

Mr. Herbert J. Malone, Jr., President
Alabama Gulf Coast Convention and Visitors Bureau
July 27, 2010
Subcommittee on Commerce, Trade, and Consumer Protection
“The BP Oil Spill and Gulf Coast Tourism”

Good morning and thank you Mr. Chairman and members of the committee for this opportunity to appear before you and to share our story. Before I begin, please allow me to extend my condolences to the families of the eleven crew members who lost their lives during the explosion of the Deep Water Horizon Rig. I also ask that you join me in extending condolences to the families of the twelfth victim, Orange Beach Charter Boat Captain Alan Kruse, who tragically took his own life amidst the anxiety and despair at the loss of his way of life.

OVERVIEW OF OUR DESTINATION

My name is Herbert Malone and for the past 22 years I have enjoyed the privilege of leading the tourism industry of Alabama’s Gulf Coast. Our destination consists of two small cities of Gulf Shores (pop. 7,760) and Orange Beach (pop. 6,359). We have 32 miles of beach front in Baldwin County (pop. 177,000), one of Alabama’s two coastal counties. The inland city of Foley (pop. 11,393) is also considered by our tourists as integral to our destination because of its status as the retail center of the small region.

We share many of the same features as our neighboring Florida panhandle destinations: sugar white beaches, emerald green waters, world class fishing, championship golf and a variety of family friendly attractions, shops and restaurants.

*Visitor research confirms that our beaches are the dominant reason people visit Gulf Shores and Orange Beach, especially those who visit during the summer months. Specifically, when asked by researchers to list the most influential factors in making the choice to vacation in Gulf Shores/Orange Beach, 90% of the guests consistently listed “White sandy beaches” at the top of the list. Other beach related factors listed in the top ten are: “Sunning on the beach” and “Safe beaches for children.” “Clean, unspoiled environment” is also listed as one of the top factors.

When asked what activities you enjoyed during your visits, nearly 98% of our visitors listed “Beaches” as number one. Nearly 20% of our visitors enjoy fishing in our waters while boating also ranks high as an influential factor.

Alabama’s Gulf Coast has approximately 16,000 resort accommodations, mostly along or very near the beach front. We have a dozen championship golf courses and approximately 100 charter fishing boats that ply our waters daily.

THE ECONOMIC IMPACT OF THE OIL SPILL

**Research by the Alabama Department of Tourism concludes that in 2009, 4.6 million guests visited Baldwin County and accounted for \$2.3 billion in “direct” spending. This supported over 40,000 jobs with a combined payroll of \$915 million. Extrapolating from this report, I have estimated that nearly \$1.7 billion of this occurs during our high season – Memorial Day weekend to Labor Day weekend. During this high season, our destination accounts for over 47% of Alabama’s total tourism spending.

The above numbers described what the oil spill has put at economic risk. News of the oil spilling into the Gulf was widely reported early in the last week of April. From the first days of these reports, Alabama’s coastline was under severe threats as indicated by the NOAA projections charting the movement of the oil slick. Cancellations began to occur immediately.

Our first sporadic landing of tar balls were reported on May 11, 2010 and cancellations increased. Then, two weeks of favorable winds and aggressive marketing allowed us to salvage a decent Memorial Day weekend crowd. But the following Friday, June 4, 2010 we were inundated with tar balls, tar patties, and eventually tar mats. Cancellations then began en masse. The second weekend of June we were “slathered in oil” as reported by one news outlet.

So what has this cost us? We expect to lose at least 50% of the aforementioned \$1.7 billion of visitors’ spending. \$850 million to \$1 billion loss is in my professional opinion, a reasonable expectation. And this is only at the front line “direct spending” level. As these lost dollars fail to move through the economy, the impact will be multiplied many times.

As the retail level, lodging, eating and shopping establishments dropped sales, they have also dropped their business to business purchases of wholesale goods and services and staff reduction measures have been implemented. Those employees have likewise reduced their spending on goods and services. I am not aware of a single business in our community that has not suffered financial decline as a result of this oil spill.

BUSINESS SURVIVAL

With the aid of a \$15 million tourism marketing grant to the State of Alabama, our entire business community has pulled together in an attempt to overcome these declines. Aggressive non-conventional marketing programs, creative value added discounting and new special events have combined to provide a base of customers that has allowed us to at least survive through the summer. But the end of high season is near and along with this many business owners have told me they are struggling to find ways to pay debt service and to make weekly payrolls. The last two years of recession has eroded most reserves of both businesses and local governments, including our school system. Unlike the hurricanes we have survived, this disaster occurred on the eve of the high season, not the end of it. Without immediate relief in some form, many of our small businesses will not survive through the off season.

THE BP CLAIMS PROCESS

Many of our local businesses have prior experience dealing with adjusters on “loss of revenue” insurance and all of the trials and tribulations of that process. As a result, several groups banded together and attempted to develop a productive approach with BP early on. Despite these efforts, the claims process has been erratic, somewhat convoluted, and at times dysfunctional.

I have personally spoken with a large number of business owners who have yet to see a single payment, in spite of filing claims since the end of May. These claims varied from a few hundred thousand to a million dollars or more. So this lack of payment is devastating. Small claims of under \$5,000 have been readily processed and paid, but larger claims are subjected to vast amounts of documentation (one reported filing over 2,200 pages) and onerous scrutiny by forensic accountants before claims are processed and even partial payments are made.

Latest claims reports contained on BP’s website (as of 7/22/2010) reflect that to date there have been \$36,827,074 commercial “loss of profit” claims paid to 16,965 factors. This calculates to \$2,171 per factor. Hardly enough for a business to sustain itself.

While a few of our larger businesses who have sizeable accounting staffs and IT departments seem to be having improved experiences, the vast majority are having their claims stymied for unknown reasons.

Currently, the largest fear regarding claims is the transition from the BP claims process to Mr. Feinberg’s program. From the beginning, BP has stated publicly that they “will pay all legitimate claims,” but no definition or eligibility standards have ever been disclosed. In public forums, questions raised to BP officials present were frequently answered with, “We plan to make you whole” again with a lack of definition. This has led many people and business owners throughout the region to feel protected, but apparently this was unfounded trust.

At the time of this writing, I have had the opportunity to participate in one 45 minute meeting with Mr. Feinberg. Our group came to this meeting to present him information on the problems experienced with the BP claims process. However, we were quite surprised to learn that his perspective on “eligibility” was much narrower than any of us had ever dreamed. Obviously, this caused us grave concern and we expressed this to him. He indicated a willingness for further discussion.

Another concern to us was the process for payments that he described. The good news was that he offered to consider claims for the projected losses over the next 6 months so he can pay a business in advance rather than BP’s practice of paying in arrears. But his plan to offer a one time, final settlement raises many questions. How the future impacts which could last for many years are projected and calculated? Why is a claimant being asked to sign away their legal

rights forever with so much debate and uncertainty of such things as subsurface damage to the environment, long term health risks, etc.?

Our understanding that day was that a business owner could either accept the offer or proceed to litigation and that the ongoing claims payment process will cease at the time the offer is rejected. By almost all accounts in the legal community, the anticipated litigation will certainly last many years and possibly, a few decades. A law professor from the University of Alabama stated at a recent forum that the attorneys who will try these cases have probably not been born yet.

The bottom line is that a business owner, in order to survive will have no logical choice but to accept Mr. Feinberg's offer. Is this fair?

During our meeting with Mr. Feinberg, I personally found him to be open for reasonable discussion and debate regarding his view point. We all agreed to have a follow-up meeting to further discuss our concerns. At the time of this writing, that follow-up meeting has yet to occur.

IMMEDIATE NEEDS AND LONG TERM OUTLOOK

Our destination consists primarily of family owned businesses, many of whom are multi-generational. They have no diversification in other markets so they are extremely vulnerable. Most are categorized as small businesses. As previously stated, this oil spill has occurred at the worst possible time. They need immediate relief within the next few weeks.

First of all they need an expedited claims resolution process to put cash in their hands right away. The process BP claims adjusters are using is akin to the IRS deciding to audit every tax return prior to sending the taxpayer his refund. This is unconscionable. Secondly, the majority of our businesses are carrying debt of various types and sizes. A commonly used practice is a seasonal line of credit much like farmers use. They draw on their credit line in the early spring as they prepare their businesses and their markets for the coming season. These credit lines frequently come due at the end of the high season. But today there is no money for payment because this year's crop of tourists failed to appear.

The recent turmoil within the banking industry has caused both bank policy makers and regulators to reduce or remove much of the flexibility they have previously exhibited. Informal discussions with regional bank leaders and regulators have shown some willingness to find ways to help, but at this time I am not aware of any action in that regards.

As suggested by several business leaders at a recent Chamber of Commerce board meeting, there is an urgent and immediate need for flexible banking policies in the form of such things as loan modifications, forbearance agreements, payment extensions, etc. As one man said, "It is time to quit talking and demand some action NOW!"

As for the long term, the lack of the ability to understand the future ramifications of this monster appears to be the top contributor to the high degree of anxiety and stress that is rampant in our community. I see desperation in faces where I have never seen it before. Our destination attracts predominantly families due to the fact that we are family owned and operated businesses. If we lose these business owners, we lose the entire culture of our destination.

How long will it take to restore our environment to pre-oil spill conditions? How long will it take to attract our tourists back? Will there be adequate financial assistance for businesses and employees? These are all real and difficult questions. But we are survivors. Our community has a proven record of working together both in good times and in bad. We never have and never will ask for a handout. All we ask is that you, BP and Mr. Feinberg help us help ourselves.

Thank you for your time.

*Study conducted by The Klages Group
**2009 Economic Impact Report, Alabama Travel Industry