

BP's Scheme to Swindle the "Small People"

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*Clint Guidry, the Louisiana shrimp harvester representative on the Louisiana Shrimp Task Force created by executive order of Gov. Bobby Jindal, has called BP "liars" and "killers."
(Photo: Erika Blumenfeld)*

Gulf Coast fishermen and others with lost income claims against BP are outraged by a recent announcement that the \$20 billion government-administered claim fund will subtract money they earn by working on the cleanup effort from any future damage claims against BP. This move, according to lawyers in Louisiana working on behalf of Louisiana fishermen and others affected by the BP oil disaster, contradicts an earlier BP statement in which the company promised it would do no such thing.

Kenneth Feinberg, who was appointed by President Obama as the independent administrator of the Gulf Claims Facility for the \$20 billion BP Deepwater Horizon oil disaster compensation fund, said yesterday that the wages earned by people working on BP's cleanup will be deducted from their claims against the company.

He said the fund is designed to compensate fishermen and others for their lost income, and if BP is already paying someone to help skim oil and perform other cleanup work, those wages will be subtracted from the amount they're eligible to claim from the fund.

Attorney Stephen Herman, one of two interim liaison counsel for cases pending in the eastern district of Louisiana before Judge Carl J. Barbier, told Truthout he has spoken with Feinberg and that this recent announcement contradicts an earlier statement made by BP, in which the company clearly said it would not do this.

A letter dated May 2, 2010, from Herman's firm, Herman, Herman, Katz & Cotlar LLP, in New Orleans, sent to Murray Greene in BP's Legal Department, asked Greene to confirm in writing that BP agreed to destroy voluntary waiver and release forms issued to response workers at a meeting in Venice, Louisiana, and stated:

"Lastly, we inquired as to BP's position with respect to any future claim of credit or set-off due to payments made to individuals who are assisting BP in mitigating its exposure to individuals and others for the unprecedented environmental and human losses as a result of this incident. It is our position that since my clients are effectively helping BP minimize its own future exposure as well as attempting to preserve the wetlands and the environment that BP ought not to seek any offset or reduction of claims as a result of any payments made to these individuals who courageously take on the dirty work of cleaning up BP's mess."

The next day, May 3, A.T. Chenault, a lawyer representing BP, responded in writing via letter

stating, “We have no personal knowledge of the presentation of a Voluntary Waiver and Release to numerous people from Plaquemines Parish in Venice, Louisiana. However, it is the position of BP that any such documents will be rescinded and not binding on anyone signing same.”

Chenault’s letter concluded with a statement that directly contradicts Feinberg’s recent announcement.

“Lastly, we confirm that BP will not offset payments to vessel owners or other volunteers against claims they might have,” wrote Cheault, who is with the firm Fowler, Rodriguez, Valdes-Fauli.

Today, during a speech at the Economics Club in Washington, Feinberg appeared to be attempting to dissuade claimants from filing lawsuits against BP.

“You’re crazy to do so, though,” Feinberg said. “Because under this program, you will receive, if you’re eligible, compensation without having to go to court for years, without the uncertainty of going to court, since I’ll be much more generous than any court will be. And at the same time, you won’t need to pay lawyers and costs.”

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The move is being seen by many as an attempt by Feinberg to sell the compensation fund to victims, so as to prevent more lawsuits against BP.

Herman told Truthout that he believes Feinberg has said things that “are not consistent,” and that Feinberg “may not have been familiar” with the aforementioned agreement by BP to “not offset payments to vessel owners or other volunteers against claims they might have.”

Herman, who has already met with Feinberg on several occasions, said he expects to meet up with Feinberg’s law partner, Michael Rozen, “very soon.”

Attorney Robert Wiygul in Ocean Springs, Mississippi, represents many fishermen involved in BP’s oil response program, and told Truthout he “finds it very troubling” that BP and Feingold appear to be trying to position themselves to avoid future compensation claims from fishermen, as opposed to handling it on a year-to-year basis.

Clint Guidry is a Louisiana fisherman, and is on the board of directors of the Louisiana Shrimp Association. He is also the shrimp harvester representative on the Louisiana Shrimp Task Force created by executive order of Gov. Bobby Jindal.

Guidry told Truthout that he believes Feinberg is “trying to limit BP’s liability,” adding that “every time Feinberg announces something he changes what he said before.”

According to Guidry, Feinberg first proposed a partial claim settlement that would provide settlement checks for up to three years. This would have allowed fishermen to determine if there were “holes in the ecosystem.”

If the oil disaster kills off enough shrimp, for example, there would be no shrimping season next year, and no way for shrimpers to earn a living.

“But now his new plan is to do away with that by having folks take a settlement,” Guidry added. “There’s not much of his program I like. It appears he is protecting BP.”

On May 24, in Galliano, Louisiana, Guidry testified to a delegation of US senators, congressmen and various Obama administration departments and agencies. He said:

“BP committed fraud in furnishing oil-spill-response data required to obtain a permit to enable them to drill the MC 252 location. The reality is they were not prepared to handle or control a blowout and resulting oil spill of this magnitude. Simply put, they lied.

“BP, in their haste to cut corners and save money in the completion process on the well location at MC 252, exhibited willful neglect in their duties to complete the well safely, which led to the blowout and explosion that killed 11 people. Eleven souls that will never come back. Eleven families with mothers and fathers and wives and children. Children who will never see their fathers again.

“This neglect and loss of life constitutes negligent homicide and all involved should be arrested and charged as such.”

Guidry told Truthout he believes, “There has been a BP cover-up from day one,” and “the US government, OSHA [Occupational Safety and Health Administration], the Coast Guard, NIOSH [National Institute for Occupational Safety and Health], all of them are in on it.”

Guidry is very concerned about the health of the fishermen he represents, of which there are approximately 600, who are working on the oil response for BP.

“These people are putting their health at risk by working for them, and now look at how they are being treated,” Gui

This morning, Herman sent this letter to Rozen and Feinberg:

“Dear Mr. Rozen and Mr. Feinberg,

“It was reported in the local media last night that BP (presumably thru the Claims Facility) was going to take a credit or offset for payments to fishermen and others engaged in the Vessels of Opportunity and/or other clean-up/remediation efforts against what is owed to them for lost profits and/or diminished earning capacity.

“Please note that BP very early on agreed not to do this. (See Letter from BP Counsel A.T. Chenault to my partner Jim Klick dated May 3, 2010.)”

Herman also provided Truthout with an email he sent to persons concerned with BP’s and Feinberg’s recent moves, in which he expressed concern with the procedures of the Claims Facility. While Herman stated that Feinberg and Rozen “have attempted to answer some of these questions, (with perhaps some inconsistency), no one — it seems — has ever seen a document signed off on by BP.”

Herman asked, “What, specifically, has BP committed to do? What, specifically, has BP given Mr. Feinberg (as an “independent” agent or administrator) the authority to agree to on behalf of BP? The attached letter was sent to BP’s local counsel here in New Orleans on July 3rd. We have still not received a formal response, and, to my knowledge, no one (including Mr. Feinberg) has seen a formal written document (other than a White House Press Release)

that purports to be authored by, signed by, agreed to or otherwise binding on BP. So, it would seem to be time to start asking BP (and/or the administration) : Where is BP? Or, perhaps stated another way: Where's the beef?"

On June 1, BP Board Chairman Henric Svanberg stated, "[President Obama] is frustrated because he cares about the small people, and we care about the small people. I hear comments sometimes that large oil companies are greedy companies or don't care, but that is not the case in BP. We care about the small people."

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