



STATE OF FLORIDA

BILL McCOLLUM
ATTORNEY GENERAL

September 20, 2010

VIA U.S. MAIL AND E-MAIL

Kenneth R. Feinberg, Esq.
Feinberg Rozen, LLP
The Willard Office Building
1455 Pennsylvania Avenue NW, Suite 390
Washington, DC 20004-1008

A handwritten signature in black ink that reads "Ken".

Re: Gulf Coast Claims Facility

Dear Mr. Feinberg:

I appreciate the time you took to travel to Tallahassee to meet with me and my staff. This letter memorializes some of the key points from our lengthy meeting.

Much of our discussion involved the needed improvements to the Gulf Coast Claims Facility (GCCF) operation to ensure that claims are promptly processed and paid, a goal that I know you share. The GCCF has clearly accelerated the delivery of relief, paying out almost \$30 million in the last eight days, over half of the GCCF payment total for Floridians. To date, the GCCF has resolved roughly 6,800 emergency payment claims from Floridians, with an average payout of \$8,000.00. In three weeks, the GCCF has already paid out more than half of the BP total for Florida payments.

However, GCCF's own reports make it clear that more must, and can, be done to streamline the claims process and afford faster relief to Florida individual and business claimants. Almost 14,000 claims from Floridians (64% of the total number of claims) remain under review, a much higher percentage than for the Gulf Coast overall (47%). Florida also had a far lower percentage of claims in need of additional documentation than for the Gulf Coast overall. This backlog is particularly problematic because Florida had the highest percentage of claims deferred by BP in anticipation of your appointment as the Administrator for the Deepwater Horizon claims of individuals and businesses.

In addition, even with the accelerated payments over the last eight days, the number of new claims during this time was more than double the number of paid claims. Moreover, roughly half of the individuals or businesses who submitted claims to BP have

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not refiled claims with the GCCF to date. At our meeting, you expressed a commitment to eliminating the backlog over the next two weeks. As I indicated at our meeting, claimants need to have confidence in a fair claims process with prompt payments, as many of their claims were left unresolved in anticipation of the GCCF's implementation.

I hope you will quickly implement some of the suggestions that were made during our meeting to ensure a more streamlined, responsive, and timely claims process. For example, given that each claim is certain to have its own unique issues, a key suggestion made was to have a single point of contact for each claimant, so that the individual or business would always have the same person to deal with on the claim. This approach, when used by banks during our residential mortgage crisis, proved very helpful in reducing the delay in the consideration of loan modification requests.

While the GCCF website provides claimants with access to the status of their claim, the information provided has been of limited value to date. Stating that a claim is "under review" does not tell a claimant whether the claim is complete, how long the review will take or the likely amount of any payment. Calls to the toll-free number do not alleviate this problem, as our office has heard from claimants that they can rarely get a helpful answer from the adjuster and may get conflicting information from different adjusters. Finally, my staff is hearing that claims adjusters located in Florida have no access to the GCCF database and can do little more than pass on the toll-free number when claimants come in to seek assistance in getting their claims promptly paid. Having a claims adjuster assigned to each claim would solve all of these problems, it seems.

I also appreciate your commitment to designate a Florida-based GCCF official to provide regular updates to my office and resolve any constituent concerns. Please let me know when this person has been selected and how they may be reached. Another suggestion was for the GCCF to provide more meaningful claimant data, both in terms of turn-around times and by categories of claims.

We also discussed the GCCF's reliance on geographic proximity as a factor to be applied to deny or limit claims payments. For some time my office has urged you to apply the straightforward OPA (Oil Pollution Act of 1990) standards of causation instead of reliance on proximate causation and geographic proximity concepts. I understand from our discussion that you are leaning towards recognizing tourism-related claims throughout Florida on their merits, acknowledging the statewide impact on the tourism industry from this environmental disaster. You recognized the likelihood unnecessary litigation will occur if tourism-related claims are not honored from everywhere in the state. I will continue to work with you to find a creative solution that will make all injured Florida businesses and individuals whole.

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Likewise, my office has argued that any claims process must allow for the filing of Interim Claims, as required by OPA. I restated this to you in our meeting. Interim Claims provide claimants with a mechanism for obtaining partial recovery of known damages, without providing a release to a responsible party, and are available for a period of at least three years under OPA. I understand from our discussion that you are leaning toward allowing the filing of both Interim and Final Claims under the Final Protocol. I trust that you will provide my office with enough time to provide meaningful input on the draft Final Protocol including any release language.

Although the discharge of oil has been stopped, the Deepwater Horizon blowout is an ongoing economic and environmental disaster and we must recognize that recovery will take some time. Part of the recovery process will depend on providing a fair and efficient claims process that, at the very least, complies with the requirements of OPA and ensures at least some mitigation of economic loss so that affected Floridians can weather this crisis.

The economic impact of this environmental disaster will be felt for many years to come by Florida's businesses and its people if the backlogs in processing claims and making payments are not resolved. I remain committed to continuing to work with you over the next few weeks to ensure a more prompt and responsive claims process and to reach consensus on an appropriate Final Protocol. I trust that you will contact me by the end of this week to continue our discussions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill McCollum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bill McCollum

cc: The Honorable Charlie Crist
The Honorable Alex Sink
The Honorable Charlie Bronson