

NEW MEXICO INJURY ATTORNEY BLOG

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BP Distribution Scheme Illustrates Political Priorities and Social Realities

When President Obama first called for \$20 billion to be set aside by BP for the Deepwater Horizon disaster, some on the right called it a shakedown, extortion, anti-American, socialist and so on. The fact is if BP gets out of its liability for a mere \$20 billion, then it is the people and businesses on the Gulf Coast that have been shaken down. And it is the American taxpayer that will eat the difference.

The settlement terms first and foremost protect BP and its partners, Halliburton, Transocean and Cameron International from full exposure for the damage the spill has caused. A settlement from the fund will bar injured individuals and businesses from making any claims against BP's partners despite their clear liability for portions of the damages. In turn, a settlement with Transocean by the employees injured or killed by the explosion will bar additional claims by those workers against BP or the other partners. In short, the \$20 billion fund was established to protect BP, Halliburton, Transocean and Cameron International, the oil industry. It was not ever intended nor will it come close to fully compensating the victims of spill.

The limitations on claims are pretty strict with compensability based largely on geographic proximity to the spill. Not surprisingly, despite its constant refrain that it will take full responsibility for the disaster, BP has lobbied and continues to lobby to exclude inland businesses directly affected by the spill. Of course this would exclude much of the tourism industry that supports the Gulf Coast such as gas stations, restaurants, tackle shops, restaurant supplies, seafood distributors, gift shops, beer distributors and on and on. It would almost certainly exclude claims by those outside the region that supply goods and services to the tourism and fishing industry along the Gulf Coast.

The settlement rules will even prohibit claims by property owners for the loss of value of their property. This in fact could be a very large figure that will go uncompensated. After all, beach front property on toxic waters has limited sales appeal. Interestingly, real estate brokers and agents will have \$70 million set aside to compensate them for their losses. It is clear the real estate industry has much stronger lobby than simple homeowners again bringing home the political realities of the \$20 billion fund. Other industry lobbies will likely come forward in the future to have portions set aside for their own losses. Bank of America, Citibank, Goldman must be hurting terribly from the loss of loan activity in the region so they most certainly should be compensated.

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The fund protects BP, Halliburton, Transocean, Cameron and even has a measure of protection for the real estate industry while leaving small business, homeowners, and thousands of workers who have lost their jobs to fend for themselves. After all, this is America where personal responsibility is king. Corporate responsibility is an entirely different matter. Good money is paid to keep it that way.

And wait for it! When those opportunistic individuals, workers, small businesses left out in the cold are forced to seek recovery on their own, the tort reformers and the right will waste no time in attacking the villainous and greedy trial attorneys that would dare take on their cause. The same interests that have worked to minimize the liability of BP and its partners will then try to convince us that it is BP, its partners, the oil industry, capitalism and America itself that is being victimized by the trial lawyers who seek to bring compensation to the true victims of the spill.

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