

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

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

II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

<input type="checkbox"/> BP's Final Proposal	Compensation Amount	\$0
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$39,459.22
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0

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.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

Comment (optional):

BP appeals the BEL claim award to Claimant ██████████ on the basis that ██████ may be excluded as a business that provides services to the Oil and Gas Industry. BP speculates that to be the case based on some of the content of ██████'s website. Section 2.2.4.5 of the Settlement Agreement excludes from the Economic Class businesses "identified on the NAICS Codes listed on Exhibit 17 to the Settlement Agreement," i.e., "Oil & Gas Industry Exclusions." Exhibit 17, in turn, requires the Claims Administrator ("the CA") to



determine the appropriate NAICS Code for a claimant based on the totality of the evidence. ■■■ is a fabricator of control panels, ranging from "simple junction boxes to complex automated process control panels," located in ■■■. It commenced business in ■■■ with a water treatment company as its first customer but sought to expand to the petro-chemical market. ■■■ states in its Final Proposal that it "had some limited success early on (2005-2008) with some of the [petro-chemical] companies listed on its website, but this revenue stream was only a minor portion of ■■■ business." ■■■ professes that the inclusion of a number of petro-chemical companies in its website's "Partial Client List" was "a marketing strategy in an effort to increase business," which did not bear fruit. The result, according to ■■■, was that during 2009, 2010 and 2011 – it "did not receive a single order from a refinery or petro chemical plant and provided no services to the oil and gas industry." It attaches to its Final Proposal a list of its 2009-2011 customer industries and "Water Treatment" companies predominate, with no petro-chemical or refinery industry customers indicated. ■■■ points out that control panels and junction boxes can be used in many types of process applications and are not peculiar to refineries and chemical plants. The CA assigned to ■■■ as the most appropriate NAICS Code, 355313 – Switchgear and Switchboard Apparatus Manufacturing, which includes control panel manufacturing. That NAICS Code is not one listed in Exhibit 17. None of the dozens of examples of Oil and Gas Industry types of business operations set out in Section 2.2.4.5 match up with the business activities of ■■■. The mere fact that it might sell a junction box or a control panel to a company that has oil and gas operations does not automatically constitute it a member of the Oil and Gas Industry. BP seeks remand or, alternatively, offers a Final Proposal of zero. Remand is denied. ■■■s Final Proposal is in the pre-RTP award amount of \$39,459.22, and it is selected under the mandatory Baseball Process. Appeal denied.