



Southern Shrimp Alliance

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TESTIMONY OF
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SOUTHERN SHRIMP ALLIANCE

BEFORE THE
SUBCOMMITTEE ON INSULAR AFFAIRS, OCEANS AND WILDLIFE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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Madame Chairwoman and Members of the Subcommittee, thank you for giving me the opportunity to address the Deepwater Horizon oil spill's impact on the shrimp industry. I am John Williams, the executive director of the Southern Shrimp Alliance. I am also a shrimper. My son has followed me into the commercial fishing industry and two of my three brothers are commercial fishermen as well. I have been commercially fishing for over forty years and have owned and operated shrimp boats that worked the Gulf of Mexico and South Atlantic since 1973. I began working on a shrimp boat as a boy in North Carolina in 1960 and began commercially fishing for a living in Florida in 1968. I also own a seafood unloading/wholesaling facility and a seafood retail market in Tarpon Springs, Florida.

The Southern Shrimp Alliance was founded over eight years ago to represent the interests of the shrimp industry spanning from Texas to North Carolina along this country's southern coastal waters. We got together to respond to the negative effects of a flood of unfairly traded imports and to insure the future viability of the shrimp industry in this country. I participated in the creation of the Southern Shrimp Alliance and have since taken on the position of executive director because I believe that the shrimp industry is worth fighting for, both for the people who have been shrimping U.S. waters for decades and for their children, who are now taking over or will soon take over their parents' businesses, continuing a proud tradition. Since the Southern Shrimp Alliance's formation, the shrimp industry has battled intense efforts to regulate us out of existence,

faced historically high fuel prices at times when prices for our shrimp were at historic lows, and suffered through the devastating effects of massive hurricanes like Katrina, Rita, and Ike. The industry survived all of those challenges, just like the shrimp industry will survive the Deepwater Horizon oil spill. But these past few years have taken an immense toll on us and the oil spill will likely weaken our industry further.

Statistics maintained by the government tell the tale of how much the industry has already been weakened. In 2002, the offshore shrimp fleet spent over 200,000 days shrimping in the Gulf of Mexico. By 2008, after six successive years of decline, the fleet spent less than 63,000 days shrimping – less than a third of the fishing effort we claimed just a few years before. In 2002, the states of Texas, Louisiana, Mississippi, Alabama, and Georgia issued nearly 22,000 commercial shrimp licenses. By 2008, these five states reported issuing less than 9,000 such licenses.

Nevertheless, despite these significant setbacks, thousands of people in the Gulf of Mexico and South Atlantic continue to make their living through shrimping. The industry continues to land product worth over \$400 million each year, an amount that, on its own, seriously understates the total impact of shrimp fishermen on the economies of coastal communities. Because of its sheer size, the industry will survive this ecological nightmare, but the fact that an industry will continue in some shape or form is little comfort to the men and women who have struggled to make it through to this year and now face imminent bankruptcy because of the oil spill. Our prayers are said first and foremost to the families of those that perished in this tragedy. At the same time, thousands of members of our industry are desperately in need of help.

In my testimony today, I am going to organize my comments to first address the Southern Shrimp Alliance's concerns regarding shrimpers that have been put out of work by the oil spill, then discuss our concerns relating to those shrimpers that have been able to continue to work in areas not yet affected by the spill, and, finally, the role that we believe the shrimp industry should play with respect to the government's efforts to respond to the continuing impacts of this tragedy in the future.

The Compensation Process for Shrimp Fishermen Affected by the Oil Spill Must Be both Fair and Efficient

For a significant portion of our industry, the oil spill has completely and totally prevented making a living on the water. Virtually all of these shrimpers have spent the last five years cutting every expense they could to survive through an extended period of unparalleled low prices and high costs. These shrimpers have little, if anything, in reserve and an inability to fish, to generate income, presents an immediate threat to their solvency. These fishermen cannot wait for relief. Either they receive assistance now that keeps them in business or their small businesses fail and they join the ranks of the unemployed. There are not many other opportunities for gainful employment for these fishermen. The entire industry cannot be expected to smoothly transition into workers at Walmart or other service industries and they cannot all become census workers.

And, yet, when shrimpers ask the Southern Shrimp Alliance for guidance on what they can do, I do not know what to tell them. The law in this area is complicated and the experience of commercial fishermen harmed by the Exxon Valdez spill is by no means comforting for fishermen in the Gulf. The Oil Pollution Act of 1990 (OPA), passed by Congress in the wake of the Exxon Valdez spill, should give us comfort. On the printed page, the OPA says that businesses will be made whole for their economic damages caused by an oil spill. Because substantial amounts of shrimping grounds are closed as the result of the Deepwater Horizon's spill, there is no question that shrimp fishermen have been directly harmed by the disaster. Yet, if you speak to many shrimpers in the Gulf, you will hear massive confusion as to what they ought to do and what they might be entitled to.

On one side, British Petroleum has done at least some of what is required of it under the OPA in establishing a claims process. On another side, lawyers of all stripes have descended on the Gulf Coast and told shrimpers that the OPA process is fundamentally flawed – why would BP do right by them of their own volition? – and that they need to sign up for legal representation now, today, to get the relief they deserve. In response, some shrimpers have submitted claims to BP, others have signed contingency fee agreements that would hand over between one-third and forty percent of any funds received to an attorney, while still others have not taken any action because they do not know what to do or who to believe.

One voice notably absent has been that of the federal government. In the wake of a disaster with unprecedented impacts on commercial fishermen, the government can and should play a central role in informing members of the industry of programs in place to assist them. There are many legitimate questions and concerns that must be answered with respect to the OPA claims process. The press has focused on the question of the OPA's liability limit of \$75 million for BP with regard to economic damages. Given the number of businesses affected by the oil spill, economic damage claims are likely to greatly exceed \$75 million. Press reports indicate that BP claims to have already paid out \$50 million in compensation for economic damages. Once this liability limit is reached, the Oil Spill Liability Trust Fund is unlikely to be able to make up the difference as most of the OPA's current one billion dollar cap per event will be accounted for by costs related to clean up efforts.

Although BP has said in public statements that it will not impose a cap on economic damages and that it will compensate all legitimate claims, it is unclear, in practice, what such declarations mean and whether they have any legal effect. Those that cannot shrimp now are unlikely to be able to return to their fishing grounds anytime in the near future and are unable to predict with accuracy now what the ultimate impact of the spill will be on their businesses. Although the OPA contemplates partial claims and partial recovery, fishermen are very concerned that, when it is all said and done and television cameras have turned away from the oil spill to cover other events, funds will not be available to address continuing harm to shrimpers.

Even if no liability cap is imposed and all legitimate claims are paid, the claims process established by the OPA is likely to be overwhelmed by those affected by the Deepwater Horizon spill. The scope of the impact on people in the Gulf is staggering and expands by the day. It would seem to be extremely unlikely that either BP or the U.S. Coast Guard's National Pollution Funds Center (NPFC) will be able to administer the OPA relief process in a timely, expeditious manner. In the face of significant resources constraints and short statutory deadlines, it is inevitable that meritorious claims will be inaccurately rejected and individual fishermen will struggle to meaningfully contest any adverse conclusions drawn by BP or NPFC as to the impact that the spill has had on commercial fishing industries. Without the ability to rely on some basic baseline data or structure of analysis for evaluating claims, the OPA claims process pits the individual shrimper initially against BP, its claims adjusters, and attorneys and, later, against the entirety of the NPFC if any disagreement arises.

Last week, before the House Judiciary Committee, Mississippi's Attorney General, Jim Hood, testified as to his concerns, and the concerns of other Gulf states' Attorney Generals, regarding the OPA claims process administered by BP. Attorney General Hood noted that endorsement of the claims process procedure by the Gulf states' Attorney Generals "would encourage greater participation in it," but explained that he and the other Attorney Generals "cannot embrace any claims review process until we receive adequate assurances of its fairness." If the Attorney Generals of the Gulf states are unable to express support for the OPA claims process as administered by BP, how is a shrimper supposed to determine whether to file a claim or, indeed, what steps he or she ought to take?

In the absence of any guidance from the federal government, attorneys seeking to sign up clients have filled the void. Some of these attorneys tell shrimpers that the OPA process is fatally flawed, that they must sue or hire an attorney to enter into settlement negotiations with BP to obtain fair compensation, and that they must sign contingency agreements that promise those attorneys significant portions of any funds received. Where these attorneys' efforts are particularly aggressive, in the absence of any federal government guidance, fishermen have been left to the wolves. Widespread reports of undue pressure placed on shrimpers to sign such contingency agreements are troubling and add to the confusion held by many in the industry.

Shrimpers, and commercial fishermen generally, do not want to live off of BP or off of a government largesse. Fishermen want to fish. But without solid assurances that commercial fishermen will be made whole for the economic damages they are suffering now and will continue to suffer as fishing grounds remain closed, many more shrimpers will be forced to exit the business in the hope of finding something, anything, that will put food on the table for their families. For these reasons, the Southern Shrimp Alliance believes that Congress should strongly consider establishing a new process for addressing the injuries caused to commercial fishermen by the oil spill that accounts for the unprecedented nature of the disaster and its impact on the fisheries of the Gulf of Mexico. Such a process would give shrimpers comfort that they will receive fair compensation for

what has taken place, such that they will be able to start shrimping again as soon as there are clean waters to shrimp and clean shrimp to land.

In the interim, recent comments by the President appear to recognize the deficiencies of the OPA claims process for commercial fishing businesses and their employees. The Administration seems to be similarly concerned that the process be both efficient and fair. We are hopeful that in response to continued Congressional oversight, proactive efforts will be made to make the OPA claims process as amenable to fishermen as possible.

U.S. Shrimp Currently Being Landed and Sold in the Marketplace Is Safe, Wholesome and Healthy

It is also important to keep in mind that the oil spill has not impacted all of the Gulf of Mexico nor all of the waters commercially fished for shrimp in the United States. Every day, shrimpers continue to go out and work unpolluted waters and land wholesome, healthy U.S. shrimp. But we fear that this is not something that the majority of the American consuming public necessarily understands.

The Southern Shrimp Alliance greatly appreciates the efforts of NOAA Fisheries to inform the public that the seafood currently available from the Gulf is safe because of both (1) the fishery closures in areas affected by the oil spill and (2) rigorous testing of these products. But more needs to be done to ensure that this message is heard and understood. For important and valid reasons, the public's focus has been on the harmful effects of the oil spill and the devastating toll the spill is taking on the environment in the Gulf. The first thing that the public thinks of with respect to wildlife in the Gulf of Mexico is contamination by oil. For shrimpers, this means that not only are the fishermen put out of work by the spill harmed, but those shrimpers that have been to date unaffected face the possibility of a significant decline in demand for their product because of pervasive fears regarding the safety of anything caught in the Gulf or shrimp landed anywhere in U.S. waters.

Assuring the public of the safety of seafood landed in the Gulf is, therefore, essential to our industry. For the time being, this concern relates to those fishermen who ply waters not impacted by the spill. For seafood landed in unaffected waters, there is no question that these products are safe. But at some point in the future, waters currently closed to commercial fishing will be opened. Consumers will inevitably wonder whether the openings came too soon and whether the seafood landed in these waters is genuinely safe. For these reasons, a long-term strategy for ensuring consumers of the safety and health of seafood landed in the Gulf is required.

The Southern Shrimp Alliance is grateful for the establishment of a federal seafood safety/testing program in Pascagoula, but would like to see a far greater partnership between industry and the federal government in developing long-term strategies to insure the public of the safety of Gulf seafood. A good first step would be the creation of a joint task force with members of the commercial fishing industry and the

federal government charged with focusing on what steps need to be taken to minimize the negative effects of the oil spill on the market for Gulf seafood. An important next step would be the Congressional creation and development of a fund designed to provide consumer education regarding the safety and positive health attributes of Gulf seafood.

Formal Partnerships between the Commercial Fishing Industry and the Government Should Be Established in Response to the Oil Spill

Every significant oil spill with which I am familiar has taught that commercial fishermen bear the brunt of the damage caused by the contamination. As such, there should be no surprise that the Deepwater Horizon oil spill will disproportionately impact commercial fishermen in the Gulf. Moving forward, we hope that our government will appreciate the vulnerability of commercial fishermen affected by the oil spill. Fishermen do not need the government's assistance because they are helpless. Fishermen are famously and fiercely independent and self-sufficient, and many shrimpers fearlessly stepped into the breach to try and mitigate the harm caused by the Deepwater Horizon spill. But the circumstances of the spill now force beleaguered, battered small businesses to fight for fair treatment from companies and a government that have substantially more resources at their disposal.

For example, shrimpers have not simply waited for a man with a check to come riding by when oil contamination closed down their fishing grounds. Scores of shrimp fishermen eagerly volunteered to assist BP and the government in cleanup efforts and very few have been taken up on their offers. For those shrimpers that have participated in the cleanup process, the reports of health problems related to those efforts are extremely disconcerting. These fishermen report that their concerns have either been ignored or ridiculed and fear that pressing their concerns further will result in loss of the only income available to them. This is inexcusable. Whatever myriad considerations confront this Administration with respect to the oil spill, a concern that should transcend any other is making sure that those working to mitigate the spill's effect are not put in harm's way. Yet, there is little evidence that federal officials have worked with fishermen working on spill remediation to ensure their safety or address their specific concerns.

For our part, the Southern Shrimp Alliance has faced the lack of responsiveness directly in the concerns we voiced to government officials regarding the use of certain toxic dispersants applied by BP. On May 5th, we sent a letter to Lisa Jackson, the Administrator of the Environmental Protection Agency, and Dr. Jane Lubchenco, the Administrator of the National Oceanic and Atmospheric Administration, voicing strong concerns regarding the impact of the chemical dispersants used by BP on marine life. I have attached a copy of the letter to my testimony and ask that it be included as part of the hearing record. In the letter, we noted that the toxins in the dispersants were likely to have direct adverse impacts on both vertebrate and invertebrate marine life and, further, that the dispersal of oil throughout the water column would increase, rather than mitigate, the harmful environmental effects of the oil spill on marine life. We have not received any response, formal or informal, to these concerns.

In the absence of any direct response, we are given to understand by the public statements of these two agencies that a decision has been made that the environmental harms caused by oil spread throughout the water column were preferable to the environmental harms caused by oil allowed to rise and remain on the surface. Dr. Lubchenco has publicly described the decision to employ dispersants as a “trade-off decision.” (Timothy B. Hurst, “EPA, Coast Guard OK Use of Subsea Dispersants for Oil Spill” (May 15, 2010) available at: <http://ecopolitology.org/2010/05/15/epa-coast-guard-ok-use-of-subsea-dispersants-for-oil-spill/>). An official within the Environmental Protection Agency has separately explained, with respect to the dispersants, “the chemical that’s being used has toxicity associated with it, and I think, as the agency has tried to be very clear, this is about an environmental trade-off.” (Christopher Snow Hopkins, “EPA: BP Cleanup Means Environmental Tradeoff” NationalJournal.com (May 11, 2010) (quoting Jim Jones, EPA Office of Chemical Safety and Pollution Prevention) available at: <http://energytopic.nationaljournal.com/2010/05/epa-bp-cleanup-means.php>).

To date, no one in our government has taken the time to explain to commercial fishermen or, indeed, the general public why marine life was sacrificed as a trade-off for preventing oil from floating to the surface and creating even more of a public relations nightmare. The statements of government officials appear to concede that the federal government was acutely aware of the environmental harm that would ensue from approving the use of massive quantities of toxic dispersants underwater. To be clear: The shrimp fishery, along with the oyster, crab, bluefin tuna, and other important commercial fisheries in the Gulf, are what was “traded-off” in the decision to allow the unprecedented use of these toxic chemicals. And along with these fisheries, there appears to have been an intentional determination made that the thousands of family-owned small businesses in the Gulf related to commercial fishing would bear the brunt of the environmental impact of the spill.

It may yet be proven that there were valid scientific reasons for the decision to allow the use of dispersants, but we fear that the decision had little to do with science and more to do with limiting the visual impact of the oil spill by keeping oil in the Gulf out of the viewfinders of television cameras. Our fears appear to be validated by the insistence of both BP and federal agencies that underwater oil plumes do not exist, despite mounting evidence to the contrary from independent observers and scientists. And, still, neither EPA nor NOAA has reached out to the commercial fishing industry to convene a formal meeting with those whose commercial futures were endangered by this “trade-off” to explain the decision, answer questions, and address concerns obviously held by fishermen.

There needs to be a much stronger partnership between the Administration and the commercial fishing industry to address both short term and long term issues arising from the spill. However, such a partnership will not take place unless Congress forces the issue. Without Congressional oversight, too much focus will continue to be placed on managing the public relations aspects of the spill rather than addressing the substantive problems generated by what might now be fairly considered as the largest environmental catastrophe in U.S. history.

At this moment in time, the nation's eyes are affixed on the fishing industry in the Gulf and the public's strong sympathy has been voiced (and felt) regarding our plight. But we know that these sentiments, while very much appreciated, are fleeting. The impact of the Deepwater Horizon spill will be felt over a long period of time, well after the public's attention has been drawn away to other important issues confronting this country. As such, it is vitally important that formalized systems be established now that will remain in place for the long-term to help the commercial fishing industry recover. Precedent for such entities exists in the actions taken by Congress in the aftermath of the Exxon Valdez spill, when various bodies were created that explicitly required the inclusion of commercial fishermen. Here, an advisory body or Commission should be created to (1) advise Congress and the Administration of the continuing natural resource and economic impacts of the spill as they are discovered and documented over the coming years; (2) formulate specific recommendations to Congress and the Administration as to appropriate responses to those adverse impacts identified; and (3) provide regular reports on the progress and development of efforts to provide fair compensation to commercial fishermen for economic harm caused by the spill.

Thank you again for inviting me to present the concerns of the domestic shrimp industry and I am happy to answer any questions that you might have.