

BP and White House conclude negotiations on compensation fund

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BP and the Obama administration concluded negotiations Monday on the \$20 billion compensation fund for victims of the Deepwater Horizon oil spill. BP executives had previously committed to the fund during a private meeting at the White House in June.

In a statement on the negotiations, incoming BP CEO Bob Dudley said, “The purpose of the escrow account was to assure those adversely affected by the spill that we indeed intend to stand behind our commitment to them and to the American taxpayers.” He added, “Establishing this trust and making the initial deposit ahead of schedule further demonstrates our commitment to making it right in the Gulf Coast.”

In fact, the purpose of the fund is not to “make right” the people of the Gulf Coast, but to make right the profits of BP, by seeking to contain potential damages to the company.

The initial deposit into the account by BP totals just \$3 billion. The company will continue to pay into the fund for the next four years at a rate of \$5 billion per year. Kenneth Feinberg, the attorney appointed by Obama and paid by BP to oversee the fund, is scheduled to begin processing compensation claims this month. Two trustees, former US District Judge John S. Martin and Kent Syverud, the dean of the Washington University School of Law, will also be brought on as administrators.

In a recent interview with the *Wall Street Journal*, Feinberg describes the fund as a “creative alternative to years and years of protracted litigation.” But while Feinberg poses as a defender of the spill victims, the attorney’s real job is to manage the fund in such a way as to shield BP as much as possible from paying for the devastation caused by the oil spill. Should workers rely on Feinberg’s administration of funds, they would effectively waive the right to sue BP in a separate case.

In the remainder of his interview *Jowithl*, the Feinberg contemptuously dismisses the concerns of many fishermen in the Gulf who operate on a cash basis and do not have extensive documentation of their transactions. He says, “When I go to the Gulf, I hear a lot about the underground economy. ‘Mr. Feinberg, I got paid \$5,000 a month all cash. Do I have a claim?’ Well, you have to prove your claim. There’s nothing illegal about all cash business, but do you have your tax return? ... Do you have documentary evidence? ... Will your ship captain vouch for the \$5,000? ... I need something. I can’t be paying claims that can’t be proven. And I can tell you that this is going to be a big issue.”

Prior to the compensation fund, many residents in the Gulf Coast had received or applied for claims checks from the company, which were administered in a highly disorganized way, leaving many without an income for a significant amount of time. Asked if fewer residents might receive payments from BP once he takes over, Feinberg said, “I don’t think there’s any question about that,” adding, “If somebody received a payment from BP, in a time of beleaguered emergency, that just cannot be justified, I will not apply that principle so that everybody else receives an unjustifiable amount.”

In earlier statements, Feinberg announced he would also subtract any pay local fishermen received from BP while doing cleanup work from compensation settlements they might receive from the fund in the future. Feinberg may also establish “zones of eligibility” in order to further reduce the number of compensation claims. Workers and small business owners who have suffered economic hardships as a result of the damage done to the fishing and tourism industries, but who find themselves outside of the eligibility zone, would be considered “not directly

affected” by the spill and would be left to their own devices.

While Feinberg remains concerned that BP might be forced to pay out an “unjustifiable amount,” the fund itself is entirely inadequate in addressing the true level of need in the Gulf. In order to “make it right” in the Gulf Coast states, hundreds of billions of dollars would need to be allocated to the rebuilding of the region.

BP and the Obama administration are continuing the effort to minimize the impact of the spill, both in their estimates of the amount of oil remaining in the water and its financial impact. According to the latest numbers, BP has spent \$6.1 billion on recovery operations thus far and expects to spend a total of \$32.2 billion in all. The numbers greatly underestimate the true cost of cleaning up and rebuilding the Gulf.



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