

GO FISH's Explanation of Objections to the BP Settlement

GO FISH CREDENTIALS

GO FISH is a coalition of leading seafood industry groups formed to address the BP Oil Spill. GO FISH calls for fair compensation, full restoration of fishing grounds, and the protection of coastal fishing communities. GO FISH has developed three criteria against which the proposed BP/Plaintiffs Steering Committee's Seafood Compensation Program ("SCP") or any other global settlement should be judged:

- Duration: Offers must be enough to protect against the risk of reasonable future bad outcomes;
- Parity: The SCP must provide equal treatment to the different parts of the seafood industry; and
- Process: Claimants must be fully informed and given an opportunity to be heard.

For too many, the proposed BP/PSC Seafood Compensation Program (SCP) fails these three measures. GO FISH calls on all parties and the Court to turn a quick resolution into a full resolution.

SUMMARY OF CONCLUSIONS

1. Landings data and fishers report show very poor landings in heavily oiled areas over the last two seasons. Fishers now crowd less impacted areas, creating a risk of overfishing that may ripple out over time. The direct and indirect effects will require long term protection.
2. By undervaluing lost revenue claims, the proposed SCP denies fishers adequate protection against future losses, including the risk of long-term economic collapse.
3. Thus, the SCP will not pay fishers \$2.3Bb as advertised. In addition to fishing lost pay claims, the SCP pays several other types of claims. Oyster leaseholder property damage claims will receive over half of the Seafood Fund, more than all the fishery lost pay claims combined. How does this happen?
4. The SCP understates losses by improperly taking back-to-back reductions out of fisher base revenues - the so-called assumed "saved cost" and "fish loss" percentages. Fishers fish only when they think the trip will be worth it. When vessels do fish, they likely suffer a loss of catch but do not save costs. Fishers save costs only when they don't fish - but then the fish loss is 100%.
5. Because costs and losses are assumed and not actual, BP's liability to harvesters is capped. But the SCP has no corresponding floor. Thus, fishers who don't make enough to pay taxes recover basically nothing, and never will, regardless of unfolding events or even a fishery collapse.
6. Leaseholders will receive enough money to replace 75-100 years of their total lease earnings. By contrast most shrimpers and all oystermen are offered 4-5 years of pay, crab and fin fishers 2-4 years of pay. LWF data shows up to \$500Mm will be paid to 15 closely related leaseholder groups.
7. Fishers waiting for an offer cannot collect interim damages required by law. To gain relief now, fishers must give up their rights by signing releases without knowing what they will be paid or the science regarding their future risks. No process currently assures the fairness of future distributions.
8. The offers don't reflect a real punitive damage premium. No relief is given to fishers who signed releases. Yet BP transfers the entire legal risk to commercial fishers and their supporting businesses.

[For those who don't want to read the details, turn over to the last page for GO FISH's proposed fix.]

THE SCP DOES NOT PAY FISHERMEN AS ADVERTISED¹

BP and the PSC claim that \$2.3Bb will fairly compensate commercial fishermen. But, using the PSC's own flawed math, less than half that amount will be used to pay fishing claims.

- BP and the PSC brand the entire \$2.3Bb Seafood Fund as a fund to pay commercial fishermen - \$1.9Bb initially and an additional \$400Mm in a "round two".² Both parties claim the deal is fair as the full amount is five times the annual revenue of the entire affected Gulf fisheries.³
- But the Seafood Compensation Program (SCP) pays other claims in addition to fishing revenue claims: oyster leaseholder property damage claims (aside from leaseholder revenue claims) and claims for the reduced value of fishing quotas (IFQ), a form of financial instrument.⁴
- Elsewhere, the PSC claims the SCP will pay two dollars to fishers for each dollar spent on property and IFQ claims. The PSC says after full distribution, the fishers will receive \$1.56Bb, while property claimants will get \$740Mm.⁵ This claim is not supported by the facts.
- First, the PSC's estimates are based on the assumption that every dollar of fish caught in 2009 would be claimed and accounted for in the SCP. This yields a gross maximum possible.⁶ Gross offers must be reduced by sums BP/GCCF already paid, some \$732Mm.⁷ The net maximum payout is \$528Mm.
- Second, the PSC and BP excluded fishermen who signed releases from receiving any offer. Thus, the revenues caught by those fishers will not be compensated through the SCP.⁸
- Third, the PSC estimates that 1300 oyster leaseholders will be paid \$579Mm for their leased acres.⁹ The estimate is based only on 392,000 acres leased by the LWF.¹⁰ The estimate does not include thousands of acres leased by private owners, increasing leasehold payouts \$150-200Mm.
- Educated assumptions suggest that initial fisher revenue offers will actually total \$300-500Mm, 1/3 of what BP and the PSC represented. Property & IFQ claims on first payout will receive \$780-850Mm, almost twice that of all fishers combined.¹¹
- Even after a second distribution, liability for all harvester claims is capped at \$1.1Bb, and then again by the entire \$2.3Bb SCP limit. The cap within a cap means BP pays no more, regardless of real losses, unfolding events or new data.¹²

¹ All references to Court documents in this analysis are found in the Eastern District of Louisiana, Case 2:10-md-02179.

² [Rec. Doc. 7101-3, p.5](Plaintiffs Memo in Support of Final Approval, Exh. A, "Seafood Compensation Fund").

³ BP stated: "The only component of the Settlement Agreement that is capped is the SCP, to which a total of \$2.3 billion has been allocated. This amount is nearly five times the total annual revenues of seafood harvested in the class geography." [Rec. Doc. 7114-1, p.13]. The Plaintiff Steering Committee (PSC) stated: "When BP moved the discussion to a non-reversionary fund that would satisfy all class commercial fishing claims, the \$2.3 billion that BP was willing to guarantee to the class was almost five times the entire revenue of annual catch landed in the Gulf Coast Areas..." [Rec. Doc. 7101-2 at 15].

⁴ [Rec. Doc. 6430-22](Deepwater Horizon Settlement Agreement, Exhibit 10: Seafood Compensation Program).

⁵ [Rec. Doc. 7101-3, p.5](Plaintiffs Memo in Support of Final Approval, Exh. A, "Seafood Compensation Fund").

⁶ See, GO FISH Analysis, SCP Industry Totals.

⁷ [Rec. Doc. 6430-22, p.5](Seafood Compensation Program); and GCCF Summary Statistics.

⁸ [Rec. Doc. 6430-1, p.14](Deepwater Horizon Economic and Property Damages Settlement Agreement).

⁹ See, fn. 4.

¹⁰ GO FISH Discussions with Court Neutral, BP and PSC. See also, GO FISH Analysis, SCP Table Correction.

¹¹ See, GO FISH Analysis, GCCF Released Effect.

¹² *Id.*

- If the remainder is distributed as per the SCP, the SCP will pay fishers half the five year protection promised and less than half the full Seafood fund.¹³

FISHING IN HIGH IMPACT AREAS CONTINUES TO SUFFER

BP says fishing in the affected waters has returned to normal so its offers are fair. In truth, areas slammed by oil are producing far less seafood. These areas were once among the most bountiful. Now, fishermen report the worst successive seasons in these areas in memory.

- On April 20, 2010, the Deepwater Horizon drilling platform exploded, releasing 206 million gallons of oil before it was contained on July 15, 2010.¹⁴
- Just as many important commercial species were spawning, the oil polluted some of the most bountiful fishing grounds in the Gulf region.¹⁵
- Scientists feared that even if adults would survive, oil would kill the larvae of the spawning species of commercially valuable crab, shrimp, and fish, and oyster spat.¹⁶
- Louisiana also opened up the river to prevent the oil from penetrating our coastal marsh. While the freshwater likely did keep some amounts of oil offshore, either can be fatal to oyster beds. Despite BP's claim to the contrary, BP is clearly legally responsible for both.
- Five fishing seasons have passed since the spill: Spring & Fall, 2010 and 2011, and Spring 2012. The first season was completely shut down and the last two seasons were historically low.¹⁷
- After a strong 2010 opening, most inland and offshore areas were closed by the oil through August.¹⁸
- Fishers report that seafood in affected areas is far less abundant and more frequently unhealthy.¹⁹ While fishers caught adults in Fall 2010 and Spring 2011, the Fall 2011 and Spring 2012 seasons were nearly the “worst in memory”, according to lifelong fishermen who are experts in those areas.²⁰
- Court documents filed by governments have noted scientists are finding ecological impacts too.²¹
- Louisiana landings data proves the point: Barataria shrimp and crab landings are down 40-50%, some offshore areas are 50% down, while oyster harvests are down 66% east of the Mississippi.²² Some oyster zones, like Areas 6 and 7, are experiencing a 100% loss with no spat setting at all.

¹³ See, fn.10.

¹⁴ See, CRS Report “Oil Spills in U.S. Coastal Waters: Background and Governance”. J. Ramseur. January 11, 2012.

¹⁵ See, U.S. Coast Guard/BP [ERMA](#) contamination maps.; Greater New Orleans Inc. “A Study of the Economic Impact of the Deepwater Horizon Oil Spill”; GO FISH Analysis: Annual Landing by Basin.

¹⁶ See, Greater New Orleans Inc., supra., p. 22-32.

¹⁷ La. Dept. of Wildlife & Fisheries Response to GO FISH FOIA Requests: landings data by basin, species, month and year; Response to J. Waltzer, 8/23/12; updated to C. Guidry on 9/14/2012); GO FISH Basin Impact Analysis.

¹⁸ NOAA Fisheries Service, 4/29/2010 (Deepwater Horizon/BP Oil Spill: Size & Percent Coverage of Fishing Area Closures Due to BP Oil Spill).

¹⁹ *Id.*

²⁰ GO FISH Objection, 9/5/12, Exhs. 2-10 (Affidavits, shrimper C. Guidry, oysterman B. Encalade, Barataria's M. Philips, Terrebonne's D. Dardar; crabber P. Nguyen, fisher G. Barisich, and long-line tuna fisherman T. Nguyen).

²¹ U.S. Objection, p.30,33(Studies: killifish, marsh erosion, plant & micro-organism mortality, surface oiling spawning areas); Whitehead, et al., *Genomic and Physiological Footprint of the Deepwater Horizon Oil Spill on Resident Marsh Fishes*, Proceedings, Nat'l Academy of Sciences, U.S. (2011)(tissue damage and changes in gene expression of fish indicative of adverse physiological and reproductive impairment).

²² See, fn.17.

- The oil spill response maps show these same areas were heavily oiled. Assuming the total Gulf landings numbers show a return to near "average", as these areas remain crippled, it is reasonable to conclude that the oil and response has played a significant part in causing the reductions.

AFFECTED FISHERMEN ARE CRIPPLED ECONOMICALLY

The SCP equates loss in catch to loss in pay. The two relate to each other differently. Small reductions in catch produce large reductions in pay. And, costs are going up, not down.

- Most fishermen don't stop when fishing is slow. They leave their own fishing grounds to fish waters farther away and less familiar. As new areas become crowded, fishers catch less per boat as more fishers chase the same fish. This raises new risks that fishers will overfish the remaining grounds.²³
- The further fishermen go, the more they spend on fuel and supplies – and the more time they are away from their families - even if they catch the same amount of fish.²⁴
- Even if costs stay the same, if a vessel expends \$50 in fuel and ice to catch \$100 in fish, the fishers have \$50 to "share". If the vessel expends the same \$50 to catch only \$75 in fish, the fishers share goes down to \$25. Thus, while catch is down 25%, everyone's pay is down 50%.
- The money left over is needed by the owner to pay for insurance, maintenance, bank notes and food for his family. These expenses don't go away, further increasing the harm of the spill.
- GO FISH has analyzed costs and reductions in catch, and determined that if landings decrease 40% it is no longer worth the effort.²⁵ In areas most affected, fishers are realizing this reality.
- The spill has caused many post-spill cost increases specific to particular fisheries. For instance, many oystermen held permits to fish public non-leased beds free of charge. These public beds are now unusable. Now, these oystermen must pay leaseholders at least 1/3 of their catch.²⁶
- Related businesses are also deeply affected.²⁷ Docks, dealers, stores, net makers and marine hardware and seafood transportation specialists in affected areas are in severe decline or failed.²⁸
- All are co-dependent on a healthy fishery yet will receive far less compensation. With scientists telling us that the oil remains in mud bottoms for decades²⁹, all share the same long term risk.

THE SCP UNDERVALUES FISHER CLAIMS OF LOST PAY AND PROFIT

The SCP uses faulty assumptions to cap BP's liability for lost fishing revenue losses while transferring the risk of fishery failure onto the back of the oil spill. Given these flaws, the fishers get no return for the punitive damage claims they release.

- The SCP's historic method uses the 2007, 2008, and 2009 landings as a baseline against which post-spill lost revenues are measured.³⁰

²³ See, Affidavit of shrimper T. Olander.

²⁴ GO FISH Objection, 9/5/12, Exhs. 2-10 (Affidavits, oysterman Encalade, shrimper Olander, shrimper/crabber Nguyen).

²⁵ See, GO FISH Analysis, Abundance to Net Income Table.

²⁶ GO FISH Objection, 9/5/12, Exhs. 6 (Affidavit of oysterman B. Encalade)

²⁷ See, GO FISH Objection, 9/5/12, Exhs. 2 (Affidavit of shrimper C. Guidry)

²⁸ Production Estimates from Interviews with Dock Owners (July 11-12, 2012).

²⁹ See, Operational Science Advisory Team (OSAT-2) Gulf Coast Incident Management Team Report, pg. 20

³⁰ [Rec. Doc. 6430-22](Seafood Compensation Program).

- In 2007, fuel prices skyrocketed. In 2008, hurricanes damaged vessels and grounded the fleet in mid-season. In 2009, low shrimp prices at the dock caused protests.³¹
- Of even greater impact, the revenue based formulas contain two large deductions that are applied prior to the multiplier or "Risk Transfer Premium" (RTP). Combined, these reduce benchmark revenues by over 80% and shave offers 30-45%, negating much of the PSC lauded RTPs.
- The first deduction, the "cost percentage", is described as the costs that are presumed saved "if the vessel does not fish."³² Benchmark revenues are reduced by 12-55%, depending on fishery.³³
- The second deduction is a preset, assumed "[fish] loss" percentage: shrimp and crab, 35%; oyster, 40%; and all finfish, 25%. This reduction is supposed to represent the expected decline in the average volume of fish caught by working vessels.³⁴
- The two deductions are mutually exclusive. Costs are saved when fishers don't fish; but the loss is 100%. When fishers fish, catch is reduced but no trip costs are saved. Both should not be applied.

THE SCP FAILS TO PROTECT MANY FISHERS FOR A SUFFICIENT TIME

The SCP provides inadequate long term protection given the disastrous cost of a fishery failure.

- Fishers face the most uncertain recovery of all economic victims of the spill. In other spills such as the Exxon Valdez, fisheries collapsed several years later, causing fishers twenty years of ruin.
- Information needed to assess this future risk remains tied up in the Natural Resource Damage Assessment (NRDA) process. Experts hired by Government, BP and the PSC are bound to secrecy.³⁵
- Fishers considered this future risk and demanded in settlement at least ten years of income protection. Seven years of wages paid today replaces ten years of wages paid annually.
- The SCP caps lost fishing revenue recovery to 1 - 4 years of pre-spill gross pay. This sum includes oyster leaseholder revenue claims. GO FISH has identified the length of protection as follows:³⁶
- The SCP provides crabbers with 2.5 years of pay protection. Louisiana crab landings since the spill are down 25% by volume, 40% in Barataria and Terrebonne. This has produced a 40% to 60% cut in pay respectively. Thus, crabbers have consumed 1 to 1^{1/2} years of protection already.
- The SCP provides shrimpers with 3 years of pay protection (4-7 years under the SCP's expedited methods). Louisiana landings are down 30% by volume inshore, 50% in offshore areas. These reductions produce pay losses of 50% and 85% respectively. Of the 3 years, half is already gone.

³¹ See, NOAA Annual Surveys of Offshore Shrimp Fleet; La. Wildlife & Fisheries press release 9/18/2008. "La. Seafood Industry Representatives Go to Washington, D.C.; "Shrimpers Strike Today at Capitol", Times Picayune, 8/26/2009.

³² [Rec. Doc. 7114-1](BP Memo in Support of Approval); [Rec. Doc. 7114-19](Exhibit 18, "Martin Smith Declaration", The [fishery] cost percentage is used... to adjust for costs not incurred by fishermen when they do not fish. Some of these costs would not be incurred if fishing activity were permanently reduced in response to lower abundance of fish; these included costs for fuel, bait, ice, and other supplies such as food for the captain and crew").

³³ [Rec. Doc. 6430-22](Seafood Compensation Program).

³⁴ [Rec. Doc. 7114-19](Exhibit 18, "Martin Smith Declaration", "[loss percentages] are the estimate of the reduction in volume realized by claimants due to the Deepwater Horizon incident" and are "fishery-specific and reflect the downturns in the volume of catch experienced in the respective fisheries in 2010 compared to a baseline period.").

³⁵ See, Louisiana Objection, p 19-20 (NRDA identifies potential injuries to natural resources resulting from the spill and designs studies that will be used to determine and measure spill-related impacts to natural resources and their human uses.).

³⁶ See, GO FISH Analysis, SCP Fishery Factors.

- Oyster harvesters receive 4 years of pay protection. Harvests are down 25%, 45% in public beds east of the River. Leaseholders in unaffected areas like lower Barataria opened their leases to harvesters who must pay 1/3 of their wages to use the private beds. Reduced landings and increased costs have produced pay losses from 33% - 80%, 1 to 2 years is consumed, with a slow recovery ahead.
- The SCP provides fin fishers with less than two years of pay protection. The wide variety of finfish, from inshore drum to offshore tuna, make it hard to assess landings, but tuna fishers lost all of 2010 season and remain suppressed. They have used the entirety of whatever protection they were given.
- Oyster leaseholders receive four years for revenue losses associated with lost production on their leases and then are paid again an average of \$1477/acre/year on leases for which they pay Louisiana \$2/acre/year. All told, oyster leaseholders will receive 75-100 years of their pre-spill gross revenue.³⁷
- In part because GCCF failed to pay interim damages, many fishers accepted final offers and signed releases. These fishers are excluded from the SCP and receive no future protection. The parties have not disclosed details, and discovery is not available, but 1/3 to 2/3 of fishers are believed released.

THE SCP MAKES A FEW VERY RICH, LEAVES OTHERS POOR

The SCP is deeply unfair in terms of its treatment of different claim types, fisheries and jobs. For some claimants, the SCP replaces 75 years of income. For others, the SCP provides less than one year of pay replacement. No reasonable explanation exists for this difference.

- Leaseholders will receive \$1.1-1.4Bb in total, 585%-734% of the total value of all of their future revenue streams. Fishers, by comparison, will receive 10-20% of the total value of their fisheries.³⁸
- LWF's oyster lease database indicates that fifteen closely related groups will receive over \$500Mm for their leases of public beds - more than all oyster harvesters, crabbers and fin fishers combined.³⁹
- For an oyster leaseholder to collect property damages on publicly owned waterbottoms, they must normally prove they built the substructure of the oyster bed.⁴⁰ The SCP does not require such proof, nor that the lease actually contained oysters or produced income at all.⁴¹
- The leasehold zone maps don't equate well to the loss. Portions of "Zone A", the most highly compensated area, produced very large oyster landings in 2011. Other leases in Zones B and C were directly oiled and have produced none since the spill but are compensated at lower rates.⁴²
- The SCP does not require that the funds be used to actually restore acreage. The SCP does not reserve Louisiana's resource claims. BP will likely claim a set-off for what it paid private citizens, which is not prohibited in the Settlement agreement.
- The SCP formulas are based solely on Gulf-wide seafood averages. Fishermen most impacted, those in areas that suffered heavy oiling, will be paid the same as others in less oiled areas.⁴³

³⁷ *Id.*

³⁸ See, GO FISH Analysis, Parity Analysis.

³⁹ See, Louisiana Wildlife & Fisheries Oyster Lease information, available at <http://oysterlease.wlf.la.gov/oyster/>.

⁴⁰ See, *Inabet v. Exxon*, 642 So.2d 1243 (1994)(lessee must show he built oyster beds to obtain restoration damages).

⁴¹ [Rec. Doc. 6430-22, p.28](Seafood Compensation Program).

⁴² See, GO FISH Objection, filed 9/5/12, Exh. 6 (Affidavit, oysterman B. Encalade), Exh. 10 (Affidavit, D. Dardar)

⁴³ *Id.*, p.17-18

- In the historic revenue methods, oystermen receive an RTP of 7.75-8.75, shrimpers receive an RTP of 7.25-8.25, while fin fishers and crabbers receive 5-6. Crew receives 2.25, the worst RTP of all.⁴⁴
- Oyster harvesters have to use all three years (2007-2009) for benchmark in comparison to shrimp, crab, and finfish, who get to choose avg. of 2007-2009, avg. of 2008-2009, or 2009.⁴⁵
- Oyster harvesters, finfish, crabbers are not given the options of filing under the more protective Expedited or Reduced Expedited Compensation Methods.⁴⁶
- Unlike shrimpers, oyster harvesters, fin fishers, and crabbers may not use the New Entrant Compensation Method. That method compensates new owners and captains who can prove they were going to begin fishing within the year leading up to the oil spill.⁴⁷
- Deckhands receive about 1 year of protection in comparison to resources and an equivalent 2.25 RTP to onshore businesses (Docks, Wholesalers, Retailers, Distributors & Restaurants).⁴⁸
- All of these inequities are believed to reflect the competition for funds from the SCP.

FISHERS CAN'T MAKE AN INFORMED DECISION AND ARE PRESSURED TO ACCEPT

Fishers should have a right to know the full extent of their settlement offer before having to sign away their rights. Leaving the second distribution amount unknown leaves individuals gambling that the second distribution will be equal or more than their first offer.

- A large majority of seafood claims have yet to be evaluated by DHCC. Without offers, fishers are left simply guesses what they will receive in the first distribution.
- The second distribution is driven by the number of fishers who signed GCCF releases, the number of acres of privately owned oyster leases, and the value of interim payments to non-released fishers. BP and the PSC have access to the best information but have refused to share.⁴⁹
- As the Court has denied GO FISH and others the right to limited discovery, the possible reasons behind these disparities will likely never be explored.
- According to the SCP, if a fisher accepts any portion of the settlement and signs a release, the claimant can no longer opt out - all claims must be paid through the DHECC.
- The DHECC is now issuing VOO and Coastal Property offers and payments far faster than Seafood Compensation determinations.⁵⁰ If fishers do not know of the binding effect of signing the release to get the VOO payment, they may mistakenly bind themselves to the DHECC.
- Only SCP claimants must file a claim within 30 days after the Judge's final approval to file a claim.⁵¹ Non-SCP claimants are given until April 22, 2014.⁵²

⁴⁴ [Rec. Doc. 6430-22, p.12, 30-33](Seafood Compensation Program).

⁴⁵ [Rec. Doc. 6430-22, p.7, 28, 43, 55](Seafood Compensation Program).

⁴⁶ Rec. Doc. 6430-22](Seafood Compensation Program).

⁴⁷ Rec. Doc. 6430-22, p.15, 16](Seafood Compensation Program).

⁴⁸ *Id.*

⁴⁹ See, GO FISH Analysis & GO FISH Response to PSC and BP's Opposition to Go Fish's Limited Discovery Requests.

⁵⁰ See, DHECC Public Statistics, Deepwater Horizon Economic and Property Damages Settlement (9/19/2012)(available at www.deepwaterhorizonsettlement.com).

⁵¹ [Rec. Doc. 6430-22, p.45].

⁵² *Id.*

- Interim payments are not available to those who participate in the DHECC claims process. BP's interim claims process is limited to non-class members and opt-outs.⁵³ Fishers who want to see an offer have waited six months without interim pay.
- The inability to receive interim pay is the same pressure that drove many individuals and businesses to sign away their rights by accepting a GCCF Quick Pay or Final Payment.⁵⁴
- Fishers are put under incredible pressure to make a quick decision, one they may later regret.

GO FISH'S PROPOSED SOLUTION

- By capping the recovery of fishers and leaseholders and by creating winners and losers, BP has placed these groups in conflict. To lodge a proper legal objection, fishers must voice these inequities. Leaseholders resent this as they too are victims. Neither caused the spill. BP must end its divisive tactics and the PSC must reject this dynamic. Together, we all must solve the problems in the SCP.
- To do so, BP should remove the property and IFQ claims from the SCP and reduce the Seafood Fund by the \$700Mm the PSC says will be paid to these claims. Properly structured, the \$1.6Bb remaining in the Fund should be sufficient to pay fisher claims and perhaps to provide some relief to those who signed releases or to shoreside dependent businesses who also are treated unfairly.
- The SCP contains a ceiling on recovery for fisher claims, but no floor of recovery for those with poor documentation. Many lack documents because they simply don't make enough money to owe taxes. To assure all fishers receive the minimum needed to survive, a "base compensation" floor must be set at or above the poverty line.
- The SCP must be amended to provide all fishers with 6-8 years of pay protection or a reopener. Double charges for saved costs and lost landings must be eliminated to reflect what is happening on the water. Assuming time fishing and off are evenly divided, a blended base loss rate from 40-70% of expected landings is appropriate. This would double the protection offered to working fishers.⁵⁵
- The Court should demand a resolution of these concerns. If that is not successful, the Court should reject the SCP or institute a transparent fact finding process, appoint advocates for the different interest groups, and provide a meaningful opportunity to examine the fairness of the first distribution and to decide whether to change the course of the second distribution.

Gulf Coast Organized Fishermen in Solidarity & Hope

1717 Tchoupitoulas St., New Orleans, LA 70130

www.gofishcoalition.com

GO FISH Contacts: Byron Encalade, 504.236.1527, byronencalade@yahoo.com; Tracy Kuhns, 504.289.7162, bayoukeeper@cox.net; Clint Guidry, 504.952.4368, clint@cox.net; Joel Waltzer, counsel, 504.430.0844, joel@waltzerlaw.com.

⁵³ BP Claims Program Frequently Asked Questions, p.3.

⁵⁴ See, GO FISH Objection, 9/5/12 (Exhs. Affidavit of Tracy Kuhns and Mike Roberts).

⁵⁵ See, GO FISH Analysis, Program Corrections.