

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

In Re: Oil Spill by the Oil Rig “Deepwater * MDL NO. 2179
Horizon” in the Gulf of Mexico, on April *
20, 2010 *
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* SECTION J
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* This document relates to all actions. *
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* Honorable CARL J. BARBIER *
*
*
* Magistrate Judge SHUSHAN *
*

Bon Secour Fisheries, Inc., et al., individually * Civil Action No. 12-970
and on behalf of themselves and all others *
similarly situated, *
*
* SECTION J
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* Plaintiffs, *
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*
* v. * Honorable CARL J. BARBIER *
*
*
* Magistrate Judge SHUSHAN *
*
*
* BP Exploration & Production Inc.; BP *
America Production Company; BP p.l.c., *
*
*
* Defendants. *

**CLASS COUNSEL’S AND BP DEFENDANTS’ JOINT PROPOSED FINDINGS
OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF FINAL APPROVAL
OF DEEPWATER HORIZON ECONOMIC AND PROPERTY
DAMAGES SETTLEMENT AGREEMENT AS AMENDED ON MAY 2, 2012**

***COUNSEL FOR SUBMITTING PARTIES ARE LISTED AT END OF
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW***

126. Once the causation tests are satisfied, all revenue and variable profit declines during the Compensation Period are presumed to be caused entirely by the spill, with no analysis of whether such declines were also traceable to other factors unrelated to the spill. This presumption would not be available in litigation. *See* Fishkind Decl. ¶ 56; Sharp Decl. ¶ 17.

(e) Risk Transfer Premium

127. An RTP is applied to the loss calculated using the two-step method. Because the RTP is designed in part to compensate the class member for potential future losses that may never occur, it ensures that class members will be made entirely whole, and in many cases more than whole. *See* Settlement Agreement Ex. 4C at 5; Fishkind Decl. ¶ 33; Henley Decl. ¶ 31; Sharp Decl. ¶ 30, Fishkind Supp. Decl. ¶ 18; Sharp Supp. Decl. ¶ 21; *supra* n.10.

(f) Offset For Prior Payments

128. Any payments received by the claimant from BP or the GCCF are subtracted from the compensation that would otherwise apply. The offset is reasonable, as it prevents double compensation. It is also very favorable to class members because it is applied after the application of an RTP. *See* Settlement Agreement Ex. 4C at 5; Fishkind Decl. ¶ 35; Henley Decl. ¶ 32; Sharp Decl. ¶ 32.

(2) Multi-Facility Business

129. The Multi-Facility Business Framework is Exhibit 5 to the Settlement Agreement.

130. The Settlement provides a business with multiple physical facilities in the Gulf Coast Areas with substantial flexibility by allowing it to file either one consolidated claim or separate claims for one, some, or all of its facilities. As a result, such businesses may recover even if losses at one facility were offset by gains at another facility. Similarly, a multi-facility business with fewer than all of its facilities in the Gulf Coast Areas may recover under the Multi-Facility Business Framework for spill-related economic losses associated with one, some or all

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