

**APPEAL PANEL DECISION FORM**

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business ████████████████████	First ██████████	Middle ██████████
<b>Claimant ID</b>	██████████	<b>Claim ID</b>	██████████
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	████████████████████		

**II. DECISION**

**Denial Upheld**

**Denial Overturned**

**III. PRIMARY BASIS FOR PANELIST DECISION**

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

**Claim should have been excluded.**

**Claim should have been denied.**

**Claim should not have been excluded.**

**Claim should not have been denied.**

**No error.**

**Comment (optional):**

Decision comment uploaded

████████████████████

**Claim ID No.** ██████████

Claimant appeals from the Denial of this claim. The Settlement Program classified Claimant as a business in the oil and gas industry, and thus excluded from the Economic and Property Damages Settlement Class.

Claimant asserts that exclusion of this BEL Claimant is not appropriate because Claimant does not meet the definition of any of the descriptions of business activities listed as ineligible NAISC codes in Exhibit 17 of the Settlement Agreement. The Settlement Program assigned NAICS code ██████████ to Claimant, ██████████. Claimant maintains that NAISC Code ██████████, which it used on its 2010 Federal Income Tax Return, should have been accepted. Claimant denies that it provides services on a "contract basis" and thus inclusion in an Exhibit 17 code description was inappropriate, as those codes provide that the described services be provided on a fee or contract basis.

Section 2.2 of the Settlement Agreement lists the categories of individuals and entities excluded from the economic and property damages settlement class definition, including businesses in the Oil and Gas Industry. Settlement Agreement § 2.2.4.5. The Settlement Agreement provides that, "(b)usinesses and employers identified on the NAICS codes listed on Exhibit 17 are excluded from the Economic Class." *Id.* at § 5.10.2.1.1. Exhibit 17 requires that the Claims Administrator determine the appropriate NAICS code based on the totality of the evidence. The NAICS codes listed on Exhibit 17 include ██████████ (NAICS Code ██████████), which was assigned to Claimant in this case, and to which Claimant objects.

The Settlement Agreement requires the Claims Administrator to determine the appropriate NAICS Code based on the totality of the circumstances. Claimant's own description of its business indicates it is in the Oil and Gas Industry. Claimant lists "Oilfield Service" as its "Product or Service" on its 2010 Tax Return (Schedule K), a factor certainly taken into account by the Claims Administrator.

The NAICS Codes list in Exhibit 17 includes companies that provide services “on a contract or fee basis.” Claimant denies that it provided services on a contract or fee basis. However, given the plain evidence of its own financials in the record, Claimant cannot credibly argue that it performed its services without charging a fee or entering into an implied contract with each customer, just as contemplated by Exhibit 17.

The Settlement program appropriately exercised its discretion in assigning the descriptive NAICS Code it did to Claimant. There is ample support within the record to support this administrative decision. It was reviewed twice, and the initial determination confirmed in each instance. The finding is affirmed, and the Denial hereby upheld.