive a balloon payment.

The Act also allows SBA to "use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of [small businesses]." With this language, Congress intended for the SBA Administrator to have the tools necessary to keep businesses afloat after it makes both business and disaster loans. For example, the Recovery Act dovetailed on this intent by reducing fees on 7(a), 504, and Microloan borrowers.

- **When does interest begin accruing on disaster loans and does SBA have existing authority to stop interest from accruing on these loans?**

- **When SBA provides a six month deferment on disaster loan payments, does interest continue to accrue? (Yes/No)**

➢ ***Agency Response:***

- ➢ Interest begins to accrue on disaster loans once the initial disbursement is made. Currently, SBA does not have the authority to stop interest from accruing on a disaster loan.

- ➢ Yes, the interest continues to accrue during the deferment period and is collected when the borrower resumes its regular payments.

- ➢ The Principal is deferred to the end of the loan and becomes a balloon payment when the loan matures. We note that most loans are paid prior to the maturity date so the balloon payment is seldom a problem.

- ➢ As of September 2, 2010, SBA has made 897 deferments (399 homes, 498 businesses) for $109.3 million cumulative total balance, and $5.0 million in monthly payments.

Question #4 -- SBA Disaster Loan Funding:
It is my understanding that as of January 31st, the SBA had $131 million in disaster loan administrative expenses – enough to last through FY2010 if there are no catastrophic disasters. The Agency also had $846 million in disaster loan authority, sufficient to make approximately $7.8 billion in disaster loans.

- **What are the current levels of disaster administrative expenses and disaster loan authority?**

- **The President's Budget request includes $203 million for disaster loan administrative expenses but no funding for disaster loan authority. There also was no disaster-related SBA funding requested as part of the Administration's Supplemental request. Does SBA require additional appropriations for disaster loan authority at this time? (Yes/No)**

Agency Response

- As of September 2, 2010, for the remainder of FY 2010, a total of $53.3 million was available for disaster administrative expenses and $808.7 million was available in disaster subsidy to support an estimated disaster program level of $7.5 billion.

- At this time, SBA does not require additional appropriations for disaster loan authority for FY 2010. We note that, with the concurrence of our appropriations committees, SBA has authority to reprogram up to $20 million from disaster loan subsidy to disaster administrative expense. In the event of an immediate disaster this will ensure that we will have sufficient administrative funds to respond to current disaster activity related to this year's Hurricane season, which is predicted to be above-average.

Question #5 – Repayment Issues:

It is my understanding that Alaskan fishermen impacted by the *Exxon Valdez* oil spill have cautioned Gulf Coast fishermen on accepting loans to weather fisheries closures. This is because some fisheries take a long time to recover and loans taken out after the *Valdez* oil spill were difficult to repay if the business or fishery does not return. If the source of income is severely impacted, that makes it difficult for borrowers to keep up with the loans.

- **Is SBA aware of these concerns and how are you working with individual borrowers on identifying businesses that may/may not benefit from a disaster loan?**

- **Can you outline what type of loans the SBA is currently making in the Gulf Coast right now?**

Agency Response:

- We are aware of the Exxon Valdez experience; in that case, however, most fishermen were requesting grants instead of loans. We agree that many Louisiana small businesses have been seriously impacted by the Gulf region oil spill disaster. As such, SBA has been actively engaged in assisting small businesses in the Gulf region. SBA provides four types of assistance to small businesses in Louisiana and in the other affected states impacted by the Gulf oil spill disaster.

    1. The first type of assistance consists of low interest long term working capital disaster loans under SBA's Economic Injury Disaster Loan (EIDL) program to pay for fixed operating and necessary expenses the small business could have paid had the disaster not occurred. As of September 2, 2010, SBA has approved 289 loans for $25.1 million.

    2. The second type of assistance consists of using both SBA and Small Business Development Center counselors to advise and assist small businesses on their recovery options. SBDC staff provides counseling and technical assistance to

small businesses with respect to both the SBA loan application process and the BP claims process, in addition to any other options that may be available. SBA and Small Business Development Center staff also provide assistance in translating SBA and BP forms into a number of different languages, including Spanish, French and Vietnamese. SBA and SBDC staff have completed over 4,800 field in-person interviews in the area to assist small business owners and have received over 2,200 calls in the SBA Disaster Assistance Call Center from the Gulf region.

3. The third type of assistance is SBA's ability to defer payments on existing SBA business and home disaster loans. SBA understands that many small businesses and their employees in the Gulf region have existing disaster loans following Hurricane Katrina and other disasters. SBA is committed to working with its borrowers during this challenging period. SBA is offering deferments on existing disaster loans for small businesses and their employees who have been adversely impacted by the present Gulf disaster. These deferments allow small business owners, as well as their workers who have disaster home loans, to currently keep more cash in their hands while dealing with the financial crisis caused by the oil spill. As of September 2, 2010, SBA has made 897 deferments (399 homes, 498 businesses) for an $109.3 million cumulative total balance, and $5.0 million in monthly payments. Deferments vary from three months to as long as twelve months, depending on case specifics.

4. The fourth type of assistance is SBA's Gulf Opportunity Pilot Loan Program (GO Loan Pilot). SBA established the GO Loan Pilot on November 8, 2005 to provide expedited small business financial assistance to businesses located in those communities severely impacted by Hurricanes Katrina and Rita. Under this unique initiative, SBA provides its full (85%) guaranty and streamlined and centralized loan processing to all eligible lenders that agree to make expedited 7(a) loans available to small businesses located in, locating to or re-locating in the parishes/counties that have been Presidentially-declared as disaster areas resulting from Hurricanes Katrina and Rita, plus any contiguous parishes/counties. The demand for GO Loans has continued during FY2010 in response to the ongoing need to rebuild the Gulf Coast areas devastated by Hurricanes Katrina and Rita. The annualized number of GO Loans approved in FY 2010 is about the same as the number of approvals for FY 2009 at approximately 560 loans per year. Because the Deepwater BP oil spill that began April 20, 2010 has further devastated the Gulf Coast region and adversely affected many small businesses, on August 30, 2010, SBA extended the GO Loan Pilot until September 30, 2011.

####

Question#:	1
Topic:	Responsible Party
Hearing:	Oversight on the Small Business Administration Disaster Assistance Program
Primary:	The Honorable Mary L. Landrieu
Committee:	SMALL BUSINESS (SENATE)

Question to USCG: I have repeatedly made clear since the disaster happened that I fully expect BP to make our businesses whole. In your testimony, you reference the "polluter pays" public policy that underlies the Oil Pollution Act. You also mention that the Trust Fund is available to reimburse Federal agencies for operations related to response and compensation provisions after an oil spill.

SBA has increased its staff by 125 employees to respond to this disaster and set up 28 Business Recovery Centers in the Gulf Coast. Will SBA be reimbursed from the Trust Fund/BP for these and other costs associated with the disaster?

Response: The Trust Fund can pay claims for oil removal costs and certain damages as described in the Oil Pollution Act (OPA), including lost profits or earnings of individuals or businesses, loss of government revenues and net costs of increased or additional state or local government public services. We would be pleased to work with the Small Business Administration to evaluate recoverability of its costs and damages.

Question to USCG: If SBA disburses Economic Injury Disaster Loans to businesses and fishermen in impacted states, is BP required under OPA to reimburse the Treasury (or SBA) for these amounts?

Response: BP is liable for Oil Pollution Act removal costs and damages. We would be pleased to work with the Small Business Administration to evaluate recoverability of its costs and damages.

Question#:	2
Topic:	Vessels of Opportunity
Hearing:	Oversight on the Small Business Administration Disaster Assistance Program
Primary:	The Honorable Mary L. Landrieu
Committee:	SMALL BUSINESS (SENATE)

Question to USCG: I understand that there may have been some initial communication problems after the spill on the "Vessels of Opportunity" program. Some fishermen and local officials in Louisiana complained that they did not receive HazMat training to lay boom soon enough while others received similar training a week or so earlier.

Following the Exxon Valdez oil spill, Alaskan fishermen indicated that roughly 50 percent of fishermen were able to get jobs working with Exxon to clean up the spill. The remaining 50 percent were left feeling bitter and resentful towards those working and making income. This is because those working on clean up were able to afford fishing vessel and equipment upgrade their vessels.

Can you update the committee on the Coast Guard's coordination with BP, State/local officials, and local fishermen to deploy boom and skim oil off the water?

Is the Coast Guard ensuring that minority-owned fishermen are participating in BP's program?

Response: Vessels of Opportunity (VOOs) serve an integral part of the cleanup response team working in the Gulf of Mexico. As of July 15, 2010 there are 16 near-shore task forces and 58 off-shore task forces working for Incident Command Post (ICP) Houma. There are six near-shore task forces and ten offshore task forces working for ICP Mobile. Both ICP Houma and ICP Mobile utilize taskforces; however, each incident commander structures the task forces and strike teams differently based upon the operational needs and the geography of their area of responsibility.

For ICP Mobile, inland task forces concentrate mostly on marsh clean-up operations, but can attack oil that appears elsewhere in the inland environment. Near-shore task forces deploy to reported streams of oil and are positioned, through the use of aerial reconnaissance, to protect key inlets. The near-shore task forces have the greatest concentration of the VOO fleet, which focuses on light oil removal and/or booming, and gathering oil for other skimming vessels. Offshore task forces are comprised of high efficiency, low speed vessels that attack thicker oil at the source. The offshore task forces also have faster vessels that operate closer to the near-shore environment, assisting with attacking the highest priority targets of oil.

Mobilization of vessels is based on operational demand and the type of activity to be conducted (e.g., skimming or booming). Therefore, some VOO's may work more than

Question#:	2
Topic:	Vessels of Opportunity
Hearing:	Oversight on the Small Business Administration Disaster Assistance Program
Primary:	The Honorable Mary L. Landrieu
Committee:	SMALL BUSINESS (SENATE)

others based on capabilities. However, there is a deliberate planning effort to ensure equitable distribution of assignments. Specific vessel deployments are based on cumulative time 'on-hire' so those with the most cumulative time will be the first to rotate out and those with the least (of that vessel type) will be the first to rotate in.

In a letter dated July 21, 2010 to BP, the National Incident Commander "strongly encouraged" the use of small, local, and disadvantaged businesses in the recovery effort. Additionally, in a letter dated July 22, 2010, Labor Secretary Solis advised BP on ways to better communicate employment opportunities to various racial and ethnic groups through job postings at their One-Stop Centers in each state.

In terms of enforcing anti-discrimination practices, the Unified Area Command published a fact sheet on July 1, 2010 entitled "The U.S. Department of Labor Steps Up Its Commitment to Ensuring Equal Employment Opportunity." Helping workers affected by the oil spill, and making sure all workers' rights are protected, are high priorities of President Obama. The fact sheet can be accessed at:
http://www.deepwaterhorizonresponse.com/posted/2931/Gulf_Coast_handout_for_Pat_7_10.730955.pdf.

WILMERHALE

Benjamin A. Powell
Partner

+1 202 663 6770(t)
+1 202 663 6363(f)
ben.powell@wilmerhale.com

July 16, 2010

BY ELECTRONIC MAIL

The Honorable Mary L. Landrieu
Committee on Small Business and Entrepreneurship
U.S. Senate
428A Russell Senate Office Building
Washington, DC 20510

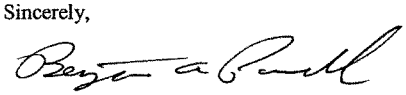
Re: Response to June 28, 2010 Questions for the Record following the May 27, 2010 Hearing on "Impact of the Deepwater Horizon Oil Spill on Small Businesses"

Dear Chairwoman Landrieu:

I am writing on behalf of BP America, Inc. ("BPA") in response to your Questions for the Record ("QFRs") submitted to Mr. Darryl Willis on June 28, 2010, in which you requested information regarding the BP claims process. As part of BPA's commitment to providing information responsive to your requests in a timely manner, BPA is providing the attached responses to the QFRs directed to Mr. Willis.

BPA takes your concerns very seriously and is committed to taking the necessary steps to mitigate the environmental and economic consequences of this incident. To provide responsive information in a timely fashion, BPA has endeavored to collect information from sources likely to have relevant data. These answers are based on information that is reasonably available at this time to BPA. If you have any questions, please feel free to contact me or contact Liz Reicherts at 202-457-6585.

Sincerely,



Benjamin A. Powell

Attachment

RESPONSE TO JUNE 28, 2010 QUESTIONS FOR THE RECORD FROM THE HONORABLE MARY LANDRIEU REGARDING THE MAY 27, 2010 HEARING ON "IMPACT OF THE DEEPWATER HORIZON OIL SPILL ON SMALL BUSINESSES"

July 16, 2010

QUESTION 1 – BP Claims as Collateral for SBA Loans

Does BP support business owners using BP claims from the oil spill as collateral towards an SBA Disaster Loan?

The SBA is best placed to determine the appropriate collateral required for SBA disaster loans.

QUESTION 2 – BP Obligations as a "Responsible Party"

SBA has increased its staff by 125 employees to respond to this disaster and set up 28 Small Business Recovery Centers in the Gulf Coast. Will BP reimburse SBA for these and other costs associated with the disaster?

OPA requires responsible parties to pay specified categories of losses caused by an oil spill (*e.g.*, removal costs). The category of "increased or additional public services" that result from the oil spill, referenced in this question, applies only to state and localities, not the federal government, and would not cover SBA staffing costs. Nonetheless, BP is committed to consider all reimbursement claims fairly and expeditiously, and on a case-by-case basis, and would do so for this situation as well.

If SBA disburses Economic Injury Disaster Loans to businesses and fishermen in impacted states, is BP required under OPA to reimburse the Treasury (or SBA) for these amounts?

The OPA damages provision does not cover reimbursement of SBA Economic Injury Disaster Loans. However, BP encourages businesses and fishermen affected by the spill to file a claim with the BP claims process before seeking to obtain a loan.

QUESTION 3 – "Vessels of Opportunity" Program

Can you update the Committee on BP's coordination with State/Local officials and local fishermen to deploy boom and skim oil off the water?

Overall region-wide spill response efforts are led by the Unified Area Command ("UAC"). Admiral Thad Allen is the National Incident Commander and Admiral James Watson is the Federal On-Scene Coordinator. The UAC is comprised of personnel from BP and Transocean, the Coast Guard, other federal entities, and the affected States. It is supported by three Incident Command Posts ("ICPs") in Mobile, Alabama; Houma, Louisiana; and Miami, Florida. The ICPs work closely with state, city, parish and county agencies to coordinate surface and onshore response efforts.

How does BP decide which fishermen participate in the program and where they are deployed?

We recognize that the VoO program is an important part of our response efforts, and we continue to seek to improve the program to ensure that we can maximize the volume of oil we can recover off the water. BP has taken measures to help the owners of those vessels most affected by the spill participate in the VoO program. However, vessel fleet size is linked to the operational demand and this does change as activity changes. BP will remain fully committed to using the commercial vessels and crews of the Gulf Coast to respond to this spill and to mitigating the economic and environmental effects of the spill on the Gulf's people.

To qualify for the program, vessel owner/operators need to meet several key requirements, including captain and crew attending a four-hour OSHA marine safety training session, vessels passing a dockside examination by the U.S. Coast Guard, and meeting crewing requirements based on the size of the vessel provided. Moreover, commercial or charter fishing vessels must be registered in the state in which they will be put to work, and registered within that state as a commercial vessel prior to March 31, 2010.

BP will then select or call up vessels based on the technical ability of particular vessels to carry out the work that needs to be done. Subject to operational considerations, if BP has several suitable vessels, it will make an "hours based" selection where the vessel with the least time on the water will be called up first and those with the most time may be rotated out for a time. Deployment decisions are managed through Branch Operations, and, going forward, vessels will be organized in Task Forces and Strike Teams, and deployed to the water from the relevant geographic branch ports.

Is BP ensuring that minority fishermen and small businesses are participating in the program?

The VoO program is focused on getting the right local vessels on the water attacking the oil. There are a range of activities that VoO fleets can undertake, including boom management, skimming, and transportation. Vessels are selected based on the match between technical capabilities and the nature of operational tasks required. BP is committed to utilizing all qualified vessels, including those owned by minority owners.

BP is increasingly organizing VoO vessels into response task forces. The priority is contracting with commercial and charter fishing vessels, and only using recreational vessels for shallow water activities where those types of vessels can appropriately perform relevant tasks. Moreover, commercial or charter fishing vessels must be registered in the state in which they will be put to work and registered within that state as a commercial vessel prior to March 31, 2010. These measures will help the owners of those vessels most affected by the spill to participate in the VoO program. Vessel fleet size is linked to the operational demand and this does change as activity changes. BP will remain fully committed to using the commercial vessels and crews of the Gulf Coast to respond to this spill and to mitigating the economic and environmental effects of the spill on the Gulf's people.

Please outline the compensation available for individual vessels.

Vessel owners participating in the VoO enter into a Master Vessel Charter Agreement with BPA. The agreement provides that participants are paid at pre-agreed rates based, in part, on the length of the vessel. In general, crews on vessels scheduled for day-work will receive 8 hours of pay and crews on vessels scheduled to perform nighttime operations will be paid for 12 hours of work. If vessels are scheduled but not used, the day rate will still be paid. In addition, under the Master Vessel Charter Agreement, participants are reimbursed for fuel costs.

Payment to the vessel owner is made based on the size of the vessel and crew. There is no payment when on stand-by or waiting at dockside. Payments start when a vessel enters the water to commence oil recovery activities, and are as follows:

Vessel >65'	$3000/24 hour day
Vessel >46'-65'	$2000/24 hour day
Vessel >30'-45'	$1500/24 hour day
Vessel less than 30'	$1200/24 hour day
Crew Services	
Actual spill response, classroom training, table top activities or meetings as defined in contract	$200.00/8 hour day/crew member standard rate
	Meals provided by Vessel Owner

QUESTION 4 – BP's Long Term Commitment

Is BP requiring claimants to sign anything waiving rights to future compensatory claims?

No. BP is not requiring claimants in the BP claims process to sign anything waiving rights to future compensatory claims. We note that the BP claims process is being transitioned to the Gulf Coast Claims Facility ("GCCF"), which will be administered by Kenneth Feinberg and is an independent facility that will attempt to resolve individual and business claims. We refer you to the GCCF about its procedures and requirements.

Does the company have a long-term strategy to assist with fisheries recovery, economic development, business retention, etc. in the impacted region?

The Company is working with the federal and state trustee agencies to assess injuries to natural resources caused by the Deepwater Horizon incident so that appropriate restoration work can begin as soon as possible. Specifically, BP Exploration & Production ("BPXP"), which has been designated as one of the "responsible parties" under the Oil Pollution Act ("OPA"), is working with the National Oceanic and Atmospheric Administration ("NOAA"), the Department of the Interior ("DOI"), and multiple agencies in Louisiana, Mississippi, Alabama, Florida and Texas to collect environmental data and other information on potential impacts to fish, shrimp, birds, mammals and other sensitive resources, as well as to their habitats. BPXP has already paid over $45 million to the trustee agencies as part of this assessment effort. Lost human uses of these resources – fishing, for example – are also being assessed. These data will be critical for

informing a natural resource damage assessment, the purpose of which is to determine the appropriate type and amount of restoration that is needed. Ultimately, BPXP and other OPA responsible parties – Transocean, Ltd., Anadarko Petroleum Corp., and MOEX Offshore 2007 LLC – will be liable to the applicable natural resources trustees for damages resulting from the incident that cause injury to, destruction of, loss of, or loss of use of, natural resources.

BP has also committed up to $500 million over a 10-year period for the Gulf of Mexico Research Initiative ("GRI"), which will study the impact of the incident, and the associated response activities, on the marine and shoreline environments of the Gulf.

Separately, on June 16, 2010, BP announced the establishment of a $20 billion fund over the next three and a half years that can be drawn on for claims resolved by the GCCF, among other things. These measures are intended to assure the residents and businesses of the Gulf Coast that BP will meet its legal obligations in both the short and long term.

Chair Mary L. Landrieu
Small Business Committee Hearing: "Oversight on the Small Business Administration Disaster Assistance Program"

Questions for Carmen Sunda, Louisiana Small Business Development Centers

Question #1 – 2005/2008 SBA Disaster Loan Interest Relief:
As you indicate in your testimony, I have introduced legislation (S. 2986) with Senators Thad Cochran and Roger Wicker to allow SBA to waive up to $15,000 in interest payments over as long as three years. These waivers would apply to disaster business loans made after the 2005 and 2008 hurricanes. This proposal is supported by such groups as the U.S. Chamber of Commerce, the *New York Times*, Gulf Coast chambers of commerce, and local Small Business Development Centers.

- As a supporter of this legislation, can you outline for the committee how this proposal would help your business or clients?

Response from Carmen Sunda. The number one issue for small businesses recovering from the impact of the 2005 and 2008 hurricanes is insufficient cash flow. In order to survive, business owners have had to cut costs. Many times the only place to cut operating expenses is to reduce employee hours or layoff an employee. For many recovering businesses, the largest debt payment is the SBA disaster loan. A waiver of up to $15,000 in interest over as long as 3 years will provide an immediate positive impact to the monthly cash flow and a long term impact to positive cash flow. This waiver would save jobs.

- Can you outline the difference between this interest relief and simply deferring payment of principal or interest for six months or a year?

Response from Carmen Sunda. Deferring payment of principal or interest for 6 months or a year simply assists a business in a short term fix. The loan continues to accrue interest and both principal and accrued interest is still due and payable on the loan. A business that is having cash flow challenges can already receive a deferment from SBA. A deferment does not address the long term recovery challenges that many businesses are having on a daily basis, challenges that are further complicated by repeated disaster events over the last five years. A deferment is not an incentive to save jobs. The incentive for a deferment is to conserve cash to pay the debt.

Question #2 – 2008 Disaster Funding Issues for SBDCs:
In the 2008 Emergency Supplemental, there was about $10 million for Small Business Development Centers nationwide to assist businesses impacted by disasters that year. For example, in Louisiana our SBDCs were awarded almost $3 million in additional grant funds for Hurricanes Gustav and Ike. It is my understanding that only $54,000 of those funds has been spent to date (about two percent). The LA SBDC office has recently hired seven (7) new business continuity consultants and opened a new center in Thibodaux, LA. There has been a

recent increase in requests for services as a result of the oil spill and significant overlap exists in the industries affected by both the 2008 hurricanes and the oil spill.

The language from the Supplemental restricts remaining available funds for SBDCs to "technical assistance to small business concerns affected by flooding and other natural disasters in calendar year 2008." This language excludes these funds from being used to help small businesses impacted by recent disaster (such as the oil spill). One could argue that there is significant overlap in the industry sectors and small businesses affected by both disasters – in particular that the oil spill has exacerbated conditions for these businesses.

This question was answered by Mary Lynn Wilkerson, Louisiana SBDC State Director.

- Is your SBDC allowed to use 2008 disaster funding to assist businesses impacted by the oil spill, provided these businesses are located in areas also impacted by the 2008 hurricanes? (Yes/No)
  No we are not.

- Has SBA indicated to you that they require legislation to remedy this situation or can it be resolved administratively? **From my understanding this cannot be resolved administratively and it will take legislation to fix it so we can freely and without worry use these funds to help all of our businesses impacted by the Oil Spill.**

- Since you are using regular SBDC funds and 2008 Supplemental funds, how do you differentiate between the funds? **In our database we have the ability to track funds based on funding program and sub-programs. For our regular SBDC funds they are coded SBDC Program, and if it is oil spill related it is sub-program Disaster. If we are using the FY 2008 disaster money it is recorded as SBDC Program, sub-program Gustav or Ike.**

- How do you certify that you are serving 2008 disaster victims with 2008 funds? **Because of the coding explained in the previous sentence, when data is uploaded to SBA they can identify the FY 2008 disaster by the name and code they assigned to each state receiving the money. Secondly, we are using intake forms where businesses can select they were impacted by a 2008 disaster. What we are operating under is the statement from the RFP...."Supplemental Funding to Small Business Development Centers Assisting Businesses Affected by Natural Disasters in 2008; page 5, 1.2. Introduction: Division B, Title 1, Chapter 4 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009 (Public Law 110-329), as signed into law by the President on September 30, 2008, provided supplemental appropriations in the amount of "$10,000,000, to remain available until September 30, 2009, for grants under section 21 of the Small Business Act (15 U. s. C. 648) to small business development centers to provide technical assistance to small business concerns affected by recent hurricanes, flooding, and other natural disasters in calendar year 2008..." Not once does this language exclude those same businesses from being impacted by other situations that may require assistance from the SBDC. Therefore, when a business identifies they have been impacted by a 2008 disaster that qualified under the act and for us that is Gustav and Ike; we do not deny said business technical assistance under the supplemental funding because they have been additionally impacted by the 2010 Oil Spill.**

Question #3 – Business Challenges:
In your testimony, you indicate that to date your SBDC staff has assisted over 800 clients (600 since May 10th). You also mention the ripple effect of the oil spill – not only are fishermen are impacted but real estate owners who rent to fishermen, beauty salons, construction contractors, etc.

- Can you outline some of the more immediate challenges faced by your client that the Congress, the SBA or local banks might be able to solve in the short term?

Response from Carmen Sunda. There are basically 4 immediate challenges for businesses; cash flow, the worry about having enough money to meet current obligations, the uncertainty of their financial future and the uncertainty of the future of their industry. In addition, many clients are "battle fatigued". For most, this is the 3rd or 4th major disaster that they have weathered in just five years. However, here are some things that would assist the businesses in the Gulf coast. One, Congress could pass the 2005/2008 Disaster Loan Interest Relief legislation. Two, Congress could look at ways to lower the costs of insurance. Most businesses have experienced a jump in increased costs of business operations including tremendous increases in insurance. In many cases, the cost of insurance decreases profitability such that business owner decides that they cannot afford to carry the insurance. It is usually the lack of and cost of insurance which negatively impacts the ability of a business to accept an approved SBA disaster loan. Three, Congress and the SBA could encourage the local lenders to be flexible in debt work outs with businesses experiencing cash flow challenges. Once a commitment from the local bank has been obtained, a list of banks committed to working with their customers could be published.

- Your testimony mentions that you expect to provide technical assistance to businesses impacted by this spill over the next two to three years. What do you see as some of the more long term issues/challenges?

Response from Carmen Sunda. Sadly, in the long term, many small businesses simply will not make it. They just will not be able to survive the repeated negative impact of severe business interruption. Lack of cash, debt and the uncertainty of the future of their industry will just be too much to bear. The SBDC will most likely see an increase in the number of businesses assisted in closing their businesses. Another challenge will be assisting the businesses in making informed decisions about how to re-invent the business and if changing the business model will be successful. The burden of debt and cash flow will continue to be a major issue. There will be issues of training business owners to do something else if they cannot operate the business they know and understand. And finally, there will most likely be a ripple effect of businesses impacted that are not necessarily directly impacted by the oil spill, but by the decrease in sales due to the economic uncertainty of the region. The long term challenge for the SBDC is having the necessary resources to have the capacity to assist the volume of impacted businesses.

Question #4 – BP Claims Process:
As our business witness on the panel today, I am interested in hearing the experience of business owners with the BP claims process.

- In particular, BP has testified that they are working to respond to claims in a timely manner. What timeframe are you and your colleagues are experiencing with the BP claims process?

Response from Carmen Sunda. The time frame is not as much an issue as is the amount of money, which seems to depend on the size and type of business. The smaller businesses are receiving money quickly within 30 days and then monthly. The larger businesses are also receiving money quickly, within 30 days and then monthly. The issue is not so much receiving some money in a timely manner (within 30 days and monthly), but receiving the amount of money that the business needs to stay afloat. Many of these businesses cannot wait more than 30 days to receive what they need to survive the month. This is especially true if the business cannot participate in the vessel of opportunity program (they are not fishermen with boats).

  - Are businesses optimistic that claims can be resolved quickly or are they preparing for a long process?

Response from Carmen Sunda. None of the businesses seem to anticipate a long process. The challenge is in the definition of long. For some businesses to wait 90 days to resolve a claim means they are out of business. The claims personnel are aware of this challenge and are moving as quickly as they can to make sure that the business is receiving some money quickly and monthly. Businesses seem to understand that the long process is the impact that the spill is having overall on the industry and the uncertainty of the next season.

- BP also outlined multiple ways for businesses to file a claim. In your experience, which route is the most popular: are businesses using the online claims filing system; going in person to claims offices, or calling the 1-800 number?

Response from Carmen Sunda. First, the best and usually the only way for a business to initially file a claim is by phone or on-line. Most businesses choose the phone to initially file the claim. Once they have the claim number, the most popular choice is to go in person to a claims center and present the documentation. The challenge for many businesses is the ability to put together the documentation necessary to validate their claim. The SBDC is assisting as many businesses as we can with the resources we have to work with in assisting these businesses with packaging their claims.