

United States Senate

WASHINGTON, DC 20510-1804

February 16, 2011

Mr. Kenneth Feinberg
Administrator
Gulf Coast Claims Facility
1455 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Mr. Feinberg:

Thank you for this opportunity to comment on the proposed Eligibility and Substantiation Criteria and Final Payment Methodology. Incorporating public comments and stakeholder recommendations into the formula before it is finalized is an important component of any public policy, and I appreciate your sincere efforts to develop a fair process. However, it is imperative that the comments are adjudicated in a transparent and expeditious manner that will allow long anticipated interim and final claims to be issued in the coming weeks.

After repeated requests for improved communications with claimants and the network of 12 community-based nonprofits providing technical assistance in Louisiana, I commend you for progress on both fronts. It is my understanding that all interim and final payments will include a detailed breakdown of the award calculation formula, a projected final settlement amount, acknowledgement of documents received, and a single point of contact for the recipient to call with questions or concerns.

While I continue my efforts to secure additional funding for the technical assistance network through BP, I appreciate your recent substantive engagement of this group and designation of GCCF personnel to work with them going forward. The 12 nonprofits providing this technical assistance have a wealth of experience in disaster recovery that will improve and enhance the overall efficiency and effectiveness of the Gulf Coast Claims Facility. I also appreciate your recent outreach efforts and public comments relating to compensation of subsistence claims in communities that have experienced significant losses.

The GCCF's proposed methodology concerns me on two specific fronts: the lack of a formalized, individual assessment of losses for all claims, including those below \$500,000; and insufficient accommodation of the inherent uncertainties associated with a recovery of this magnitude. As we have previously discussed, I also believe the appeal threshold of \$250,000 for an individual and \$500,000 for a business to be unreasonably high.

It is my hope that the methodology will serve as a starting point and that each claim will receive an individually tailored review regardless of size. For example, the methodology proposes

using 2008-2009 numbers to establish historical earnings. With two hurricanes, Gustav and Ike, making landfall in Louisiana in 2008 and shrimp prices falling to unprecedented levels in 2009 in the midst of the recession, these years may not provide an accurate basis for future earnings projections. I urge flexibility in working with claimants to determine a realistic, normalized year. In addition, the sales-based formula for measuring economic impacts fails to quantify immediate impacts on inventories and other assets that are not itemized on a profit and loss statement. Again, it is imperative that this methodology is applied in a responsive and dynamic manner that can accurately address the real losses of various businesses and business models.

Perhaps the single biggest challenge you face is providing a credible and reliable estimate of how long it will take for the Gulf and its dependent industries to return to normal. Dr. Tunnel's opinion represents one perspective, but it should not be construed nor presented as the definitive projection of recovery timelines. Going forward, I recommend establishing a peer review process for any scientific studies used in the award calculation methodology and actively engaging the scientific community in a public, transparent manner. This will foster the kind of substantive dialogue we will need to understand the ramifications of an ecological event of this magnitude.

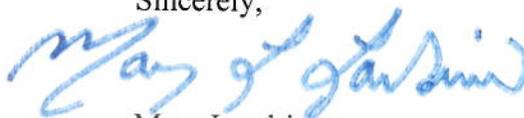
It is also problematic to rely upon studies that lack economic analysis. Ecosystem recovery doesn't necessarily result in simultaneous market recovery, because consumer perceptions and demand may take longer than the marine environment to rebound. In a study recently commissioned by the Louisiana Seafood Promotion and Marketing Board, 71% of those surveyed in December indicated lingering concerns about the safety of Gulf seafood as a result of the oil spill. The level of concern fell only four percentage points from October 2010 through December 2010, indicating the pervasive damage this spill has done to the Gulf brand. I encourage you to factor brand and market recovery projections into the methodology, in addition to the environmental and ecological data.

Even with the best and brightest scientific minds though, we will never be able to predict with perfect accuracy what will happen in the future, and I believe including some protection against an unpredicted and unforeseen fishery collapse would significantly increase the credibility of the GCCF.

It is my hope that you will find these comments constructive and that they will help you and your team continue to improve the GCCF and its ability to meet the evolving needs of Gulf Coast residents still recovering from the oil spill. I commend you for the important progress already made, but realize, as you do, that much important work lies ahead.

With kind regards, I am

Sincerely,



Mary Landrieu
United States Senator