

From: “The people living in the Gulf to whom you are beholden”

Op-Ed

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Vietnamese Americans throughout Southeast Louisiana whom I am assisting are relieved to hear Mr. Feinberg reiterate at the House Judiciary Committee on Tuesday the he is “beholden to the people living in the Gulf”, and not to BP or President Obama.

A third to half of all fishers in the Gulf are Vietnamese Americans and approximately 80 percent of Vietnamese Americans in the Gulf region are connected to the seafood industry. Vietnamese Americans are closely monitoring the set up of the BP claims process to ensure that Mr. Feinberg follows through with the community’s recommendations. One such recommendation is that there should be Vietnamese language accessible and culturally competent people in Mr. Feinberg’s office, in the claims facility, and on the 3-member appeals panel for the Gulf Spill Independent Claims Fund.

Firstly, a third-party administrator that oversees the resolution of a conflict is fair (or perceived as fair) because the person is mutually agreed upon. The appointment of Mr. Feinberg as the independent third-party administrator was mutually agreed upon by President Obama and BP. The spirit of fairness underlying that mutual agreement between the President and BP should also serve as the guiding principle for Mr. Feinberg in his work. Right now, Mr. Feinberg has the sole authority to staff his office, the claims facilities, and select the 3-member appeals panel that would be reviewing his very decisions through the claims facilities. Fair representation means staffing Mr. Feinberg’s office and claims facility and appointing members to the appeals panel that Vietnamese Americans living in the gulf affirmatively agree are fair and competent -- including culturally competent and Vietnamese language accessible.

Fair representation is necessary because, to date, Mr. Feinberg’s office has not given the perception that he is beholden to at least a third to half of all the fishers in the Gulf region – that is, the Vietnamese American people. Today, Vietnamese American communities in southeast Louisiana still can only get Mr. Feinberg’s office remotely attend a Vietnamese American town hall meeting using video conference. The staff also confirmed that Mr. Feinberg’s office does not have any Vietnamese American or Vietnamese culturally competent staff members. Cultural competency and Vietnamese language access within Mr. Feinberg’s office will help to close the distance between Mr. Feinberg and the significant population of Vietnamese American people living in the Gulf region to whom Mr. Feinberg is beholden. Furthermore, now that the oil well is capped and final claim decisions will be handed down, there is so much more at stake for the victims. The 3-judge appeals panel must be fair in its treatment of Vietnamese American victims and equally important, must be perceived as fair – or mutually agreed upon – by the Vietnamese American community. Victims need to feel that they will have a fair chance at justice.

Secondly, there are many qualified individuals who are also Vietnamese linguistically and culturally competent to serve in Mr. Feinberg’s office, in the claims facilities, and on the appeals panel. In 2000, the “New Horizon” publication highlighted 25 prominent Vietnamese Americans in areas such as law, journalism, and science. These individuals and many others have made

significant contributions to the United States since the end of the Viet Nam War in 1975. Since then, there have been more judicial appointments, an estimate of 500 Vietnamese Americans lawyers in the country, and countless community organizers. From Louisiana alone, there's a Vietnamese American federal Magistrate Judge and a Vietnamese-American U.S. Congressman. In short, there are qualified and appropriate people for the job.

Thirdly, a truly effective implementation of cultural competency and language access is not limited to supplemental services that facilitate the processing of BP claims, but rather it is a broad fundamental approach that sets the agenda throughout the BP Claims process, from the commanding office of Mr. Feinberg and the claims facility through decisions by the appeals panel. During the congressional hearing, Representatives Lofgren and Chu both highlighted the need for cultural competency and language access for the Vietnamese American community. In response, Mr. Feinberg consistently relegated these approaches to claims processing services only – translation and interpreter services and technical assistance from attorneys and accountants. Although these services are necessary, they are not sufficient to deliver truly just and effective cultural competency and language access. Even Mr. Feinberg's notion of being open to input and recommendations implies keeping the community at a distance from the real decision-making power that would allow for the system to be designed truly by the people and for the people. A fundamental approach to implementing cultural competency and language access would empower communities not only to provide input but also to have decision-making authority. The best expression of this approach was taught to me after Hurricane Katrina by a most insightful African American woman from the Ninth Ward - "If you're not at the table, you're probably on the menu".