



APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business	First	Middle
	[REDACTED]		
	[REDACTED]		
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Business Economic Loss		
Law Firm	[REDACTED]		

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):

Claimant, the owner-operator of truck stop/restaurants in the Gulf coast area, appeals the denial of its BEL claim for its location in [REDACTED], on the basis it is an excluded entity under Section 2.2.4.8 of the Settlement Agreement because it sells BP-branded fuels. Claimant does not dispute that all or some of its locations sell BP-branded fuels but claims that such sales are only a small fraction of its total annual revenues and should not trigger any exclusion. Claimant further asserts that in considering the application of this exclusion it should be read in pari materia with the other exclusions contained in nearby paragraphs of the Settlement Agreement and policy 480 so that the focus should be placed on the primary business activity of a claimant. If this were done claimant contends the exclusion would not be applicable to this claim. BP responds that while other exclusions do focus on the primary business activity of a claimant this particular exclusion has no qualifying language limiting its application. A review of the record and Settlement Agreement does not support claimant's argument. First recent court pronouncements mandate that application of this exclusion is to be determined at the entity level so that use of BP-branded fuels here has a systemic effect. More importantly, this governing principle further diminishes claimant's argument because the Settlement Agreement is clear that the exclusion is absolute



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irrespective of the quantities of BP-branded products that are sold by claimant. Other recent panel decisions have similarly concluded that this exclusion should be thusly applied. The decision of the Claims Administrator is affirmed and the appeal of claimant is denied.