



## STATE OF FLORIDA

**PAM BONDI  
ATTORNEY GENERAL**

July 31, 2012

### **VIA U.S. MAIL AND EMAIL**

John E. (Jack) Lynch, Jr.  
U.S. General Counsel  
BP America, Inc.  
501 Westlake Park Boulevard  
Houston, Texas 77079

Re: BP's Claims Process for Floridians

Dear Mr. Lynch:

A focus of my administration has been on ensuring Florida's prompt recovery from the environmental and economic consequences of the *Deepwater Horizon* tragedy. Therefore, I remain troubled that the proposed settlement of certain individual and business claims asserted in the multi-district litigation ("MDL") proceeding in New Orleans excludes most of Florida.

Our review of the approximately two thousand pages of settlement documents confirmed that while the entire states of Louisiana, Alabama, and Mississippi were included in the proposed settlement, claimants in much of Florida were excluded, without explanation. A joint filing boasts that the proposed settlement provides "tourism businesses even 220 miles from the Louisiana coast ... over double their documented damages" (Doc. 6266), but fails to mention that the settlement provides no benefit to Floridians located just a few miles from the coast.

A member of my staff contacted Mr. Holstein shortly after the proposed settlement was announced to inquire into the existence of an interim claims process, as required by the Oil Pollution Act of 1990 ("OPA"), for Florida claimants that are either not covered by the proposed settlement or choose to timely opt out of its terms. Mr. Holstein indicated that BP planned to begin accepting interim claims from those claimants on or about June 4th but BP has made little effort to inform the public (or my office) of the status of its OPA claims process. It appears that the only source of information on the claims process is BP's website, with no media campaign.

With respect to my concerns that the proposed settlement does not cover all of Florida, reports from the now defunct Gulf Coast Claims Facility ("GCCF") show that the GCCF paid claims filed by businesses and residents in 66 of Florida's 67 counties, yet the proposed settlement only

covers claims from 30 counties. The proposed settlement does not cover individuals and business claims in the remaining counties but the GCCF made more than \$100 million in payments to claimants from those counties. The GCCF payments are in addition to millions of dollars in payments BP made during the few months in 2010 when it operated a claims process.

**I would have greater confidence in the proposed settlement if Floridians who fall outside of the settlement's coverage received appropriate interim and final payments from BP.** Since we have some time before the Court considers the proposed settlement for final approval, I am willing, for the time being, to give the new BP claims process an opportunity to prove itself. Accordingly, this office will monitor the new claims facility with the same scrutiny it has applied to the previous claims facilities and will follow up with you as necessary to ensure our citizens' issues or concerns are promptly addressed. In the meantime, I offer several suggestions that are informed by the mistakes of the GCCF claims process.

**First, the claims process should be easy for claimants to access and have several physical offices in Florida.** Although many Floridians may choose to handle their claims over the phone or the internet, others would benefit from physical claims locations staffed with helpful representatives who would review the paperwork. I am disappointed that BP has no plans to establish a physical presence in Florida. However, it seems BP could operate out of the same claims offices in Florida as Mr. Juneau and suggest you pursue that course of action.

**Second, the claims process should transparently and fairly value the claims.** The effectiveness of the GCCF's claims process suffered due to the perception that claimants received wildly divergent awards for what were essentially identical claims. To avoid this, BP should develop and explain its protocol, formulas, and the analyses behind its various outcomes at the earliest possible opportunity. The transparency of the claims process will be a key to its level of success.

**Third, the claims process should not rely on artificial limitations, such as geographic proximity to the oil spill or proximate causation concepts.** Florida has a complex and interconnected economy and valid claims may be submitted from anywhere within the state, depending on the unique circumstances of each claim. Moreover, OPA rejects any proximate cause limitation, instead requiring BP to pay all claims "that result from" the oil spill.

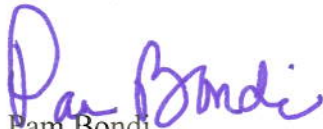
**Fourth, the claims process should resolve all interim claims well within the ninety (90) days permitted under OPA.** I ask that you provide prompt and meaningful access to trend-level data concerning the facility's operations to ensure that this requirement is achieved. Please also provide me with the name of a liaison that will be able to respond to constituent concerns.

**Fifth, BP should also implement other effective concepts that were successfully incorporated into the GCCF process at the suggestion of the Gulf Coast Attorneys General** such as: a single point-of-contact system; the ability for claimants to monitor the status of their claims; including the cost of accountants in any paid claims; and other ideas that increase the efficiency, responsiveness, and transparency of the process.

**Finally, if BP intends to make any final payment offers, it is important that the payment offered by the facility recognize the level of continuing uncertainty over the long-term effects of the spill for different types of claimants.** It would make sense that any final payment offers through BP's claims facility be at least as generous as what the claimants would receive if they were covered by the terms of the proposed settlement. BP might also want to consider establishing an appeals process for final payment offers, especially since such a process is available under the proposed settlement. In any event, the process of reviewing the proposed settlement has just begun and the way that BP operates its claims facility will be an important component of my office's ongoing review.

In the more than two years since the Deepwater Horizon tragedy, BP has repeatedly assured the people of the Gulf Coast of its legal and moral commitment to "pay all legitimate claims." This oil spill had far-reaching effects on Florida and other Gulf Coast states, spanning from the fishing industry to the tourism industry and more. While I sincerely hope that BP properly compensates Florida individual and business claimants for the losses they have suffered, either through or outside of the proposed settlement terms, I will, if necessary, use the full power of my office to ensure that BP lives up to its responsibilities under the law.

Sincerely,



Pam Bondi  
Attorney General