BDO Consulting, a Division of BDO USA, LLP

INDEPENDENT EVALUATION OF THE

GULF COAST CLAIMS FACILITY REPORT OF FINDINGS & OBSERVATIONS

TO THE U.S. DEPARTMENT OF JUSTICE

June 5, 2012

BDO

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I. INTRODUCTION

At the request of the U.S. Department of Justice (the "DOJ"), BDO Consulting, a division of BDO USA, LLP ("BDO"), conducted an independent evaluation of the Gulf Coast Claims Facility (the "GCCF"). The GCCF was established to receive and process claims by individuals and businesses for costs and damages as a result of the oil discharges from the April 20, 2010 *Deepwater Horizon* incident ("the Spill"). On December 21, 2011, the DOJ publicly announced the selection of BDO to perform the independent evaluation and mandated that our work be fully independent,[1] be overseen and directed by the DOJ, and meet the highest professional standards. (See Exhibit A.)

In conducting our independent evaluation, we were at all times mindful of the unprecedented nature of the 2010 *Deepwater Horizon* explosion and the resulting Spill, and the acute financial distress endured by individuals and businesses in the region. We conducted our independent evaluation of the GCCF with the professional care commensurate with this task. At no point did we experience any pressure from any source to do anything other than conduct an objective review of the facts and make a presentation of our unbiased findings and observations.

Our approach included, among other things, the interview of over 40 professionals from the GCCF and subcontractors engaged to provide services to the GCCF, the testing of tens of thousands of claims that had been processed by the GCCF, the extensive use of data analytics to identify broader populations of claims affected by issues uncovered by our claims testing, the further review of the potentially affected claims to identify claimants who were negatively

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[1] The December 21, 2011 letter of Associate U.S. Attorney General Thomas J. Perrelli stated, "Second, it is absolutely critical that your review be fully independent. While Mr. Feinberg has agreed that the GCCF will pay the costs associated with the review, *your work will be overseen and directed by the Department of Justice.* If at any time you are not receiving the cooperation or information you need for you review, please let me know immediately." [Italics in original.] During the course of our engagement, BDO has not had any direct communications with BP, its management or its employees.

impacted, and the observation of the recalculations performed by the GCCF in preparing to make first-time or additional payments[2] or offers for payment to impacted claimants.

In this report, we set forth our findings and observations resulting from our independent evaluation of the GCCF's operations. The complexity of the GCCF process inevitably required development of specialized terminology, which we have used in this report where necessary. However, as we hope that our report will be useful to a wide range of audiences, particularly the hundreds of thousands of individuals and businesses affected by the Spill, we have set forth the results of our independent evaluation as simply and directly as possible.

BDO's findings and observations are only properly understood in the full context of our work. Citation of individual findings and observations without reference to the full context of our independent evaluation as set forth in this report may result in, among other things, misinterpretation of the nature, extent and scope of our work, the direction provided by the DOJ, the cooperation and materials provided by GCCF personnel, and our findings and observations.

II. AREAS OF FOCUS & APPROACH

A. Genesis of the Independent Evaluation

From its inception and throughout the GCCF's history, public officials, potential claimants and other interested parties expressed their expectations about the transparency and timeliness of its operations. In July 2011, following input from these parties, GCCF Administrator, Kenneth Feinberg, reached an agreement with U.S. Attorney General Eric Holder in which Mr. Feinberg agreed that the GCCF would undergo an independent evaluation of its operations and that the independent evaluation would begin before the end of the year. Congress passed legislation that required the DOJ "to identify an independent auditor to evaluate" the GCCF.[3]

After a process that included meetings with representatives of Attorneys General of the Gulf States, the DOJ selected BDO to conduct an independent evaluation, including claims testing, of

[2] "First-time payments" were made to claimants who had not received any payments from the GCCF either because their claim was incorrectly denied or found deficient due to errors identified through our procedures. "Additional payments" were made to claimants who had received payments from the GCCF, but had been underpaid as a result of the errors identified through our procedures.

[3] The GCCF informed us that, from its inception, it contemplated having a third party conduct an independent evaluation at the conclusion of its operations.

the GCCF in a letter dated December 21, 2011. The DOJ publicly announced the selection of BDO to perform the independent evaluation and mandated that our work be fully independent and meet the highest professional standards.

B. Areas of Focus

Prior to our selection to perform this independent evaluation, we met with DOJ personnel and public officials from Gulf States who briefed us on concerns raised by interested parties regarding the operations of the GCCF. Once we were selected, the DOJ requested that our independent evaluation focus on certain concerns, which included, among others: the qualifications, number and oversight of GCCF resources; appropriate consideration of claimant documentation; communications with claimants; consistency of outcomes among claimants that may appear to have been similarly situated; and timely processing of claims.

With input from the DOJ, we designed our approach to develop an understanding of the potential bases for these concerns. Significantly, the DOJ emphasized the need to take appropriate steps, including the correction of errors and the improvement of GCCF processes, to ensure that victims of the Spill are fairly treated and properly compensated. During the selection process and in discussions after we were selected, the DOJ requested that we gain an understanding of and memorialize the GCCF's operations, protocols and methodologies; test claims to identify and correct errors and improve GCCF processes; and provide input to help determine the validity of certain concerns brought to our attention by the DOJ, as a result of its meetings with public officials and stakeholders in the Gulf States. We designed our approach to meet these objectives.

Based upon direction received from the DOJ, we undertook an objective assessment of certain aspects of the GCCF with the primary purpose of gaining a comprehensive understanding of how it operated and identifying issues in the GCCF's processing of claims to determine whether they were consistent with the concerns presented to us by the DOJ. We did not, however, set out to substitute our judgment for that of the GCCF, and we were not asked to reach an overarching conclusion concerning whether the GCCF succeeded (or failed) in its efforts. Additionally, we have not reached conclusions regarding whether the GCCF met the obligations of the BP subsidiaries, BP Exploration and Production and its guarantor, BP Corporation North America, Inc., as Responsible Parties under the Oil Pollution Act of 1990 ("OPA"), including, among other things, whether it adopted the correct standard of legal causation. That determination is beyond the scope of our work and requires, among other things, legal expertise.

Our procedures were focused on the GCCF's handling of claims for lost earnings or profits, which constituted 90.3% of the claims received, 96.8% of the amounts paid and 99.8% of the claims paid by the GCCF.[4]

We also met with Mr. Feinberg, who, from the outset, pledged cooperation on the part of the GCCF, its subcontractors and expert advisors. We were granted access to GCCF subcontractors and advisors to conduct interviews and provided with access to GCCF databases, including claim files. We also worked with GCCF personnel to understand issues identified in our claims testing. When we determined that an issue might be an error, we worked with the GCCF to confirm whether it was an error, determine its likely cause and search the claims database for other claimants potentially affected by those errors. We also worked with the GCCF to identify errors that resulted in underpayments to claimants and to expedite the issuance of payments and/or offers of payment to those claimants.

During our work, we were able to reach senior GCCF personnel on a virtually uninterrupted basis throughout the work week, and on weekends and holidays. While the GCCF personnel continued to supervise the processing of claims and other tasks, they made themselves available for daily conference calls and responded to our various requests for clarification of the issues we observed during interviews and while testing specific claims. Additional staff was retained and assigned by BrownGreer PLC ("BrownGreer"), one of the entities engaged to assist the GCCF with reviewing claim files, for the purpose of making first-time and additional payments to claimants who were negatively impacted by errors identified through our work.

After the announcement of the independent evaluation to be conducted by BDO and during the course of our work, we received communications from claimants or their counsel directly requesting our attention to their specific claims or concerns. We received approximately a half dozen of these communications, some of which pertained to multiple claimants. As we received them, we confirmed with the DOJ that the concerns raised by these claimants were similar to

4 We have not addressed the processes used by the GCCF to receive and process claims for: removal and clean-up costs; damage to real or personal property; loss of subsistence use of natural resources; or economic damages sustained as a result of physical injury or death.

those identified by the DOJ, as a result of input from public officials and stakeholders in the Gulf States, and designed our approach to identify claimants generally who might have experienced the types of concerns raised by these specific claimants. While we did not address these specific claimants directly, we did consider the issues that these claimants raised as we performed our interviews and testing.

During the course of our independent evaluation, the GCCF continued to process claims and implement changes to its processes unrelated to our work. Subsequent to December 30, 2011 (which was the point at which data was "frozen" at our request to ensure that we would be able to work with a fixed data set) through March 8, 2012,[5] the GCCF paid approximately 7,200 additional claims, totaling approximately $261 million. Those additional claims were not subject to our claims-testing procedures.

Also during the course of our work, the GCCF responded to our inquiries and, as we made claims-specific findings and observations, met with us to address them, as discussed below. In connection with these meetings, BDO and BrownGreer developed database queries and other claims testing approaches to search for other claimants potentially affected by issues identified during our claims testing.

From our first meetings with the DOJ, it has emphasized that because the GCCF was an ongoing claims facility, we were to conduct our independent evaluation without any unnecessary delay so that the GCCF would have the benefit of our observations in its future processing of claims. We have conducted this engagement according to those instructions, even after the announcement of a settlement in the class action lawsuit, *In Re: Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, and the related court order providing for the transfer of claims processing from the GCCF to a court-supervised claims program (See Section III.E, below).

5 As described in Section III.E, below, on March 2, 2012, BP reached an agreement-in-principle with plaintiffs in the class action lawsuit, *In Re: Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, pending in the U.S. District Court for the Eastern District of Louisiana. On March 8, 2012, in the context of that litigation, U.S. District Court Judge Carl Barbier issued an order (the "Transition Order") creating a process for transitioning from the GCCF claims process to the court-authorized claims process that would result from the settlement and setting forth the parameters by which claims currently pending with the GCCF would be handled in the Transition Process. That order effectively terminated the ongoing processing of new claims by the Kenneth Feinberg-administered GCCF.

We have remained mindful that our observations may provide useful guidance to those involved with administering and overseeing that process and for future purposes.

On April 19, 2012, we issued an Executive Summary of our Findings & Observations, which is attached hereto as Exhibit B.

C. The BDO Independent Evaluation Team

BDO is a national professional services firm with a more than 100-year history. Our professionals provide assurance, tax, financial advisory and consulting services to privately-held and publicly-traded companies through 41 offices nationwide. As a Member Firm of BDO International Limited (the fifth largest accountancy and consulting network in the world), BDO serves multi-national clients through a global network of more than 1,118 offices in 135 countries.

The technical abilities and varied backgrounds of our professionals and their experience in large and complex matters enabled us to respond rapidly and comprehensively to this assignment. Specifically, we have assisted government agencies, law firms and companies with large, complex investigations, evaluation of losses in the wake of natural and manmade disasters, administration of claims and compliance with government-mandated remediations.

We have worked on engagements that include: the independent examination of AOL Time Warner at the direction of the U.S. Securities and Exchange Commission ("SEC"); the evaluation of the accounting and business practices in mortgage-related litigation regarding New Century Financial Corporation, Countrywide Financial Corporation and American Home Mortgage; investigation of the accounting practices at Enron Corporation; calculation of distributions due to investors for the Independent Liquidating Trustee of the Lipper Hedge Funds; court-ordered tracing of funds in various Adelphia Communications Corporation entities; and assistance with anti-money laundering remediation efforts at major international banks undertaken as a result of enforcement actions instituted by various prosecutorial and enforcement agencies, including the DOJ, the Financial Crimes Enforcement Network, the Board of Governors of the Federal Reserve System, the U.S. Office of the Comptroller of the Currency and the New York State Banking Department.

Our engagement team included professionals with experience in claims evaluation, including providing assistance to numerous insured organizations with business interruption claims relating to damage from, among others, Hurricanes Katrina, Wilma, Ike and Gustav. We have also served as the claims administrator in class action settlements and have provided expert testimony regarding the appropriateness of claims payments in litigation among potentially liable parties.

Based on our unique structure of interrelated and complementary practices, we were able to efficiently field a multidisciplinary team of professionals with appropriate experience and credentials for this engagement. After discussing our qualifications with public officials from the Gulf States and the GCCF, the DOJ selected BDO to perform this independent evaluation. Our leadership group included partners and managing directors, each with between 15 and 35 years of forensic accounting, investigative, technology and/or auditing experience, who have handled a broad array of complex matters during their careers. (See Exhibit C for more background on our engagement leadership team.)

In total, our team included over 130 professionals with a diverse range of qualifications in the assurance, tax, risk advisory, investigative, claims evaluation and technology areas. The credentials held by members of our team include the following: Certified Public Accountant, Certified Fraud Examiner, Certified in Financial Forensics, Certified Anti-Money Laundering Specialist, Certified Internal Auditor, Oracle Certified Associate and Project Management Professional.

D. Approach to the Independent Evaluation

As our independent evaluation did not begin until late December 2011 and focused on transactions processed by the GCCF as of December 30, 2011, our approach was necessarily focused on developing a retrospective understanding of the first 17 months of the GCCF's formation, evolution and previously processed claims. While we developed an understanding of the challenges faced by the GCCF, claimants and others, we did not observe firsthand GCCF's daily decision-making process and, as a result, there are limitations in our ability to comment on the bases for those decisions, as well as on all the specific factors and considerations that resulted in the evolving GCCF processes.

Our approach involved developing a deeper understanding of the concerns presented to us by the DOJ, based on, among other things: discussions with DOJ personnel (who also conveyed information from Gulf State public officials and stakeholders); review of comment letters posted to the GCCF website; analysis of testimony before various legislative and regulatory entities; review of reports by the U.S. Government Accountability Office ("GAO"), the Coast Guard, the National Commission on the BP *Deepwater Horizon* Oil Spill and Offshore Drilling and others; and review of media and editorials discussing the GCCF, its processes and outcomes for claimants.

We approached our work with open minds and impartiality. Furthermore, we have done so with the awareness that some arguably negative outcomes were the inevitable consequences of the implementation of a complex process under tight time constraints.

We interviewed personnel of the subcontractors and experts engaged to assist the GCCF, reviewed documents, and visited claims processing locations (both in the Gulf Coast area and at the centralized operations centers of a number of the entities engaged to assist the GCCF) and regional site offices. We interviewed over 40 GCCF and subcontractor and advisor personnel at their offices, claims processing centers and claims offices in the Gulf States. (See Exhibit D for a list of persons whom BDO interviewed.) In addition to understanding the claims intake, evaluation and payment processes, we sought to understand events around the formation of the GCCF, including: the transition of data, processes and resources from the original claims facility operated by BP to the GCCF; the background and qualifications of the personnel working for various entities engaged to assist the GCCF; the reporting, reviewing and monitoring mechanisms and controls built into the GCCF processes; and where applicable, the GCCF's reactions to some of the criticisms that have been leveled against it. We corroborated statements made by certain personnel with interviews of others and by obtaining relevant documents as additional support.

From the outset of our independent evaluation, Mr. Feinberg made clear that the GCCF's priority was to compensate those claimants most likely to have been adversely affected by the Spill in as expeditious a manner as possible. In its effort to execute this priority, the GCCF's approach to the development and implementation of its protocols and methodologies was, by necessity, a dynamic one. The GCCF constantly made adjustments and improvements as it gained a greater understanding of the myriad challenges that emerged during its operations. Mr. Feinberg informed us that, throughout its tenure, the GCCF strived to apply its protocols and methodologies in a consistent manner and that while errors undoubtedly occurred in processing such a substantial number of claims in such a short period of time, the GCCF in the past had corrected any identified errors and was committed to doing so as part of the independent evaluation.

The analysis of specific claims and the assessment of the implications of this analysis for broader populations of claims were integral to our approach to identify and correct errors in the GCCF's implementation of its claims processing protocols and methodologies. Our experienced professionals were trained on the GCCF processes and collectively committed tens of thousands of hours to reviewing claim files. Our technology professionals developed a web-based claims review platform to facilitate our evaluation of the GCCF's processing of claims. We also evaluated aspects of tens of thousands of claim files and programmatically searched the entire database of over one million claims for those with attributes similar to claims found to contain errors. We supplemented our findings by requesting documents and information from the GCCF and undertook a process with the GCCF to develop an accurate understanding of the factual information required to complete our independent evaluation. As potential issues were identified, they were discussed with the GCCF until we were independently satisfied as to whether they were, in fact, issues that might affect a broader population of claims.

BDO professionals, both independently and in cooperation with the GCCF, made extensive efforts to search the claims data in the GCCF databases using a variety of sophisticated approaches to determine broader populations that may have been affected by the issues we identified. The claims testing and associated database searches were designed to find specific examples of the causes and symptoms of the concerns identified by the DOJ, and public officials and stakeholders from the Gulf States. To enhance the effectiveness of this approach, we sent teams of experienced BDO programmers and claims-testing professionals to BrownGreer's facilities in Richmond, Virginia for approximately six weeks to work side-by-side with BrownGreer professionals to gain an understanding of the issues identified and their impact on the entire universe of claimants, and to identify claimants to whom first-time or additional payments and/or offers for payment should be made. While it was not possible to ensure that every claimant was treated fairly or in accordance with GCCF protocols and methodologies, these activities provided the GCCF with an opportunity to address issues negatively affecting specific claimants. They also permitted the GCCF to make enhancements to its processes to improve the processing of future claims during its tenure.

We also tested aspects of the mathematical accuracy of determined claims by comparing key inputs to the claim determination to the supporting financial documents provided by the claimant. In addition, the mathematical accuracy of the loss calculation contained in claim determination letters sent to claimants was tested through a review of the GCCF's computer code syntax across a broad population of claims.

Utilizing this comprehensive approach, we were able to identify possible causes of certain concerns brought to our attention by the DOJ and to work with the GCCF to correct errors that negatively impacted amounts paid to claimants. During our work, we identified instances (and the GCCF identified further instances) where claimants were paid amounts that were higher than those required by GCCF protocols and methodologies. No steps were taken with regard to those claims; rather, BDO and the GCCF focused on the identification of claimants that may have been underpaid based on GCCF protocols and methodologies. We were informed directly by Mr. Feinberg at the outset of our work, and by GCCF team members throughout the course of our work, that any error that was identified resulting in an underpayment of a claim would be corrected, and that the GCCF would not request any return of amounts found to have been overpaid. The GCCF has made or is in the process of making first-time and additional payments and/or offers for payment[6] totaling more than $64 million to almost 7,300 claimants who were negatively impacted by errors that were identified as a result of our independent evaluation.

Further, we anticipated when we began our work that changes would be made to the GCCF's processes to improve the processing of future claims and, in fact, certain claims processing changes had been made by the end of our work. Over 20 enhancements were made to the GCCF claims review platform and processes specifically as a result of observations that we made during the independent evaluation, including: new prompts to alert reviewers of information

[6] The GCCF has informed us that corrective payments and offers for payment have been made subject to the terms of the Transition Order.

availability; daily metrics regarding potential human error when actions are taken that may have overlooked a GCCF process step; database requirements to complete certain previously missing fields; and process routing of certain claims for special handling.[7] After the March 8, 2012 court order transitioning claims processing responsibilities, we continued our work with the understanding that these specific improvements and, more importantly, the awareness of potential issues may also be reflected in the work to be undertaken by current GCCF subcontractors who will be working on the Transition Process (see below) and by those who will be working for the new court-supervised claims program.

Our work was conducted pursuant to Statements on Standards for Consulting Services issued by the American Institute of Certified Public Accountants.

III. GCCF FORMATION & OPERATIONS

As a result of our work, we have become familiar with the formation and evolution of the GCCF, its internal processes and detailed information regarding the outcomes of specific claims. Our independent evaluation has afforded us a unique perspective on the GCCF's processes. We describe the GCCF's formation and operations in the following sections to provide the context for our findings and observations.

A. BP Response to the Spill & Origins of the GCCF

On April 20, 2010, an explosion occurred on the *Deepwater Horizon*, an offshore oil drilling rig owned by Transocean Ltd., which resulted in, among other things, the deaths of eleven crewmen and the discharge of oil into the Gulf of Mexico for several months. The Spill dwarfed the 1989 *Exxon Valdez* oil spill (which gave rise to the Oil Pollution Act of 1990) both in terms of the amount of oil discharged and the extent of the impact. As described by the GAO, among others, the U.S. Coast Guard's National Pollution Funds Center ("NPFC") designated two BP subsidiaries – BP Exploration and Production and its guarantor, BP Corporation North America, Inc. – and five other companies as "Responsible Parties" under OPA for Spill-related claims. Shortly after the Spill, at the direction of NPFC, BP established an initial facility ("the BP-

[7] GCCF's adjustments to the claims review process were not limited to those made as the result of our independent evaluation. Rather, throughout the engagement, we observed many instances in which the GCCF initiated improvements to its claims review process.

operated facility") to receive and process all claims against Responsible Parties and began paying emergency compensation to individuals and businesses on May 3, 2010, thirteen days after the explosion.

BP selected ESIS, Inc. ("ESIS"), a global risk management services firm, to act as the administrator of the facility. ESIS, in turn, engaged the services of claims adjusters from Worley Catastrophe Response ("Worley"), as well as forensic accountants from the accounting firms KPMG LLP, Cowheard and Associates ("Cowheard") and Assurance Forensic Accounting CPAs, LLC ("AFA") to review and process claims. Within the first month after the explosion, BP, through Worley, set up 35 field offices in the Gulf States and, during the period from May 3, 2010 through August 22, 2010, received more than 154,000 claims and made over 127,000 payments, totaling more than $399 million, to more than 30,000 claimants.

Senior Worley professionals told BDO that, during its initial operations, the BP-operated facility accepted and processed claims only from claimants involved in the fishing industry, such as fishermen, dock workers and seafood processing businesses. As time went on, claims were also accepted from claimants in other industries, such as condominium owners, hotels and restaurants, though those claims ultimately were never processed by the BP-operated facility. The BP-operated facility compensated claimants only for past losses and did not devise a methodology for issuing final payments to claimants that would include an amount to cover future anticipated losses. According to Worley, the claims processed by the BP-operated facility were subject to an extensive review process by BP.

Shortly after the Spill, BP entered into negotiations with the U.S. Government that resulted in an announcement by President Obama, on June 16, 2010, that BP had agreed to: (a) establish a $20 billion trust, funded over four years, that would be available to pay, among others, claims of individuals and businesses arising under OPA, as well as the claims of local and state governments and claims of Federal, state and tribal trustees for natural resource damages; and (b) create a new claims process to be administered by a neutral third party. Kenneth Feinberg, Managing Partner of the Washington, D.C.-based law firm, Feinberg Rozen, LLP ("Feinberg Rozen"), was appointed to administer this new claims process. The GCCF thereafter undertook to receive, process and, where it deemed appropriate, pay claims of losses resulting from: (1) lost earnings or profits for individuals and businesses; (2) removal and clean-up costs; (3) damage to real or personal property; (4) loss of subsistence use of natural resources; and (5) physical injury or death.[8]

Mr. Feinberg and his firm served as the Special Master of the Federal September 11th Victim Compensation Fund of 2001 (the "9/11 Fund") and as Fund Administrator for the Hokie Spirit Memorial Fund following the tragic shootings at Virginia Tech. He also has served as Special Master in Agent Orange, asbestos personal injury, wrongful death, Dalkon shield and DES (pregnancy mediation) cases.

In the commercial sector, Mr. Feinberg designed, implemented and administered ADR Settlement Programs involving various national insurance companies and Gulf hurricane claimants who suffered losses due to Hurricane Katrina and other Gulf hurricanes. Mr. Feinberg has also served as Distribution Agent for AIG Fair Fund claimants and has been the Fund Administrator for a variety of claimant funds totaling more than $1 billion. In his capacity as an arbitrator, Mr. Feinberg helped determine the fair market value of the original Zapruder film of the Kennedy assassination and legal fees in Holocaust slave labor litigation. In 2009, Mr. Feinberg was appointed by the Obama administration to be Special Master for TARP Executive Compensation.

The daily execution of Feinberg Rozen's involvement in the GCCF was overseen and supervised by Camille Biros. Ms. Biros, Feinberg Rozen's Business Manager, has worked with Mr. Feinberg on claims administration and dispute resolution for over 30 years. Ms. Biros served as Deputy Special Master for the 9/11 Fund and the Hokie Spirit Memorial Fund as well as other funds created as part of settlements in class action personal injury, products liability and wrongful death cases. In addition, she has managed and administered the other projects described above taken on by Mr. Feinberg and Feinberg Rozen.

Jacqueline Zins, an attorney who has worked with Mr. Feinberg for over 17 years, served as lead senior counsel and consultant to the GCCF. In that capacity, Ms. Zins provided legal advice to

[8] Other claims processes were available to address other costs associated with the Spill, such as losses by oil rig workers during the moratorium on deepwater drilling in 2010.

the GCCF on a daily basis and worked with Ms. Biros supervising the daily execution and supervision of the GCCF. Ms. Zins served as Deputy Special Master for the 9/11 Fund and the Hokie Spirit Memorial Fund, as well as other funds created as part of settlements in class action personal injury, products liability and wrongful death cases. In addition, Ms. Zins has provided legal advice on other projects described above taken on by Mr. Feinberg and Feinberg Rozen.[9]

Feinberg Rozen advised us that the GCCF is not a stand-alone legal entity, such as a corporation, partnership or unincorporated association; it is simply the name given to the facility, consisting of the above team of senior professionals from Feinberg Rozen with the support of a number of subcontractor firms and advisors, created to receive, process and pay claims of losses resulting from the Spill. During the period immediately following Mr. Feinberg's selection as administrator of the GCCF, he and his staff began the process of identifying and securing the services of other firms and advisors.

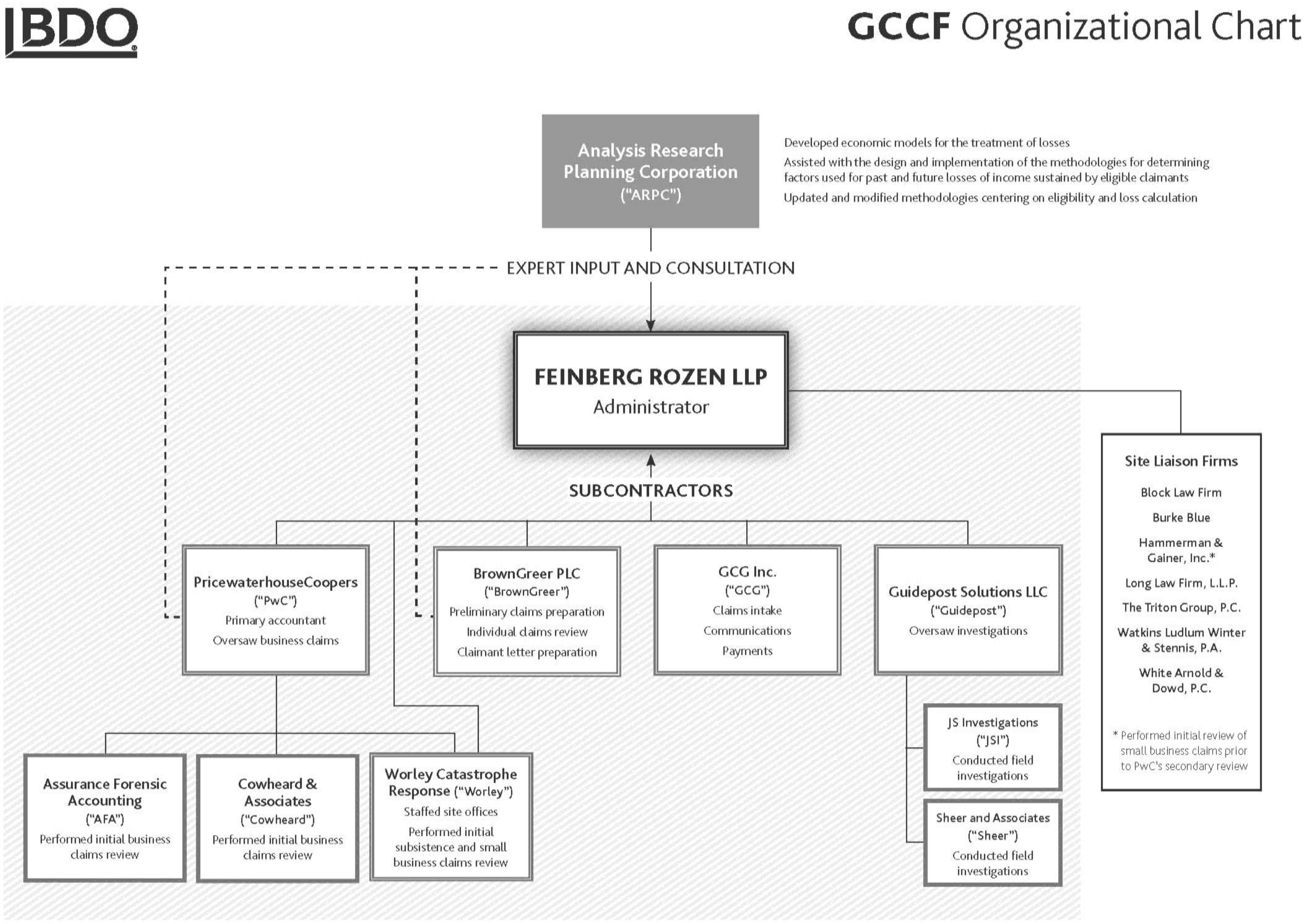
B. Entities Engaged to Assist or Advise the GCCF

The volume, urgency and diversity of claims faced by the GCCF required a large number of professionals with a wide range of skills. Immediately upon Mr. Feinberg's selection as Claims Administrator, Feinberg Rozen began the process of assembling a large team of experienced professionals, including claims processing firms, accounting firms, investigators, catastrophe response companies, economists, academics and other professionals, to assist it in the development and implementation of claims processing protocols and methodologies.

Prior to discussing these entities in the context of their work assisting the GCCF, we have set forth below some background information on each entity to assist readers with an understanding of their role and qualifications. The chart on the following page provides a pictorial overview of the subcontractors and advisors ultimately involved in the GCCF, as well as a simplified synopsis of their roles.

9 Additionally, Feinberg Rozen partner, Michael Rozen, and two attorneys retained on a temporary basis, William Mulvey and Krista Friedrich, also were part of Feinberg Rozen's GCCF engagement team.

Figure 1: *Overview of the GCCF*



These entities, their roles and leadership are summarized as follows:

Feinberg Rozen LLP ("Feinberg Rozen")

- Law firm headquartered in Washington, D.C.
- Team Leaders: Kenneth Feinberg, Camille Biros and Jacqueline Zins
- Team Size: Six professionals assigned to work on GCCF
- Responsibility was that of an Administrator with overall management responsibility for activities of the GCCF, including the development and implementation of GCCF policies and methodologies and oversight of the GCCF subcontractors.

The Garden City Group, Inc. ("GCG")

- Settlement Administration Company headquartered in Lake Success, NY
- Team Leaders: Karen Shaer and Jennifer Keough
- Team Size: Over 2,400 professionals assigned to GCCF at its peak
- Responsibilities included the intake and processing of claim forms and supporting documentation; the creation and maintenance of GCCF's centralized database and online claims filing and claims status operation; the creation and maintenance of GCCF's website; the staffing of a toll-free call center; communications with claimants, law enforcement agencies and various state agencies; payment processing and distribution; interaction with Citibank; Quick Payment Final Claim processing; and the preparation of daily reports requested by Feinberg Rozen and all publicly available reports issued by the GCCF.

BrownGreer PLC ("BrownGreer")

- Law firm, headquartered in Richmond, VA., dedicated to mass claims resolution, litigation management and support, and claims administration
- Team Leader: Orran Brown
- Team Size: Over 1,000 professionals assigned to GCCF at its peak
- Responsibilities included the design, construction and operation of the computerized claims review process; tracking of the progress of claims; implementation of the policies and methodologies established by the GCCF for the determination of eligibility, sufficiency of supporting documentation, and whether the claimant had sustained a compensable loss for claims filed by individuals; implementation of the policies and methodologies established by the GCCF for the determination of eligibility and sufficiency of supporting documentation for business claims; the preparation of letters notifying claimants of a claim resolution or status; implementation of an audit process; staffing of the claimant communications center; and the creation of customized reports as requested by Feinberg Rozen.

PricewaterhouseCoopers LLP ("PwC")

- Global accounting firm with U.S. headquarters in New York, NY
- Team Leader: Charles Hacker
- Team Size: 62 professionals assigned to GCCF at its peak
- Responsibilities included the review and approval of calculations and resolutions for all business claims, and second level review of all business claims processed by Cowheard, AFA, Worley and Hammerman and Gainer, Inc.

Worley Catastrophe Response ("Worley")

- Risk management company headquartered in Hammond, LA
- Team Leaders: Allen Carpenter and Charles Bilbe
- Team Size: 1,319 claims evaluators assigned to GCCF at its peak
- Responsibilities included the collection and shipping of documents from the site offices to GCG; the providing of basic information to claimants; the monitoring of traffic volume at the site offices; the evaluation of Emergency Advance Payment claims under BrownGreer's supervision; and implementation of policies and methodologies established by the GCCF for the evaluation of subsistence claims and small business claims under PwC's supervision.

Cowheard and Associates ("Cowheard")

- Forensic accounting firm headquartered in Miami, Fla.; participated in the GCCF as a subcontractor to Worley
- Team Leader: David Cowheard, based in Miami, FL
- Team Size: 73 professionals assigned to GCCF at its peak
- Responsibilities included assistance with first-level review and analyses of business claims.

Assurance Forensic Accounting CPAs, LLC ("AFA")

- Forensic accounting firm headquartered in Alpharetta, GA; participated in GCCF as a subcontractor to Worley
- Team Leader: Chad Thompson
- Team Size: 28 professionals assigned to GCCF at its peak
- Responsibilities included assistance with first-level review and analyses of business claims.

Guidepost Solutions LLC ("Guidepost")

- Global investigations and security company headquartered in New York, NY
- Team Leaders: Andrew O'Connell and Kenneth Citarella
- Team Size: 291 personnel assigned to GCCF at its peak
- Responsibilities included the investigations of claims identified as potentially fraudulent during the claims review process.

Claimant Liaisons[10]
• Included the following entities: 1. Block Law Firm, a law firm based in Thibodaux, LA. The team leader is Jerald Block. 2. Burke Blue, a law firm headquartered in Panama City, FL. The team leader is Lisa Walters. 3. Hammerman & Gainer, Inc. ("HGI"), a third-party program and claims administration firm headquartered in Lutcher, LA. The team leader is Tim Temple. 4. Long Law Firm, LLP, a law firm based in Baton Rouge, LA. The team leader is Kris Kirkpatrick. 5. The Triton Group P.C., a consulting firm operated by former Alabama Homeland Security Director James Walker. 6. Watkins Ludlum Winter & Stennis, P.A., a Jackson, Mississippi law firm. 7. White Arnold & Dowd, P.C., a law firm based in Birmingham, AL. The team leader is Greg Hawley. • Responsibilities included serving as liaison between the GCCF and the claimants, claimants' counsel, public officials and other interested parties in various site offices; assistance with regards to helping claimants and claimants' counsel understand the claims processing steps; the facilitation of community outreach and government affairs services; provision of feedback to Feinberg Rozen as to potential regional, state, or Gulf-wide issues and proposed solutions for any issues arising out of the claims process; and evaluation of small business claims under PwC's supervision (HGI only).
Analysis Research Planning Corporation ("ARPC")
• Consulting firm headquartered in Washington, DC • Team Leader: Thomas Vasquez • Team Size: Three individuals assigned to GCCF • Responsibilities included research and assistance with the development of economic models for the treatment of losses; and assistance with the design and implementation of the methodologies for determining factors used for past and future losses of income sustained by eligible claimants.
Other Experts
• Professor John Wes Tunnell, Jr. was responsible for providing an expert opinion of when the Gulf of Mexico will return to pre-Spill harvest status. • Professor John C.P. Goldberg provided an expert opinion regarding the scope of liability under OPA. • Other experts, as needed, to address issues relating to specific claims.

Feinberg Rozen decided that they would not utilize the services of ESIS; rather, Feinberg Rozen secured the services of two firms with extensive experience in the administration of class action settlements, GCG and BrownGreer, to play a significant role in the GCCF. Feinberg Rozen utilized these two firms to perform significant aspects of claims intake and processing because Feinberg Rozen anticipated, based upon their experience and the experience of the BP-operated facility, that the GCCF would receive a large number of complex claims and would be expected

[10] Although five of the claimant liaison firms were law firms, they were not retained to provide legal advice to the GCCF or any other party.

to process these claims very quickly. Additionally, Feinberg Rozen had worked with both GCG and BrownGreer previously and believed that each would bring unique and necessary strengths to the GCCF.

GCG and BrownGreer, through mutual agreement, and after consultation with and approval by Feinberg Rozen, divided their claims administration responsibilities. GCG undertook responsibility for, among other things: tasks relating to the intake and processing of claim forms and supporting documentation; the creation and maintenance of GCCF's databases and online claims filing and claims status operation; the creation and maintenance of the GCCF website, including the daily updating of statistics on the website; the staffing of a toll-free call center; communications with claimants; the processing and distribution of payments to claimants; interaction with Citibank (the Corporate Trustee for the *Deepwater Horizon* Oil Spill Trust); communications with law enforcement agencies; communications with various state agencies regarding child support liens and garnishments; and the preparation of daily reports requested by Feinberg Rozen, as well as the reports that the GCCF made available to the general public. GCG was also responsible for all aspects of the processing of a type of claim instituted in the second phase of the GCCF, known as a Quick Payment Final Claim. (See Section III.D.1, below, for a discussion of Quick Payment Final Claims.)

GCG's engagement team was led by Karen Shaer and Jennifer Keough. Ms. Shaer currently is the Executive Vice President and General Counsel of GCG. She is a former federal prosecutor who, immediately prior to joining GCG, served as General Counsel of a company that was undergoing reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code. In 2001, Ms. Shaer joined GCG and began its bankruptcy practice. Ms. Keough is an Executive Vice President and Chief Operating Officer of GCG, operating out of its Seattle, Washington location. She is an attorney who, prior to joining GCG, worked as a Class Action Business Analyst at Perkins & Coie, the largest Washington State-based law firm. GCG's staff consisted of both full-time employees and subcontractors. The size of the GCCF engagement required GCG to recruit a large number of persons specifically to work on it. The total number of GCG employees and subcontractors working on the engagement exceeded 2,400 in November 2010, mainly as a result of the large volume of claims that was being received and a substantial increase in calls to the call center which required the GCG to assign over 2,000 persons to answer the calls.[11] While the number of staff members decreased over time through December 30, 2011, it never dropped below 500. (See Exhibit E for a listing of GCG monthly staffing levels.)

BrownGreer's responsibilities focused more directly on the substantive review and analysis of the claims filed with the GCCF. BrownGreer designed, constructed and operated the extensive, computerized claims review platform by which all claims reviewers accessed claim files and analyzed the claim forms and materials submitted in support of a claim. With regard to a claim filed by an individual (other than Quick Payment Final Claims), BrownGreer was responsible for implementing the policies and methodologies established by the GCCF leadership team led by Feinberg Rozen for determining whether the claimant was eligible, whether the claimant had presented sufficient supporting documentation for the claim and whether the claimant had sustained a compensable loss. For claims filed by businesses, BrownGreer's role was limited, generally, to implementing the policies and methodologies established by the GCCF leadership team led by Feinberg Rozen for determining the eligibility of the claimant and the sufficiency of the documentation filed by the claimant.[12] In addition, BrownGreer was responsible for: the preparation of the letters through which the GCCF would notify a claimant regarding the resolution or status of a claim; implementation of a process designed to investigate suspect or potentially fraudulent claims; staffing of a claimant communication center; and preparation of custom reports as requested by Feinberg Rozen.

The BrownGreer team was led by Orran Brown, one of BrownGreer's partners. Mr. Brown started BrownGreer in 2002 with Lynn Greer. Prior to founding BrownGreer, Mr. Brown was a litigator who specialized in securities class action defense in Houston, Texas and Richmond, Virginia. He and Ms. Greer met when he served as external counsel and she as in-house counsel for the $3.5 billion Dalkon Shield Trust fund, which closed in April 2000.

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[11] According to statistics supplied by the GCCF, the call center received over 4.5 million calls in October and November 2010, including over 360,000 calls in one day. The GCCF told us that the high-volume and emotional nature of these calls (according to the GCCF's statistics, the call center received approximately 90 suicide threats, as well as instances in which the caller threatened to harm others) took a toll on its call center staff, resulting in high turnover.

[12] As described below, the substantive review and calculation of loss for business claims was undertaken by forensic accountants and claims adjusters selected by Feinberg Rozen.

Similar to GCG, BrownGreer staff consisted of both full-time employees and subcontractors. It had to recruit a large number of workers to meet the needs of the GCCF. The number of BrownGreer's staff assigned to the GCCF peaked at 1,135 in May 2011. At that time, the staff included between 650 and 675 first-level claims reviewers, 286 supervisors and senior reviewers, 25 analysts, 38 computer programmers and 22 administrative support staff. Mr. Brown stated to us that the characteristic BrownGreer most looked for in its claims reviewers was an attention to detail. Most of the claims reviewers had attended college and some had either a legal background or a claims adjuster background. (See Exhibit F for a listing of BrownGreer monthly staffing levels.)

BrownGreer told us that its claims reviewers were given between 7 and 10 days of training on the GCCF protocols and methodologies. This training included both classroom training, as well as practice claims review on "dummy" claims. In addition to educating potential staff members, the training process provided BrownGreer with an opportunity beyond the interview process to evaluate potential claims reviewers. Trainees who did not perform well during the training process were removed from the project. After the training process, new claims reviewers worked on live claims under very close supervision. When there were significant changes in the claims review methodology or there were recurring issues identified in the claims review process, BrownGreer provided additional training to its claims reviewers. Additionally, it administered tests on a periodic basis to the claims reviewers in order to identify issues that would be addressed in individual or group training.

BrownGreer also provided training on its claims review platform to those staff members from the other firms engaged to assist the GCCF whose responsibilities required them to use it. In this context, BrownGreer staff members spent time in the Gulf region training Worley and liaison firm staff (see below) working in GCCF site offices.

Feinberg Rozen informed us that when it first undertook the process of assembling the various entities that would be engaged to assist the GCCF, its goal was to have a centralized, web-based claims receipt and review process. As a result, it initially intended to close the 35 site offices established during the BP-operated facility. As Feinberg Rozen became more familiar with the issues that would likely arise during the tenure of the GCCF, it decided that it would keep the site offices open and engaged Worley to provide claims adjusters to staff them. Whereas Worley's role during the BP-operated facility had been to interact with claimants at the site offices, review and evaluate claims and often issue payments to claimants, its main role during the tenure of the GCCF was to receive documents from claimants who came to the site offices and provide basic information to claimants regarding the GCCF processes and the status of specific claims. Additionally, a team of Worley adjusters, under the supervision of accountants from PwC, were primarily responsible for implementing the policies and methodologies established by the GCCF for the review and analysis of subsistence claims. Beginning in Spring 2011, Worley adjusters were assigned to implement the policies and methodologies established by the GCCF for the review and analysis of claims filed by small businesses.

Worley's GCCF engagement team was led by its Chief Administrative Officer, Allen Carpenter, and its Environmental Division Director, Charlie Bilbe. Mr. Carpenter joined Worley in 2009. Prior to that, he was a Louisiana State Police Officer for over twenty years, the last ten of which he spent as its Fraud Director. In that capacity, he oversaw the investigation of insurance fraud allegations arising in the wake of Hurricane Katrina. Mr. Bilbe has been at Worley for 26 years and has extensive experience with OPA-related matters having overseen several prior engagements in which Worley adjusted claims arising from oil spills both before and after OPA's passage, including the 1988 Shell oil spill in Martinez, California; the 1997 Texaco oil spill in Lake Barre, Louisiana; and the 2006 CITGO oil spill in Lake Charles, Louisiana. Mr. Bilbe told us that all of these matters were much smaller than the Spill in terms of number of claims (for example, the Shell oil spill, which predated OPA, was the largest matter handled by Worley with approximately 30,000 claims).

Mr. Carpenter told us that Worley has a database of between 6,000 and 7,000 claims adjusters throughout the U.S. whom they retain as employees as needed. They utilized this approach to identify and employ the claims adjusters who worked, first, on the BP-operated claims facility and then on the GCCF. Unlike that of GCG and BrownGreer, the size of Worley's staff assigned to the GCCF decreased steadily, beginning at over 1,300 in August 2010 and falling to 90 in December 2011. This was largely due to the fact that the GCCF claims review process was more centralized than the BP-operated facility, the addition of the liaison firms and the closing of site offices as the GCCF determined that they were no longer needed. (See Exhibit G for a listing of Worley monthly staffing levels.)

Feinberg Rozen also assembled a team of forensic accountants from the global accounting firm, PwC, and the local accounting firms, Cowheard and AFA, to review and calculate any loss amounts for claims filed by businesses. PwC, which had worked with Feinberg Rozen on the 9/11 Fund, was primarily responsible for assisting with the design and implementation of calculator tools and templates; providing input regarding the implementation of the methodologies established by the GCCF; reviewing accountant templates; reviewing and approving calculations and determinations for all business claims; assigning claims to various accountant/evaluator teams; monitoring the volume and progress of business claims being reviewed; reviewing other claims as requested by Feinberg Rozen; reviewing calculated loss amounts and identifying claims for follow-up; and staffing an accountant callback center. Cowheard and AFA helped develop a calculator tool to be used during the first phase of the GCCF; created and fine-tuned the accountant review template/workbook; and calculated loss amounts prior to PwC's secondary review.

PwC's engagement team was led by Charles Hacker, a partner in PwC's Forensics practice. Mr. Hacker is a Certified Public Accountant and Certified Fraud Examiner, who started his career in 1984 in the audit practice of Coopers & Lybrand ("C&L"), which merged with Price Waterhouse in 1998. In 1990, Mr. Hacker was transferred to C&L's newly established Forensics practice. Mr. Hacker's areas of expertise include damage quantification, lost profit claims and internal investigations of fraud and corruption, including those involving the Foreign Corrupt Practices Act. According to Mr. Hacker, PwC's engagement team was comprised mainly of manager- and director-level staff members, including many from its Insurance practice. The size of the team grew over the course of time, particularly in the Spring of 2011, when there was a backlog of business claims; at its peak, the PwC team consisted of approximately 60 professionals. (See Exhibit H for a listing of PwC monthly staffing levels.)

The Cowheard team was led by David Cowheard, who has 20 years' experience in forensic accounting. He started with the accounting and consulting firm, Campos & Stratis, working mainly in the insurance sector calculating damages on behalf of insurance companies. Mr.

Cowheard started his own firm in late 1999. He had been involved in claims evaluation engagements involving a number of catastrophes, including many of the hurricanes that struck the southeastern portion of the United States between 1992 and 2005.

In the early months of the GCCF, Cowheard had between 35 and 40 staff members working on the engagement. In the Spring of 2011, Cowheard increased the number of staff assigned to the engagement and eventually had approximately 75 persons reviewing business claims. (See Exhibit I for a listing of Cowheard weekly staffing levels.) Most of Cowheard's staff members are Certified Public Accountants, although there are some who are not and have either economics or finance undergraduate degrees.

The AFA team was led by Chad Thompson, one of its founding partners and a Certified Public Accountant, who also possesses Certified Fraud Examiner and Certified in Financial Forensics designations. Like Mr. Cowheard, Mr. Thompson began his career at Campos & Stratis. After he became a Certified Public Accountant, Mr. Thompson joined a full-service accounting firm where he worked on audit and tax engagements before becoming involved in forensic accounting matters in 2001. In 2004, Mr. Thompson founded AFA with Dennis Neas. The firm typically performs economic damage calculations for insurance carriers and has worked on several major environmental and other disaster engagements, including those arising out of Hurricanes Katrina, Irene and Ike, as well as forest fires and the 2007 steam pipe explosion in New York City. During the GCCF, AFA had between 15 and 27 accountants working on the engagement each week. (See Exhibit J for a listing of AFA weekly staffing levels.)

In addition to assembling a team of experienced professionals from these firms to assist in various aspects of the claims review process, Feinberg Rozen engaged the assistance of experts as it developed the foundations for its approach to receiving and processing claims. One of these experts was Analysis Research Planning Corporation ("ARPC"), a firm of economists retained in July 2010 to assist the GCCF in the development of economic models for the treatment of losses and to assist in the design, drafting and implementation of the methodologies for determining past and future losses of income sustained by eligible claimants. ARPC would play a significant role throughout the existence of the GCCF as it updated and modified those methodologies centering on eligibility and loss calculation.

ARPC's team was led by Thomas Vazquez, who has a PhD in Economics and over 20 years' experience developing economic models for determining compensable losses in mass tort cases. After obtaining his PhD, Dr. Vasquez worked for the U.S. Department of the Treasury ("U.S. Treasury"), performing tax and financial analysis review for 10 years. During his tenure with the U.S. Treasury, Dr. Vasquez prepared budget and economic analyses based on tax regulation changes and built the economic simulation model for the U.S. Treasury. Dr. Vasquez left the U.S. Treasury in 1983 as Deputy Director of Tax Analysis and started his own firm, Policy Economic Group, which focused on building micro-economic simulation models for U.S. states and foreign governments. Dr. Vasquez joined KPMG when it purchased the Policy Economic Group in 1987 and became the head of KPMG's Corporate Transactions practice in 1993. While at KPMG, Dr. Vasquez started to work on mass tort cases for which he built economic models. In 1998, Dr. Vasquez left KPMG to become CEO of Yankelovich Partners, a Connecticut-based market research firm. He left Yankelovich Partners and joined ARPC in 1999.

Since joining ARPC, Dr. Vasquez has worked almost exclusively on mass tort matters in which he is engaged to forecast liability and the number of claims that may be filed in a specific matter, and determine how to calculate the amounts to be paid to claimants. When interviewed, Dr. Vasquez explained to us that, in the context of mass tort cases, he has designed algorithms and alternative dispute resolution procedures designed to facilitate the settlement of cases. Through this process, he would attempt to design a model which would efficiently distribute money to deserving claimants and, at the same time, limit the number of claimants opting out of the settlement.

The GCCF engaged other experts to assist with a variety of different issues. These other experts included Professor John C.P. Goldberg, who provided an expert opinion regarding the scope of liability under OPA; Dr. John W. Tunnell, who provided an expert opinion of when the Gulf of Mexico would return to pre-Spill harvest status for shrimp, crabs, oysters and finfish; and others, as needed, to address issues relating to specific claims.[13]

[13] During its early stages, the GCCF also received input concerning the requirements of OPA from the U.S. Coast Guard, and met with U.S. Homeland Security, U.S. Coast Guard and DOJ personnel.

Feinberg Rozen informed us that, because of its prior claims administration experience combined with the reported size of BP's financial commitment to the GCCF, it thought it was important to include a fraud investigation process as part of the GCCF. Feinberg Rozen also had discussions with the DOJ regarding the fraud risks which the GCCF could be expected to face. As a result, the GCCF engaged a New York-based investigative consulting firm, Guidepost, to conduct investigations of claims identified as potentially fraudulent during the claims review process. Guidepost, in turn, engaged two Gulf Coast-based firms, JS Investigations ("JSI") and Sheer and Associates ("Sheer"), which provided former federal, state and local law enforcement officers to conduct field investigations under Guidepost's supervision. As a result of these investigations, the GCCF referred cases of potential fraud to the DOJ for further action. These referrals have, to date, resulted in a number of successful prosecutions.

Kenneth Citarella was the Guidepost staff member with daily oversight responsibility of its involvement in the GCCF.[14] From 1981 until 2008, Mr. Citarella was an Assistant District Attorney in the Westchester County District Attorney's Office in New York, where he spent most of his tenure in the Investigations Division and focused on computer crime, environmental crime and public corruption cases. He left the District Attorney's Office as Deputy Chief of the Investigations Division and joined a law firm in White Plains, New York, where his practice consisted of commercial litigation and medical malpractice cases. Immediately prior to joining Guidepost in September 2010, Mr. Citarella worked in the Corporate Investigations Division of the Prudential Insurance Company of America.

Michelle Horn, a former Assistant U.S. Attorney in the Eastern District of Louisiana, and Susan Brailey, a former Westchester County Assistant District Attorney, served as Mr. Citarella's deputies. Below them, the Guidepost staff was divided into six investigative teams, each with between two and seven case managers, and an editing team, responsible for reviewing the reports of Guidepost's findings. Guidepost investigative team case managers prepared investigative plans for each case referred to them and oversaw the field investigation that was conducted,

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14 Guidepost's Chief Executive Officer, Andrew J. O'Connell, had overall responsibility for Guidepost's role in the GCCF. In that capacity, he was responsible for coordinating Guidepost's initial retention and for other engagement administration matters, such as billing. Mr. O'Connell is a former federal prosecutor and Special Agent with the U.S. Secret Service.

depending upon location, by investigators from JSI and Sheer. (See Exhibit K for Guidepost's monthly staffing levels.)

The GCCF informed us that, in December 2010, it selected seven professional services firms from the Gulf States to serve as liaisons in an effort to increase transparency and facilitate communications with claimants. The responsibilities of the liaison firms included the following:

- Acting as liaisons between the GCCF and claimants, claimants' counsel, public officials and other interested parties to coordinate the processing of claims;
- Providing assistance to claimants and claimants' counsel in understanding the steps involved in the processing of claims;
- Facilitating community outreach and government affairs services; and
- Informing Feinberg Rozen as to potential regional, state or Gulf-wide issues arising out of the claims process and providing consulting services regarding proposed solutions for any ongoing and/or potential issues arising out of the claims process.

Each liaison firm focused on one or more states where the firm conducted business. The liaison firm then designated members of its staff to work at the site offices within its assigned state. The participating liaison firms were:

- *Alabama*: The Triton Group, P.C., a consulting firm operated by former Alabama Homeland Security Director James Walker; and White Arnold & Dowd P.C., a law firm based in Birmingham, Alabama.
- *Florida*: Burke Blue, a law firm based in Panama City, Florida; and Hammerman & Gainer, a third-party program and claims administration firm, based in Lutcher, Louisiana.[15]
- *Louisiana*: Block Law Firm of Thibodaux, Louisiana; Hammerman & Gainer (see above); and Long Law Firm of Baton Rouge, Louisiana.
- *Mississippi*: Watkins Ludlum Winter & Stennis, P.A. ("Watkins Ludlum"), a Jackson, Mississippi law firm.[16]

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[15] In addition to assuming the responsibilities of liaison firms noted above, claims adjusters provided by Hammerman & Gainer served as members of the Small Business Claim team organized in the Spring of 2011.

[16] In September 2011, Watkins Ludlum resigned from serving as a liaison firm as a result of its merger with the law firm, Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P., a New Orleans-based law firm with a significant number of clients operating in the oil and gas industry in the Gulf of Mexico. Upon Watkins Ludlum's resignation, the Triton Group became the liaison for Mississippi.

At the time these liaison firms were retained, they received training from Feinberg Rozen regarding the GCCF's operations and from BrownGreer regarding the operation of its claims review platform.

The GCCF told us that it publicized the involvement of the liaison firms in a press release and on the GCCF website. In addition, the GCCF advised us that these notices contained statements that the liaison firms were agents of the GCCF and were not providing legal advice to the claimants.

The GCCF informed us that, from its inception, it attempted to arrange for a process by which claimants would be able to receive free legal assistance. Initially, it attempted to do this by approaching law firms in the Gulf region to provide this legal assistance on a *pro bono* basis. Because most law firms in the region had some sort of conflict of interest, this approach was not feasible. On December 15, 2010, with the support of several state Attorneys General, the GCCF entered into an agreement with the Mississippi Center for Justice, a nonprofit, public interest law firm, to oversee a consortium of legal services providers in the Gulf region that provided legal assistance to all claimants who sought it, regardless of income level. By its terms, the agreement stated that it was not imposing "any limitations on the professional judgment of legal services providers, including the ability to advise clients that they should reject a GCCF settlement offer and instead seek compensation from the NPFC or other oil spill fund, commence litigation, or take any other actions." The GCCF publicized the availability of free legal assistance through determination letters sent to the claimants, posters in site offices, pamphlets, press releases and the GCCF website. Representatives of the Mississippi Center for Justice also attended various Town Hall meetings organized by the GCCF. The initial agreement between the GCCF and the Mississippi Center of Justice was for one year, for which it received a grant that was funded by the *Deepwater Horizon* Oil Spill Trust. In January 2012, this initial period was extended for an additional six months and a commensurate increase in the grant was awarded.

C. GCCF Phase I

While assembling the various components of the GCCF and developing its approach to the handling of claims, the GCCF also publicized its existence to potential claimants and created methods through which it communicated with claimants during the tenure of the GCCF. Shortly after the GCCF was created, a mass mailing was sent to all claimants who had filed claims during the tenure of the BP-operated facility to inform them of the GCCF's creation, and copies of claims packets were made available at each of the GCCF site offices. The GCCF also prepared a draft protocol for Phase I which it circulated on July 12, 2010 to a variety of stakeholders, including Federal government officials; the Governors and Attorneys General of Louisiana, Florida, Mississippi and Alabama; and members of the plaintiffs' bar. The GCCF also prepared and circulated to the same stakeholders second and third drafts of the protocol. Each draft and the final version of the Phase I protocol incorporated some of the recommendations that the GCCF had received in response to the circulation of the prior draft protocol. The GCCF also created a website that went live on August 23, 2010, the date the GCCF began its initial phase, known as Phase I.

In addition, Mr. Feinberg appeared at Town Hall meetings throughout the Gulf Coast region and appeared on regional television programs. GCCF staff members accompanied Mr. Feinberg to the Town Hall meetings and answered questions from the audience. In total, Mr. Feinberg participated in 37 of these Town Halls meetings between June 18, 2010 and January 19, 2011.

During Phase I, the GCCF implemented a claims process by which eligible claimants would receive compensation for the loss of earnings or profits, removal and clean-up costs, real or personal property damage, loss of subsistence use of natural resources and physical injury or death caused by the Spill by submitting a lesser level of documentation than would be required in later stages of the GCCF. This was known as the "Emergency Advance Payment" or "EAP" claims process.

The GCCF published the protocol for Phase I, which was a high-level document setting forth, among other things, the claim submission process, the types of claims it would compensate during this phase and the general types of documentation it would require of claimants, and began accepting EAP claims on August 23, 2010. During Phase I, the GCCF processed claims for documented losses sustained during the first six months following the Spill.[17] A claimant who received a payment during Phase I was not required to execute a release and covenant not to

[17] During Phase I, the GCCF also accepted Final Payment Claims, but did not process these claims until Phase II (see below). Final Payment claim forms were included in packages sent to all persons and businesses that filed claims with the BP-operated facility and were available online.

sue BP or any other party; and loss calculations were not decreased by any amounts received from the BP-operated facility. In its protocol for Phase I (See Exhibit L), the GCCF stated:

> A claim for an Emergency Advance Payment is an interim claim under OPA. To the extent that the claimant incurs additional compensable damages that are not reflected in the Emergency Advance Payment, receipt of an Emergency Advance Payment shall not preclude a claimant from seeking additional damages not reflected in the Emergency Advance Payment.

As its name suggested, an EAP claim was intended to provide a quick emergency payment to qualifying claimants. Senior personnel from Feinberg Rozen, BrownGreer, GCG and PwC all told us during interviews that the GCCF's priority in Phase I was to make payments to eligible claimants as quickly as possible. This priority was reflected in the Phase I protocol which stated, in pertinent part, that:

> 2. Each Emergency Advance Payment application will be evaluated preliminarily within 24 hours of receipt of the completed [claim] form and supporting documentation to determine whether an Emergency Advance Payment is appropriate based on the information submitted by the Claimant. Complex business claims submitted for an Emergency Advance Payment will be evaluated within 7 days of receipt of the completed [claim] form and supporting documentation to determine whether an Emergency Advance Payment is appropriate based on the information submitted by the Claimant.
>
> 3. Upon determination that the Claimant is eligible for an Emergency Advance Payment, a payment will be authorized within 24 hours.[18]

On September 7, 2010, the GCCF published a document on its website setting forth its methodology for calculating losses during Phase I.

According to the GCCF, it relied heavily upon input from ARPC in developing its approach to determining claimant eligibility and calculating losses during the development of Phase I. In order to determine the eligibility of a claimant, the GCCF placed the claimant in one of six

[18] In public statements he made in September 2010, Mr. Feinberg acknowledged that the process of determining eligibility during Phase I was more complex and time-consuming than initially contemplated and that the GCCF had not been able to process claims in the timeframe set forth in the Phase I protocol.

categories based upon the claimant's business type (as an owner or employee) and categorized the location of the claimant's loss as being either inside or outside the "zone of impact" from the Spill. The GCCF then determined the claimant's eligibility based upon the combination of the category in which the claimant was placed and the claimant's loss location. The calculated losses, if any, of a claimant found eligible through this process were presumed to have been caused by the Spill and the claimant did not have to demonstrate further that any post-Spill reduction in earnings or profits was the result of the Spill.

Once an individual claimant was found eligible, the GCCF claims reviewer utilized a calculator tool to calculate the claimant's losses. That calculator tool determined the claimant's projected 2010 earnings by choosing the highest of the claimant's earnings for 2008, 2009 or annualized 2010 prior to the Spill. The calculator multiplied the projected 2010 earnings by a "seasonality percentage,"[19] depending upon the month(s) covered by the claim, to get an amount from which the claimant's actual earnings for the claim period were subtracted.

For an eligible business claimant, the claims reviewer utilized one of several different calculators based upon the claimant's industry. Depending upon the financial information provided by the claimant, the selected calculator tool determined the claimant's projected 2010 revenue based upon one of a series of formulas and rules. The projected 2010 revenue was multiplied by the applicable seasonality percentage for the month(s) covered by the claim, resulting in an amount

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[19] A seasonality percentage was assigned to each month based upon an estimation of the proportion of annual earnings that the claimant would receive in that month. Because the economy of the Gulf was heavily dependent upon the fishing and tourism industries, the highest seasonality percentages were applied in June, July and August. During Phase I, a seasonality percentage was used in the calculation of all business and individual claims. With regard to individual claims calculations during Phase II, a seasonality percentage was applied only when the employee was an hourly employee; the seasonality percentage was not applied to salaried employees because it was presumed that their monthly earnings did not vary from month to month. With some exceptions, seasonality percentages were not applied when the GCCF calculated business claim losses during Phase II. The most common circumstances when seasonality percentages were used in a loss calculation for business claims in Phase II were (1) claims for which the claimant did not submit pre-Spill monthly revenue data; and (2) claims submitted by start-up businesses that did not have complete annual financial data.

According to Feinberg Rozen, ARPC recommended the use of seasonality percentages in the calculation of losses sustained by eligible individual claimants. Cowheard developed the seasonality percentages that were used. Initially, Cowheard developed seasonality percentages for each county and parish using sales tax data received from business claimants. Starting in September 2010 and through the rest of Phase I, the GCCF applied the seasonality percentages for Gulf Shores, Alabama to all loss calculations except those for claims in the commercial and charter fishing industries, which had an individualized seasonality percentage. Feinberg Rozen informed us that the GCCF utilized the Gulf Shores, Alabama seasonality percentages because this approach was most favorable to claimants.

from which the claimant's actual 2010 revenue would be subtracted. The resulting amount was multiplied by a Loss of Income percentage ("LOI"), which adjusted the loss revenue amount for expenses avoided or discontinued as a result of the reduction in revenue. The product of this calculation was the amount of the business claimants' EAP payment. During Phase I, for each business loss calculation, the GCCF used an industry-based LOI.

During Phase I, the GCCF adopted a "$1,000 floor" policy pursuant to which, the GCCF paid all eligible claimants at least $1,000 even if the claimant had requested and/or the GCCF's calculation of the claimant's loss resulted in an amount less than $1,000.

After analyzing an EAP claim, the GCCF typically issued one of several types of letters informing the claimant of the resolution of the claim. These included:

- *Determination Letter:* The GCCF sent a determination letter to a claimant after it had determined that the claimant was eligible for compensation from the GCCF and calculated the amount of the compensation. Depending upon the payment option chosen by the claimant, the GCCF either included a check for the amount of the approved compensation or wired the compensation amount to the claimant's account. (See Exhibit M.)

- *Zero Loss Determination Letter:* The GCCF issued a Zero Loss Determination Letter to an eligible claimant when the loss calculation resulted in a finding that the claimant had not sustained any losses during the claim period.

- *Denial Letter:* The GCCF issued a denial letter to a claimant that failed to demonstrate a loss caused by the Spill. As an explanation for the denial, these letters would contain the statement, "The documents and information you submitted did not show any lost earnings or profits due to the Spill." The denial letter, however, did state explicitly that the denial of the claimant's EAP claim did not preclude the claimant from making a future final payment claim. Specifically, a Phase I denial letter contained the following language:

> This decision is based on criteria that apply to all claimants seeking payment from the GCCF. This denial applies to your request for an Emergency Advance Payment and does not affect your right to submit a Final Claim for any damages or losses you have sustained. However, in preparing any Final Claim, you should review the reasons set forth above for the denial of your claim for an Emergency Advance Payment.[20]

(See Exhibit N.)

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[20] More than 74,000 unique claimants received denial letters during Phase I, of which over 32,000 filed claims during Phase II as of February 23, 2012.

- *Deficiency Letter:* The GCCF issued a deficiency letter to a claimant who failed to provide sufficient documentation for the GCCF to determine the claimant's eligibility and/or to calculate the amount of the claimant's loss. During Phase I, the deficiency letters issued by the GCCF contained general language that informed the claimant the documentation submitted in support of the claim was deficient, but did not contain a specific statement regarding the types of documents that would cure the deficiency. For example, a deficiency letter issued in reference to an individual claim seeking payment for lost earnings or profits would typically contain the statement:

> When we reviewed your claim, we did not have certain documents or information that we needed to be able to evaluate your claim. We cannot take further action on your claim until you provide us with the following: …. Documents sufficient to determine the total gross amount the Claimant earned as wages or salary from May 1, 2010, until the present, or proof that the Claimant has earned no income during this time.

  (See Exhibit O.)

The GCCF Phase I protocols did not include a process by which a claimant could appeal an adverse resolution or have its claim re-reviewed by the GCCF.

According to the GCCF, approximately 1.8% of all GCCF claimants indicated a preference that the GCCF communicate with them in a language other than English. Of those claimants, 83.2% indicated a Spanish language preference, 16.1% indicated a Vietnamese language preference and 0.7% indicated a Khmer language preference. The GCCF undertook several steps during Phase I to meet the language needs of claimants. These included, but were not limited to, staffing of the GCG-operated call center with persons fluent in Spanish, Vietnamese and French and creation of a process by which a telephone translation service would be used for callers who spoke other languages; staffing of certain site offices with people who were fluent in Spanish, Vietnamese, Laotian, Khmer, French and Croatian; making all claim forms available in hardcopy in Spanish, Vietnamese and Khmer; posting all website content in Spanish, Vietnamese and Khmer; sending all correspondence that did not require the inclusion of claimant specific claims information in Spanish, Vietnamese or Khmer for all claimants who had notified the GCCF of a preference for one of these languages; providing claimants with an opportunity for a special appointment with a translator present; and creating an online claims filing process, accessible through the GCCF website, through which claimants could file claims in Spanish and Vietnamese.

During Phase I, letters to claimants containing claim-specific information were not, as a matter of course, sent to non-English speaking claimants in their chosen language. Rather, these letters would contain an insert, which the GCCF called a "buck slip," that, in Spanish, Vietnamese and Khmer, informed claimants that they may call the GCCF's toll-free number to request a translation of any GCCF correspondence.

As Phase I progressed, the GCCF received a very large volume of claims—over 475,000 claims were filed from August 23, 2010 through November 2010. BrownGreer and GCG substantially increased their staffing in reaction to the claim volume. At times during October and November 2010, BrownGreer had over 1,000 and GCG had over 2,400 professionals working on the GCCF engagement. In addition, adjusters from Worley assisted with the processing of individual claims and forensic accountants from PwC, Cowheard and AFA all assisted with the processing of business claims during Phase I.

The GCCF continued to accept EAP claims through November 23, 2010 and in total, paid in excess of $2.5 billion to more than 169,000 Phase I claimants.

D. GCCF Phase II

1. Types of Claims Available During Phase II

While accepting and processing claims during Phase I, the GCCF, based upon the economic analysis provided by ARPC and input from other experts, continued to develop a process for Phase II. During Phase II (the "Interim Payment/Final Payment" or "IP/FP" claims process), the GCCF received the following three types of claims:

- *<u>Quick Payment Final Claim:</u>* A claimant who had received a prior EAP or Interim Payment (see below) from the GCCF or a prior payment from the Real Estate Fund set up by the GCCF during Phase I to pay real estate brokers and agents harmed by the Spill ("the Real Estate Fund") could file for a Quick Payment Final Claim and receive, without further documentation of losses caused by the Spill, a one-time final payment of $5,000 for individuals and $25,000 for businesses. Prior amounts received by the claimant from the BP-operated facility and/or the GCCF were not subtracted from this payment amount. Claimants seeking a Quick Payment were required to submit with their claim form a release and covenant not to sue in which the claimant agreed not to sue BP and all other potentially liable parties.

- *Interim Payment Claim:* An eligible claimant could elect to file an Interim Payment Claim to receive compensation for documented past losses or damages caused by the Spill for which the claimant previously had not been compensated by the BP-operated facility, the GCCF or the Real Estate Fund. A claimant seeking an Interim Payment was not required to sign a release and covenant not to sue and, therefore, was able to file future Interim Payment, Quick Pay Final Payment and Full Review Final Payment (see below) Claims. According to the protocol, absent exigent circumstances, a claimant was permitted to file only one Interim Payment Claim per quarter. Any Interim Payment awarded to a claimant was decreased by the amount of any payments received from the GCCF, the BP-operated facility or the Real Estate Fund.

- *Full Review Final Payment Claim:* An eligible claimant could also file a Full Review Final Payment ("Final Payment") Claim to receive payment for documented past and future losses resulting from the Spill for which the claimant previously had not been compensated by the GCCF, the BP-operated facility or the Real Estate Fund. Claimants wishing to accept a Final Payment were required to sign and submit a release and covenant not to sue in which the claimant agreed not to sue BP and all other potentially liable parties. Additionally, any Full Review Final Payment awarded to a claimant was decreased by the amount of any previous payments received from the GCCF, the BP-operated facility or the Real Estate Fund.

As a general matter, the GCCF subjected Interim Payment and Final Payment Claims filed during Phase II to more stringent documentation requirements than those applied to claims filed during Phase I, while, at the same time, it expanded the types of businesses that potentially would be eligible for compensation and granted automatic eligibility to claimants located on the Gulf shore who were involved in businesses that were particularly reliant upon Gulf resources and, therefore, more likely to be negatively impacted by the Spill. The protocol for Phase II was published on November 22, 2010 (See Exhibit P) and then again as amended on February 8, 2011 (See Exhibit Q).[21]

Claim forms for Phase II became available to the public in site offices and on the GCCF website on December 18, 2010, and packets containing the forms were sent to persons and businesses that had filed claims during Phase I and those who had received a payment during the BP-operated facility. The GCCF began receiving Interim Payment and Final Payment Claims shortly thereafter; however, the assessment of claimant eligibility and calculation of losses for those claims did not begin until February 18, 2011 when the Final Rules Governing Payment

[21] The amended version of the protocol dated February 8, 2011 was issued to conform with Judge Carl Barbier's ruling in *re Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20,2010,* No. 2179, 2011 WL 323866 (E.D.La. Feb. 2, 2011).

Options, Eligibility and Substantiation Criteria, and Final Payment Methodology ("Final Rules") were published. (See Exhibit R.) In the meantime, the GCCF continued to process EAP claims, paying more than $602 million to over 42,000 claimants from November 23, 2010 through February 18, 2011. Additionally, claims reviewers from BrownGreer and Worley prepared Phase II claims for review by naming documents and capturing claimant financial data in the claims review platform to ready claims for eligibility determination and loss calculation.

2. Development of Methodology for Interim Payment and Final Payment Claims

The process undertaken by the GCCF to resolve Quick Payment Final Claims was relatively simple. The GCCF needed to determine:

- the claimant type (individual or business);
- whether the claimant had received a prior EAP, Interim Payment or Payment from the Real Estate Fund; and
- whether the claimant previously signed a release.

The methodology utilized for the review and analysis of claims for Interim Payments and Final Payments was necessarily more complex than that utilized for Quick Payment claims. In developing that methodology, the GCCF retained ARPC to conduct research and provide expert advice and recommendations. The GCCF worked collaboratively with ARPC in evaluating and modifying ARPC's recommendations to arrive at the methodologies that were actually implemented.

a. Role of ARPC

As mentioned above, ARPC's engagement team leader, Dr. Vasquez, told us that when he developed economic models for determining compensable losses in mass tort cases, he attempted to design a model that would efficiently distribute money to deserving claimants and limit the number of claimants opting out of the settlement. ARPC brought this mass tort perspective in developing a methodology that it recommended to the GCCF for determining eligibility. The methodology separated claimants, other than seafood harvesters and their employees, into three groups—Safe Harbor Businesses, Potentially Compensable Businesses and All Other Businesses—based upon geographic location and business type. Safe Harbor Businesses were located in the immediate vicinity of the Gulf shore. Claimants in this group were presumed eligible and, therefore, did not have to demonstrate that any losses they sustained were due to the Spill.[22] Potentially Compensable Businesses were located in the "Gulf Alliance Counties,"[23] but not within the immediate Gulf Shore vicinity. Based upon the research conducted by ARPC, the GCCF determined that claimants who fell within Potentially Compensable Businesses group, in order to be eligible for compensation, would need to pass a financial test to demonstrate that its business revenue was trending more positively in the months leading up to the Spill than it was in the period after the Spill. The remaining claimants fell into the All Other Businesses category and were required to both pass the financial test mentioned above and "provide detailed direct evidence to demonstrate a significant connection between the loss and the [Spill]."

This methodology to determine claimant eligibility provided the basis for the approach to eligibility that the GCCF ultimately adopted in Phase II. ARPC told us that the above model was specifically designed so that the Safe Harbor Businesses category would be more inclusive than necessary, resulting in the compensation of some businesses and individuals that did not actually lose earnings due to the Spill. On the other extreme, ARPC anticipated that very few claimants in the All Other Businesses category would be able to demonstrate that their losses resulted from the Spill. Additionally, the requirement that certain claimants "provide detailed direct evidence to demonstrate a significant connection between the loss and the Spill" contributed to the GCCF's creation of the requirement that certain claimants provide a specific causation document ("SCD") linking their losses to the Spill.

The methodology also provided the underpinning for the "coattails eligibility" rule which was adopted by the GCCF and is described below. Specifically, under the methodology, an individual claimant employed by a business in the Potentially Compensable Businesses or All Other Businesses category would be deemed eligible automatically, without further

22 Under the ARPC-recommended methodology, construction businesses and certain retail businesses would never be categorized as Safe Harbor Businesses.

23 According to the GCCF, the concept of the "Gulf Alliance Counties" was derived from the Gulf of Mexico Alliance ("GOMA"). On its website, www.gulfofmexicoalliance.org, GOMA describes itself as "a partnership of the states of Alabama, Florida, Louisiana, Mississippi, and Texas, with the goal of significantly increasing regional collaboration to enhance the ecological and economic health of the Gulf of Mexico." GOMA has identified 141 counties as being part of the Gulf of Mexico Region. The GCCF included in its definition of "Gulf Alliance Counties" any non-coastal Zip Code that was wholly or partially within one of these 141 counties.

documentation, if the claimant's employer previously had been declared eligible. All other individual claimants in the Potentially Compensable Businesses and All Other Businesses categories would not be eligible unless they provided detailed direct evidence to demonstrate a significant connection between the loss and the Spill.

The GCCF also instructed ARPC to perform research and, from that, the GCCF developed the model for compensating claimants for future losses of earnings or profits. In this model, a claimant's future losses would be calculated by multiplying the claimant's demonstrated loss in post-Spill 2010 by a factor. Initially, the GCCF applied a Future Recovery Factor of two, except for oyster harvesters and processors, to which the GCCF applied a factor of four. At a later date, based upon research done by ARPC, the GCCF would extend the factor of four to crab and shrimp harvesters and processors. In its document, "Response to Comments on the Derivation and Calculation of Future Damages," which was appended to the Final Rules (See Exhibit R), ARPC stated that it developed the Future Recovery Factor "based on the analysis of the economic recovery experience of individuals and businesses subjected to other unanticipated and catastrophic events. Experts have studied many of these events from the past and recorded estimated rates of economic recovery."[24] ARPC continued to consult with the GCCF throughout its tenure.

b. Causation

One of the issues that Feinberg Rozen needed to resolve early in the tenure of the GCCF was the standard of legal causation to apply to the evaluation of the claims submitted to the facility. They informed us that they decided to require that, in order to be eligible to receive compensation from the GCCF, claimants had to demonstrate more than simply that the loss they were claiming would not have occurred "but for" the Spill. Rather, the GCCF informed us that they adopted the more demanding common law "proximate cause" standard of causation. Under

[24] Based upon research conducted by ARPC, in October 2011, the GCCF modified its methodology as relates to calculating losses sustained by eligible oyster leaseholders. As a result of this modification, in addition to being compensated for lost earnings or profits, eligible oyster leaseholders would receive a special allowance "to compensate [them] for the risk of as yet undetected and possibly ongoing damage to oyster-producing areas in the Gulf and the possibility of significant delay before affected oyster beds are repaired." This special allowance was calculated by multiplying the claimant's net income in a comparison year (generally based upon either the average of the claimant's net income for 2008 and 2009 or the claimant's 2009 net income, whichever is higher) by a "Future Risk Multiple," which, depending upon the location of the claimant's oyster bed, could be 1, 2, 3.5 or 7.

this standard, the claimant had to demonstrate that the Spill was the proximate cause of the loss for which the claimant was seeking compensation. As stated above, we have not reached any conclusions regarding the appropriateness of this determination.[25]

3. Implementation of the Final Rules and Claims Evaluation Methodology

On February 2, 2011, the GCCF published a draft Announcement of Payment Options, Eligibility and Substantiation Criteria and Final Methodology that, among other things, set forth the GCCF's intended methodology for determining claimant eligibility and calculating losses, and established the documentation requirements that eligible claimants needed to meet in order to be compensated. After a two-week public comment period, during which the GCCF received over 1,400 comments from individuals, companies, government officials and public interest groups, as well as BP, the GCCF published the Final Rules on February 18, 2011.

a. Claimant Eligibility

The Final Rules set forth the GCCF's methodology for determining claimant eligibility and calculating losses, as well as its documentation requirements. While the GCCF stated in the Final Rules that "[n]either physical proximity to the Spill nor a particular type of work or business engaged in by the claimant is a prerequisite for payment of a claim," the combination of location of loss and business type played a crucial role in the GCCF's assessment of a claimant's eligibility that defined the steps the claimant would need to undertake to demonstrate that claimed losses were the result of the Spill. Specifically, to assess whether a claimant was eligible to receive a payment offer from the GCCF, the GCCF first placed the claimant into one of four groups:

- *<u>Group 1:</u>* Group 1 consisted mainly of individuals and businesses that were heavily dependent on Gulf resources and tourism and were located in zip codes that bordered the Gulf shore,[26] as well as claimants that had already received prior payments from the GCCF

[25] The GCCF informed us that, subsequent to its decision to adopt the proximate cause standard of causation, it sought an expert opinion from Professor John C.P. Goldberg of Harvard Law School, to be used as a benchmark, regarding the scope of liability that BP or any other party would face as a result of the Spill. Feinberg Rozen viewed Professor Goldberg's approach to be more demanding and, therefore, less favorable to claimants than the approach to causation adopted by the GCCF.

[26] Individuals and businesses that are heavily dependent on Gulf resources and tourism and were located in New Orleans were also included in Group 1, even though New Orleans did not border the Gulf shore, because New Orleans relied heavily upon tourism in the Gulf.

and/or Real Estate Fund. Any demonstrated loss sustained by a claimant in Group 1was presumed to have resulted from the Spill and, therefore, the GCCF would deem the claimant eligible even if the claimant had not submitted any other evidence linking the claimant's loss to the Spill.

- *Group 2:* Group 2 consisted of individuals and businesses that were located in the Gulf Alliance counties, but were not in zip codes that bordered the Gulf shore, as well as businesses that, while located in zip codes that bordered the Gulf shore, were not heavily reliant on Gulf resources and tourism. Based upon input from ARPC and using the approaches described below, the GCCF analyzed the documentation presented by a claimant in Group 2 to ascertain whether any loss sustained by the claimant was due to the Spill.

  When ascertaining the eligibility of a Group 2 business claimant, the GCCF first subjected the claimant's financial history to the "Financial Test" in which, in essence, the GCCF determined whether the business's decline in its 2010 post-Spill revenue as compared to the same period in 2008 and 2009 was greater than any decline in revenue it might have experienced in the four months leading up to the Spill as compared to the same period in 2008 and 2009.[27] If a Group 2 business claimant failed to pass the Financial Test, the GCCF still considered it eligible if it had submitted an SCD, such as a cancelled or modified contract or cancelled order for goods or services sold, which demonstrated that a loss sustained by the business was more likely than not the result of the Spill.

  A Group 2 individual claimant was deemed eligible if the claimant were claiming losses as a result of working at a business that had been deemed eligible or if the individual had submitted an SCD, such as a termination letter or an affidavit, which demonstrated the individual's loss was more likely than not due to the Spill.

  The GCCF required that, with some exception,[28] an SCD, in order to be sufficient, had to be prepared contemporaneously with the event it was reporting. For example, to be sufficient, a letter from an employer explaining that the employer had terminated the claimant or reduced the working hours of the claimant because of a downturn in business caused by the Spill had to bear a date near the time of the termination or reduction of hours. The GCCF deemed as insufficient letters or sworn affidavits that were not prepared at or near the time of the termination or reduction in hours.

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27 For certain start-up companies, because of the absence of historical financial data, the GCCF looked at business plans, market comparables, pre-and post-loss financial data, industry trends, and other relevant information to assess whether they had sustained losses as a result of the Spill.

28 Two examples of SCDs that would be sufficient to establish a claimant's eligibility even if they were not prepared contemporaneously were:

(1) List of customers or suppliers within the Gulf Region. This type of document could have been prepared at any time, but must have reflected customers or suppliers of the business before or at the time of the Spill.

(2) Records of sales reflecting the percentage of sales to out-of-state/town purchasers. This type of document could have been prepared at any time, but must have reflected the percentage of sales of the business before or at the time of the Spill. While this was one of the conditions, BDO was advised that it was never used.

- *Group 3:* Group 3 consisted of claimants who either were not located on the Gulf shore or Gulf Alliance counties, or were businesses or the employees of businesses that were not heavily reliant on Gulf resources and tourism. To be eligible, a Group 3 business claimant had to pass both the Financial Test and provide an SCD that demonstrated that the business had sustained a loss that was more likely than not caused by the Spill. As with Group 2, a Group 3 individual claimant would be deemed eligible if the claimant were claiming losses as a result of working at a business that had been deemed eligible or had provided a contemporaneously dated SCD, such as a termination letter or an affidavit, demonstrating that the individual's loss was more likely than not due to the Spill.

- *Group 4:* Group 4 consisted of claimants in business types that were deemed ineligible for compensation at various times by the GCCF. This group included, for example, government entities, which could be eligible to make claims against funds being maintained by BP; oil rig support businesses, which might be eligible to make claims to the oil moratorium fund created by BP; Spill clean-up workers; freshwater seafood processors and distributors; recreational fishermen; GCCF workers; and recreational divers.

Beginning on March 31, 2011, the GCCF implemented the "coattails eligibility" policy. Pursuant to that policy, the GCCF applied a business claimant's eligibility group determination to a subsequent claim filed by the business's employee and deem automatically eligible, without an SCD, an individual claimant in Group 2 or Group 3 if the claimant's employer had been paid during Phase I or had previously been deemed eligible in Phase II. This policy change made it easier for individual claimants to prove eligibility.

b. Loss Calculation

Once a claimant was determined to be eligible for potential compensation, the GCCF calculated the amount of the claimant's compensable loss. For Interim Payment claims, the analysis was limited to a calculation of the amount of past losses sustained by the claimant from May 1, 2010 (or the date of any prior Interim Payment) through the date of the claim; for Final Payment claims, the analysis included both a calculation of past losses as well as a "Future Recovery Factor," based upon a multiple of the claimant's documented 2010 loss amount. To calculate the Final Payment offer, the documented 2010 loss amount was multiplied by two. In the case of claims by oyster harvesters and processors (from the inception of the GCCF) and claims by shrimp and crab harvesters and processors (under review on or received after November 30, 2011), the Final Payment offer was calculated by multiplying the documented 2010 loss by four.

Until the publication of the Second Modification of the Final Rules (see below) on November 30, 2011, for most individual Interim Payment claims,[29] the loss amount was calculated as follows: The reviewer determined the claimant's Comparison Year income by selecting the highest of the claimant's 2008, 2009 or annualized pre-Spill 2010 earnings[30] for the same months of the year as those included in the claim[31] and subtracting from that amount the actual income the claimant earned during the claim period. For example, if a claimant had post-Spill paycheck records for each month in 2010 with the exception of August, the loss calculation excluded August 2010 and calculated the claimant losses for each of the other months in 2010. From the resulting sum, the GCCF subtracted any prior payments by BP, the GCCF and the Real Estate Fund, as well as the amount of any applicable liens and garnishments, to arrive at the amount to be paid to the claimant.

For business claims, the first step in the calculation of losses for Interim Payment Claims was similar to that for individuals: The reviewer determined the claimant's Comparison Year income by selecting the highest of the claimant's 2008, 2009 and annualized pre-Spill 2010 revenue[32] for the same months of the year as those included in the claim and subtracting from that amount the claimant's actual revenue during the claim period. This amount was then multiplied by an LOI percentage[33] to arrive at the amount of lost profits, if any, sustained by the claimant during the claim period. The GCCF then subtracted any prior payments by the BP-operated facility, the GCCF and the Real Estate Fund, as well as the amount of any applicable liens and garnishments, to arrive at the amount to be paid to the claimant.

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[29] As described in Section III.D.3.i (a), below, the Comparison Year used in the calculation of Interim Payment amounts for individual claimants in the casino industry was derived by averaging the claimant's 2008 and 2009 earnings.

[30] As described in Section III.D.3.i (c), below, prior to April 7, 2011, the GCCF selected the higher of 2008 or 2009 earnings to serve as a benchmark for 2010 projected earnings.

[31] In the case of a claimant who was paid on an hourly basis, this amount for each month would also be multiplied by the applicable seasonality percentage. During Phase II, the GCCF used the seasonality percentages for Gulf Shores, Alabama. They informed us that they took this course because it is most favorable to claimants.

[32] As described in Section III.D.3.i (c), prior to April 7, 2011, the GCCF selected the higher of 2008 or 2009 earnings to serve as a benchmark for 2010 projected earnings.

[33] Unlike the process utilized in Phase I, where possible, the GCCF calculated the LOI percentage to be applied based upon the claimant's own pre-Spill financial documents (such as an annual Profit and Loss statement or tax return). In those cases, such as a start-up business, where there was insufficient information to create such a claimant-specific LOI percentage, the GCCF had the option of utilizing an industry-based LOI percentage.

Because of the complexity of some business claims, the GCCF forensic accountants were able to exercise some discretion when calculating the losses sustained by eligible business claimants. Specifically, in calculating the losses sustained by a business claimant, a GCCF forensic accountant typically would utilize several different business trend analyses to determine the claimant's historical earnings and then utilize the most favorable of these approaches to forecast future revenue. The GCCF accountants' models varied slightly among industries and the size of the businesses; however, during our testing of business claims, we observed that the most common historical revenue trends utilized to forecast a claimant's post-Spill earnings were: (1) the average of the claimant's revenue for 2008 and 2009; (2) the claimant's revenue for the 12 months prior to May 2010; (3) the claimant's revenue for the 8 months prior to May 2010; and (4) the claimant's revenue for the 4 months prior to May 2010. The GCCF would select one of the historical trends to forecast the revenue the claimant could be expected to have achieved in the time period following May 2010 were it not for the Spill. We observed that, in most instances, the GCCF accountant chose the historical trend that would result in the highest loss calculation.

The GCCF calculated the Final Payment amount to be offered to a claimant by first calculating, in the manner described above with regard to Interim Payment Claims, the claimant's actual loss amount for the period from the date of the Spill through December 31, 2010 and multiplied that amount by the applicable Future Recovery Factor.[34]

c. Interest Calculation

OPA requires that, with some exceptions, the responsible party pay interest to a claimant "beginning on the 30th day following the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claim is paid."[35] As a result, the GCCF adopted a policy pursuant to which it would calculate and pay interest on all types of OPA

[34] With regard to claimants with documented 2010 losses of $500,000 or more, the GCCF did not automatically apply a Future Recovery Factor. Rather, the Final Rules stated that, for these claimants, the "Final Payment calculation … will be determined on an individualized basis after analyzing input from the claimant as well as the experts. The Final Payment offer will be the actual documented losses in 2010 and an additional amount to compensate for the recovery and risk of possible future losses."

[35] *See* 33 U.S.C. §§ 2705(a) and (b).

claims (EAP, Interim and Final) seeking payment for past losses[36] from the 30th day after the claim was "submitted" until the date the claim was "paid." The GCCF deemed a claim "submitted" for purposes of calculating interest on the date the claim form was received by the GCCF or BP.[37] It did, however, reserve the discretion, in limited cases, to consider a claim to be "submitted" at a later date for purposes of the interest calculation. The GCCF noted in the GCCF Interest Policy that it would exercise this discretion, for example, with regard to a claim that "was submitted with such plainly deficient supporting documentation as to render it impossible for the GCCF to meaningfully review the claim."

The GCCF deemed a claim "paid" for purposes of calculating interest on the date a check or wire transfer was sent to a claimant. Where a check or wire transfer had to be reissued, the GCCF deemed a claim "paid" on the date of the reissued check or wire transfer. While the GCCF Interest Policy provided for an exception that permitted the GCCF to determine that a claim was "paid" on the date of the original issuance of payment because (a) the cause for the reissuance was indisputably claimant error, and (b) paying additional interest from the date of the reissuance would not be, in the GCCF's judgment, in the interest of justice, the GCCF never implemented that exception.

As required by OPA, the GCCF calculated the rate of interest applied by taking the average of the highest rate for commercial and finance company paper of maturities of 180 days or less for each of the days included within the period for which interest was to be paid to eligible claimants, as published in the Federal Reserve Bulletin. The GCCF paid interest twice a year, at the end of the first quarter and the end of the fourth quarter. The GCCF had a policy whereby it would only make an interest payment in cases where the amount due was above $5.

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[36] The GCCF did not pay interest on amounts paid for future losses through the application of the Future Recovery Factor.

[37] In its April 5, 2011 "Summary of GCCF Interest Policy" ("GCCF Interest Policy"), which was published on its website, the GCCF noted that "[c]ases interpreting the term 'presented' have concluded that to present a claim, a claimant must provide information that is sufficient to enable the responsible party to make an informed offer and to engage in meaningful substantive negotiations." It went on to state that it adopted the approach described above, because the presentment standard "is qualitative and does not provide a bright line that can be administratively applied in a uniform manner that will give claimants clear notice of the date that interest begins to accrue."

We performed sample testing on interest payment calculations and, in all instances, found the GCCF to have accurately applied their interest policy to the payments made to claimants.

d. Communication of Claim Status and Resolution to Claimants

After analyzing a Final Payment or Interim Payment claim, the GCCF typically issued one of several types of letters informing the claimant of the resolution of the claim. These included:

- *Determination Letter:* The GCCF sent a determination letter to a claimant after it had determined that the claimant was eligible for compensation from the GCCF and calculated the amount of the compensation. In the case of a determination letter awarding an Interim Payment, depending upon the payment option chosen by the claimant, the GCCF either included a check for the amount of the approved compensation or wired the compensation amount to the claimant's account.[38] A Final Payment determination letter contained only an offer of payment; it did not include a payment. In order to receive a Final Payment that had been awarded, a claimant had to send back to the GCCF a form indicating the claimant's acceptance of the award. (See Exhibit S.) After the GCCF received this form, it would send the claimant a release and covenant not to sue BP and all other potentially liable parties, which the claimant would be required to execute and return to the GCCF before the GCCF would issue the Final Payment.

- *Zero Loss Determination Letter:* The GCCF issued a Zero Loss Determination Letter to an eligible claimant when the loss calculation resulted in a finding that the claimant had not sustained any losses during the claim period. (See Exhibit T.)

- *Denial Letter:* The GCCF issued a denial letter to a claimant that failed to demonstrate a loss caused by the Spill. Denial letters issued during Phase II provided more detail regarding the reason the subject claim was being denied than had been provided in Phase I denial letters. For example, a denial letter issued to a claimant that had failed to demonstrate that claimed losses were caused by the Spill would typically contain the following language:

> To receive an Interim Payment or a Final Payment, each claimant must demonstrate both actual financial loss and a connection between that loss and the Oil Spill. Under the Final Rules Governing Eligibility and Substantiation Criteria followed by the GCCF (available on the GCCF website, www.gulfcoastclaimsfacility.com), the GCCF reviews each claim to determine whether the claimant has established financial losses caused by the Oil Spill. Attachment A to the Final Rules

[38] Additionally, all determination letters issued in response to an Interim Payment Claim included a Final Payment offer that the claimant could accept by sending back to the GCCF a form indicating the claimant's acceptance of the Final Payment offer. After the GCCF received this form, it would send the claimant a release and covenant not to sue BP and all other potentially liable parties, which the claimant would be required to execute and return to the GCCF before the GCCF would issue the Final Payment.

Governing Eligibility and Substantiation Criteria provides guidance to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation. We have reviewed all the materials that you submitted and determined that you have not provided documents sufficient to establish that your financial loss occurred as a result of the Oil Spill. If you have documents that support your claim that your income losses were caused by the Oil Spill, you may submit them to the GCCF and we will review them. The documents must have been created at the time of the events described in them to be acceptable proof.

(See Exhibit U.)

- *Deficiency Letter:* The GCCF issued a deficiency letter to a claimant who failed to provide sufficient documentation for the GCCF to determine the claimant's eligibility and/or to calculate the amount of the claimant's loss. Unlike the deficiency letters issued in Phase I, Phase II deficiency letters, as a general rule, provided detailed information regarding the specific issues for which the GCCF was seeking information and the types of documents that would provide this information. (See Exhibit V.) By its terms, a deficiency letter gave the claimant 30 days to respond with the requested documents. The GCCF sent a deficiency denial letter to any claimant who failed to respond within 45 days of the date of the deficiency letter.

Initially, as in Phase I, only letters that did not contain claim-specific information were sent to Spanish-, Vietnamese- or Khmer-speaking claimants in their preferred language during Phase II. As a result, determination letters were sent in English and contained a "buck slip" that, in Spanish, Vietnamese and Khmer, informed the claimant that a translation could be requested by calling the GCCF's toll-free number. In October 2011, the GCCF ended this practice and began, as a matter of course, to send letters containing claim-specific information to claimants in their preferred language.

e. Claim Reconsideration Methods

A claimant who was dissatisfied after receiving any of the above resolutions could challenge the result by: (1) requesting that the GCCF re-review[39] the claim; (2) in limited circumstances, filing

[39] A claimant could seek to have the GCCF re-review a claim on which a Determination Letter, Zero Loss Determination Letter, Denial Letter or Deficiency Letter had been issued within thirty days of the date of the letter. Prior to July 2011, a claimant could request the re-review (1) in writing; (2) by calling BrownGreer's Claimant Communication Center; (3) in person at one of the GCCF's site offices; or (4) by submitting additional documentation. Beginning in July 2011, the GCCF required a claimant seeking a re-review of a claim on which a Determination Letter or Zero Loss Determination letter had been issued to complete a form on which the claimant was to provide the reason for the request. Claimants were only permitted one re-review per claim.

an appeal with the GCCF Appeal Board;[40] (3) seeking a review by the U.S. Coast Guard;[41] and/or (4) seeking redress in the court system either by joining the multi-district class action lawsuit already pending in the U.S. District Court for Eastern District of Louisiana or filing a new lawsuit. In addition, claimants were also free to file new claims for an Interim or Final Payment with the caveat that, in accordance with the Phase II protocol, only one Interim Payment claim could be considered per quarter.[42]

f. Diversity of Claimants

During its tenure, the GCCF received claims from a diverse range of individuals and businesses. These included, among others:

- A diverse range of businesses, including fishermen, seafood harvesters and processors, hotels, restaurants, real estate agents and developers, retail businesses, builders, contractors, dentists, veterinarians, chiropractors, childcare services, garbage removal services, taxi drivers and plumbers;
- Start-up businesses with limited historical financial documentation;
- Companies with annual revenues in the billions of dollars;
- Individuals who were living paycheck-to-paycheck and were unable to rely upon savings to get by while waiting for their claims to be processed;
- Individuals and businesses who operated on a cash-basis and were able to provide little or no documentation of earnings;
- Individuals who needed access to the GCCF and explanations of the claims process through a language other than English (particularly Spanish, Vietnamese and Khmer);

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40 Under the Phase II protocol, a claimant had the right to appeal if the result was a Final Payment determination and the Claimant had been offered a total monetary award in excess of $250,000; and BP had the right to appeal a Final Payment determination in cases where the claimant had been offered a total monetary award in excess of $500,000. In addition, Mr. Feinberg, in his discretion, could grant either a claimant or BP the right to appeal if the appealing party asserted that (a) a Final Claim determination "present[ed] an issue of first impression under OPA" or (b) a Final Claim determination was inconsistent with prior legal precedent under OPA; and that the claim involved was representative of a larger category of claims to be considered by the GCCF.

41 The U.S. Coast Guard only compensates claimants for past losses caused by an oil spill. It does not compensate claimants for future anticipated losses.

42 The Phase II protocol specifically contained the provision limiting claimants to the filing of only one Interim Payment Claim per quarter. The GCCF informed BDO that, as a result of a processing error, this rule was not enforced in practice until November 2011, when the error was identified and corrected.

- Individuals and businesses whose claims needed to be directed to other funds (for example, the fund to compensate those affected by the moratorium on certain drilling operations); and
- Individuals submitting claims for types of compensation outside the scope of OPA, such as personal injury and death.

The volume and diversity of claimants necessitated significant complexity in the claims administration process and presented unique challenges to the GCCF.

g. Modifications to the GCCF Methodologies

In the last paragraph of the Final Rules, the GCCF stated explicitly that it would "continue to monitor and revise" these rules. In fact, throughout its tenure the GCCF made adjustments to its methodology for determining claimant eligibility and calculating loss amounts. Some of these changes were included in two modifications—dated August 16, 2011 and November 30, 2011—which the GCCF published on its website.[43] In addition to these published changes, the GCCF made many other adjustments to the methodology used to analyze claims and determine compensable losses. The GCCF made these changes for various reasons, including to integrate input from industry groups, to expand eligibility and to facilitate the faster processing of claims. Many of these changes—both those contained in the two modifications to the Final Rules and those that were not—had a direct impact on the GCCF's determination of a claimant's eligibility or calculation of any compensable losses. With some exceptions, however, the GCCF did not apply these changes retroactively. As discussed in greater detail below, this approach resulted in cases in which two claimants that may appear to have been similarly situated could have their claims resolved in different ways merely as a result of the timing of the GCCF's review of their

[43] In its published August 16, 2011 modification to the Final Rules, the GCCF created a requirement that, beginning in the second quarter of 2011, business claimants demonstrate a 5% growth in revenue in 2011 when compared to 2010; created a requirement that, beginning in the third quarter of 2011, individual claimants demonstrate a 5% increase in 2011 earnings over their earnings in 2010; modified the Financial Test used to determine the eligibility of business claimants to allow for additional flexibility in determining the eligibility of claimants with limited financial history; created a methodology to compensate Oyster Leaseholders for projected future losses as a result of potential for prolonged damage to their oyster beds: and made adjustments regarding the calculation of Final Payments for claimants who did not have a documented loss in 2010. (See Exhibit W.)

In its published November 30, 2011 modification to the Final Rules, the GCCF changed from two to four the Future Recovery Factory to be applied when calculating Final Payment offers for commercial shrimp and crab harvesters and processors; made adjustments to the eligibility of claimants in the Florida Peninsula and Texas; and changed the methodology for calculating the Comparison Year income for individual claimants. (See Exhibit X.)

claims. During interviews with us, the GCCF stated on several occasions that it took this approach because the GCCF was focused on processing claims as they were received and because claimants were able to have their claims reconsidered by the GCCF process by requesting a re-review or submitting a new claim. The GCCF indicated that it expected that certain inconsistencies created by the methodology modifications would be corrected through this process.

i. Examples of Methodology Modifications

(a) Treatment of Individuals and Businesses in the Casino Industry and Other Businesses with Gaming Operations

The GCCF encountered various challenges processing individual and business claims in the casino industry. The GCCF attributed these challenges to conflicting information on whether casinos were actually affected by the Spill, as well as concerns expressed by officials in certain Gulf States where casinos are present. As the GCCF amended its methodologies to address these concerns, it adopted changes in policies that caused inconsistencies and delays in claims processing for casino workers and other workers employed by businesses with gaming operations, including changes in eligibility status and the adoption of unique rules for processing claims from casino workers.

In Phase I, casinos and individual claimants who worked in the casinos were not eligible for EAPs. According to the GCCF, it received information from a variety of sources, including casino experts, officials in the gaming industry and the general public, indicating that gaming was independent from tourism and that casinos had not been adversely affected by the Spill. Nevertheless, despite their non-eligibility, some casino workers were inadvertently paid during Phase I, making them automatically eligible for Phase II.

Early in Phase II, the Casino business type was put into eligibility groups that required claimants to provide SCD evidence demonstrating that their financial losses occurred as a result of the Spill. In response to concerns raised by casinos in Mississippi and their employees, the GCCF undertook to conduct more research into the issue of appropriate treatment of casino workers. As a result of that research, in March 2011, the GCCF adopted rules to process claims from individual casino workers. Pending finalization of these rules, claims from all casino workers were put on "hold" in order to prevent further denial of these claims. In April 2011, the GCCF implemented the rules for processing claims from casino workers (the "Casino Worker Methodology"), including the following:

- Workers at casinos on the coast were considered eligible for payment without any SCDs;
- Casino claimants were required to provide complete financial documentation for 2008, 2009 and 2010; and
- The average of a casino worker's 2008 and 2009 income was used to project earnings, which generally resulted in a different outcome than would be achieved by using the loss calculation methodology applied to non-casino workers.

In June 2011, the GCCF began to process claims for casino workers in 43 additional businesses located in Alabama, Florida, Louisiana and Mississippi that had some gaming operations on their sites using the Casino Worker Methodology. Many of these claims had been on "hold" since March 2011. At this time, the GCCF was classifying any business with a gaming operation as a Casino business type. For example, a restaurant with some gaming operations was classified as a casino. In September 2011, the GCCF placed all casino claims on "hold" again to further evaluate and accurately distinguish between the claims from casino workers and those from non-casino workers employed by businesses with gaming operations. Shortly thereafter, the GCCF began the task of reclassifying casino worker claimants into their correct eligibility groups.

In November 2011, the GCCF decided to reconsider the Casino business type that was assigned to the 43 additional businesses that had some gaming operations on their site to ensure they had been placed in a business type that represented the predominant nature of their operations. As a result, the GCCF reclassified 31 businesses formerly classified as casinos to a business type that better represented the predominant nature of their operations. By this time, however, the GCCF had already paid (or offered to pay) claimants working at 28 of the 43 businesses, 24 of which were newly classified in other business types.

As a result of the foregoing reclassification, all affected claimants with pending claims were re-reviewed under their new eligibility group determination. Claimants who had already received a determination letter under their previous eligibility group determination and who had not submitted a new claim form were not re-reviewed. The GCCF elected not to retract any outstanding final payment offers from claimants who were now required to provide an SCD, but who had received a determination letter without providing an SCD. It also made additional payments to those claimants who may have received lower determination amounts as a result of being wrongly classified as casino workers.

(b) Inclusion of Prior Year Income for Similar Lines of Work Only

On March 11, 2011, the GCCF modified its rules for the types of income from 2008 and 2009 included in the loss calculation. Up to that time, the GCCF considered all of a claimant's historical income from 2008 and 2009 in the lost earnings calculation, regardless of whether the income was derived from the same or similar lines of work. Effective March 11, 2011, the GCCF changed its rules to include only 2008 and 2009 income from a line of work that was the same or similar to the claimant's line of work at the time of the Spill. As a result, claims evaluated before this policy change could have a higher calculated loss than claims reviewed subsequent to March 11, 2011.

(c) Use of Annualized January through April 2010 Earnings in Loss Calculations

Prior to April 7, 2011, the GCCF selected the higher of 2008 or 2009 earnings to serve as a benchmark for 2010 projected earnings (from which to subtract actual post-Spill 2010 earnings to arrive at post-Spill lost earnings). On April 7, 2011, the GCCF changed its policy to include the option of selecting the highest of 2008, 2009 earnings or January through April 2010 earnings multiplied by three to compute a projected 2010 earnings amount. The GCCF did not retroactively apply this policy to claimants who had previously presented documentation of January through April 2010 earnings to determine whether the annualized amount would have been higher than the greater of either 2008 or 2009 earnings.

(d) Use of Claimant Verified Amount Rule During Phase I

During Phase I, on September 18, 2010, the GCCF adopted a Claimant Verified Amount rule for both individual and business claimants. With the adoption of this rule, the GCCF paid the higher of the amount of losses claimed by the claimant (which the GCCF called the "Claimant Verified Amount" or "CVA") or the GCCF-calculated amount if pre-Spill financial information was provided. Originally this policy was in place for all claims where the CVA was less than or equal to $10,000. Over the course of Phase I, the GCCF increased the CVA threshold amount several times, including on September 25, 2010, when the GCCF capped the CVA amount at $50,000 for individual claimants and $200,000 for business claimants. Shortly thereafter, the GCCF adopted additional restrictions regarding the application of the CVA rule. The GCCF also issued true-up payments to claimants previously paid an amount less than the amount of losses stated by the claimant but within the cap amounts. On October 14, 2010, the GCCF eliminated the $50,000 cap on individual claims and began to pay claimants the lesser of the CVA or the GCCF-calculated amount, if the claimant provided pre-Spill financial information.

(e) Use of Special Determination Letter During Phase II

During periods of high claim volume in Phase II, the GCCF, in an effort to expedite payments, intermittently implemented a policy pursuant to which it suspended its normal processing procedures with regard to eligible individual Final Payment claimants requesting less than $5,000 for lost earnings only and business Final Payment claimants requesting less than $25,000 for lost profits only. In these cases, the GCCF would calculate the claimant's loss by multiplying the CVA by the appropriate Future Recovery Factor and then subtracting any prior payments the claimant received from BP, the GCCF or the Real Estate Fund. For those claimants that had received a prior payment from the GCCF or the Real Estate Fund, this loss calculation had a floor of $5,000 for individual claimants and $25,000 for business claimants.

The GCCF would notify a claimant whose loss was calculated pursuant to this policy through the use of a Special Determination Letter, which differed from a regular Determination Letter in that it did not contain any attachments detailing payment calculations or the periods for which the claimant had or had not provided documentation. Additionally, every Special Determination Letter the GCCF mailed to a claimant also included a Release and Covenant Not to Sue, which the claimant could sign and return if the claimant elected to accept the Final Payment offer, thereby removing the intermediate step of claimant acceptance and a later mailing of the Release.

The Claimant Verified Special Determination Letter policy was first instituted on March 28, 2011 and initially was only applied to Group 1 claimants. From June 9, 2011 onwards, during the time periods in which it implemented the policy, the GCCF would also apply it to eligible Group 2 and Group 3 claimants, as well as to individual claimants who worked for an employer who had received a Phase I payment from the GCCF or a payment from the Real Estate Fund.

(f) Letters to Claimants Previously Denied During Phase II

In October and December 2011, the GCCF sent out letters to claimants that had been denied during Phase II of the GCCF process. (See Exhibit Y.) Specifically, those letters contained the following language:

> You previously filed a claim with the GCCF seeking damages relating to the Oil Spill. The GCCF sent you a Denial Letter that denied your claim for the reasons explained in that letter. If you think you should have been paid and can provide supporting documentation to tie your losses to the Oil Spill, you may file a new Claim Form and any supporting documents you have. The GCCF will review that claim and send you a letter explaining the outcome of that review. If you have not signed a release and Covenant Not to Sue, you may file a new claim with the GCCF until the program ends in August of 2013.

The GCCF did not send this letter to the following types of previously denied claimants:

- Those who had filed a Final Payment or Interim Payment Claim subsequent to being denied.
- Claimants whose Interim Payment and/or Final Payment claims were denied for any of the following reasons:
  - The claimant was claiming lost earnings or profits resulting from the loss of BP clean-up work or contracts;
  - The GCCF determined that the claim constituted "double-dipping" because it was seeking compensation for losses covered by a related business or individual claim for loss of earnings or profits;
  - The GCCF had classified the claimant in Group 4.

The GCCF sent these letters to 89,361claimants whose claims were denied earlier in Phase II. As of March 8, 2012, 5,252 or 5.9% of those claimants who received these letters subsequently filed new claims with the GCCF.

Starting on November 2, 2011, the GCCF also began to include similar language in all denial letters sent to claimants.[44]

[44] The denial letters contained this language:

h. GCCF Quality Control Processes

During its tenure, the GCCF implemented a variety of Quality Control processes. These included manual reviews at the various stages of the claims intake, claims review, payment, and claimant communication processes, as well as a review of data analytical trends. GCG, BrownGreer, PwC, Cowheard and AFA all set up systems in which there were multiple levels of review and oversight of the actions taken by line level staff. Additionally, as mentioned above, BrownGreer periodically administered tests to its claims reviewers in order to identify issues that would be addressed in individual or group training. As a result of the various Quality Control measures it undertook, the GCCF periodically identified issues that resulted in adjustments to its claims review processes, in general, or to its evaluation of specific claims. For example, in July 2011, the GCCF conducted a review of claims that the claims reviewers had classified as being in the "Other" business type. As a result of this review, the business types of some claimants were re-classified, resulting in those claimants being moved into more favorable eligibility groups.

i. Centralization of Claims Process

The GCCF claims review process, by design, was more centralized than that implemented by the BP-operated facility. The BP-operated facility relied extensively upon Worley adjusters to staff site offices, intake claims, meet with claimants, review claims and, where they deemed appropriate, issue payments. Worley officials told us that during the operation of that facility, its adjusters interacted extensively with the claimants whose claims they were reviewing and were given some discretion in the claims resolution and payment process.

As the GCCF moved into Phase II, the role of the Worley adjusters who staffed the site offices changed as their main roles became the fielding of questions from claimants and providing them with basic information regarding the claims process and the status of their claims.[45] With the

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> If you think you should have been paid and can provide supporting documentation to tie your losses to the Oil Spill, you may file a new Claim Form and any supporting documents you have. The GCCF will review that claim and send you a letter explaining the outcome of that review. If you have not signed a release and Covenant Not to Sue, you may file a new claim with the GCCF until the program ends in August of 2013. (See Exhibit Z.)

[45] Worley staff told BDO during interviews that, for a period early in the tenure of the GCCF, Worley adjusters in its offices had access to no more information than the claimant could access through the GCCF online claims

exception of a limited number of adjusters who were assigned to the small business claims and subsistence claims teams, the Worley adjusters assigned to the site offices were not directly involved in the evaluation of claims.

The process for implementing the methodology for reviewing and evaluating individual claims was handled almost exclusively by BrownGreer claims reviewers located in Richmond, Virginia. Determination letters, denial letters and deficiency letters sent to an individual claimant during Phase II contained the telephone number to BrownGreer's Claimant Communication Center ("CCC") and the name of a particular BrownGreer staff member to whom the claimant could speak about the claim. While that staff member typically was not the person who handled the particular claimant's claim, it was an experienced claims reviewer or supervisor who was well-versed in the GCCF's protocols and methodologies.

The loss calculations for business claims in Phase II were mainly performed in Hammond, Louisiana by forensic accountants from Cowheard and AFA, under the supervision of PwC accountants in Washington, D.C. Unlike the process for individual claims, the business claims review process often involved direct communication between the claimant or the claimant's representative and the assigned GCCF forensic accountant, during which issues, such as missing documentation, were discussed. Additionally, there often was interaction between the GCCF forensic accountant reviewing the claim and the claimant or the claimant's representative through which a proposed agreed-upon resolution was reached, subject to the approval of Feinberg Rozen.

j. Feinberg Rozen Oversight and Discretion

Throughout our independent evaluation, we were told by Feinberg Rozen and the various entities that were engaged to assist the GCCF that while it sought input from a variety of different sources, Feinberg Rozen was responsible ultimately for the creation, maintenance and amendment of GCCF policies and methodologies. Throughout the history of the GCCF, Feinberg Rozen had regular contact with all of the entities that were engaged to assist the GCCF and required daily reports which were prepared by GCG and BrownGreer.

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portal. Subsequently, the Worley adjusters were given access to the same claims review portal utilized to review and resolve claims.

The GCCF also was inundated with requests from claimants seeking to have the processing of their claims "escalated," by which the GCCF meant the claimants were seeking to have their claims treated other than in the ordinary course of the claims review process. Often, these requests were initiated through the liaison firms, congressional offices or other government officials, or a claimant's attorney. Feinberg Rozen recognized both that there were claimants who were suffering severe hardship caused by the economic consequences of the Spill and, as a result, deserved to have their claims escalated, and that the GCCF would not be able to give escalated treatment to every claimant seeking it. As a result, Feinberg Rozen tasked BrownGreer with the preparation of a daily report of requests for the escalation of claims. Feinberg Rozen would work with BrownGreer on individual claims and with PwC on business claims to investigate the merits of these requests. Feinberg Rozen ultimately had sole authority to determine that a claim deserved escalated treatment.

Feinberg Rozen informed us that its daily supervision of the claims process included meetings with attorneys or other advisors who represented groups of similarly situated claimants to ensure that these claims were resolved in a consistent and efficient manner. In addition, Feinberg Rozen, on a daily basis, reviewed and determined eligibility and payment questions regarding challenging claims or those that presented policy questions.

E. The Current Status of the GCCF

On March 2, 2012, BP reached an agreement-in-principle with plaintiffs in the class action lawsuit, *In Re: Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, pending in the U.S. District Court for the Eastern District of Louisiana. Pursuant to the agreement-in-principle, BP agreed to pay damages to those who suffered economic or medical harm as a result of the Spill.[46] As part of that litigation, on March 8, 2012, U.S. District Court Judge Carl Barbier issued an order (the "Transition Order") creating a process (the "Transition Process") for transitioning from the GCCF claims process to the court-authorized claims process that would result from the settlement; setting forth the parameters by which claims currently pending with the GCCF would be handled in the Transition Process; and appointing Lafayette-

[46] While the agreement-in-principle did not provide a cap on the amount that BP would be required to pay to claimants, BP estimated the cost of the settlement to be $7.8 billion.

based attorney Patrick Juneau as the Claims Administrator and Lynn Greer, a partner at BrownGreer, as the Transition Coordinator of the Transition Process. (See Exhibit AA.)

The Transition Order also provided that the GCCF would not accept, process or pay claims submitted to it other than those claims for which the claimant had accepted a payment offer made by the GCCF and executed a release prior to February 26, 2012, at 11:59 p.m., and neither BP nor the claimant had filed an appeal. The Transition Order also terminated the GCCF appeals process for all claims except those then pending. With regard to the independent evaluation being conducted by BDO, the Transition Order stated:

> In the event that the federal audit of the GCCF currently being performed by BDO Consulting identifies one or more errors in the application of the GCCF rules and methodologies to specific claims, the GCCF retains the right to correct the error(s) and to issue payments to the claimant(s) at issue in an amount necessary such that the Claimant(s) will have received from the GCCF the same amount as if the error had not occurred. Within 24 hours of the GCCF making such a payment, the GCCF shall provide written notice of the fact and amount of the payment to the Claims Administrator. Any amounts paid pursuant to this provision shall be offset against any payments made by the Transition Facility and the Court Supervised Claims Program, if such payments are made prior to final payment by the Court Supervised Claims Program.

Subsequent to the issuance of the Transition Order, BDO and the GCCF continued the process of identifying instances in which an identified error resulted in an underpayment to a claimant, and the GCCF has made first-time and additional payments and/or offers of payment to those claimants where sufficient information existed in the claim file to do so. As a result of this process, the GCCF has agreed to pay more than $64 million to almost 7,300 claimants.

IV. FINDINGS & OBSERVATIONS

The GCCF was among the largest claims processing facilities in U.S. history and the most significant response to date by a Responsible Party under OPA. As the preceding discussion makes clear, the GCCF evolved over time and faced many challenges. Through our independent evaluation, we have been able to identify practices that led to consequences consistent with some of the concerns identified by the DOJ and public officials and stakeholders in the Gulf States, as well as set forth the context of the GCCF's mandate and its accomplishments. In the following pages, we set forth our findings and observations regarding the GCCF generally and claims processing specifically.

A. Findings & Observations Regarding Claims Processing

Our findings and observations regarding claims processing are based on our testing of claims selected from over one million claims filed with the GCCF, involving over 550,000 claimants. Our selection of individual and business claims from the five Gulf States as well as non-Gulf States included claims that were paid, denied and in-process. For paid claims, we reviewed claims paid during Phase I and Phase II, including Quick Payments, Interim Payments and Final Payments. We compared certain attributes of the claims and the methodology used to determine payment amounts for consistency with the GCCF protocols and methodologies. For certain categories of claimants, we assigned dedicated teams to focus on these claims specifically to determine whether they were processed pursuant to the GCCF protocols and methodologies.

In the following sections of our report, we set forth our findings and observations relating to our review of: (1) claims paid, denied and in-process; and (2) claims with identified errors where the GCCF determined there was sufficient information in the claimant's file to enable a calculation of a first-time or additional payment and/or an offer for payment to the claimant.

1. Claims Paid, Denied or In-Process

With respect to our testing of claims from the entire population of claims processed by the GCCF, while our independent evaluation did uncover instances in which errors were made in the claims evaluation process, in general, the GCCF appeared to have consistently applied its protocols and methodologies in processing claims. To the extent we identified potential inconsistencies, we inquired about them and determined the basis (for example, guidance in the Operations Manual, Process Alerts, other GCCF directives) for the potential inconsistencies.

As described below, when we determined that a potential inconsistency may in fact be an error, we worked with the GCCF to confirm whether it was an error and determine its likely cause. Upon confirming the error, we worked cooperatively with the GCCF to develop Structured Query Language ("SQL") programs to mine the claims databases and determine the extent to which an issue affecting a specific claim may be mirrored in a broader population of claims. We then worked with the GCCF to confirm our understanding of the GCCF's redetermination of the claims negatively affected by the error and its calculation of any first-time or additional payment and/or an offer for payment due the impacted claimants.

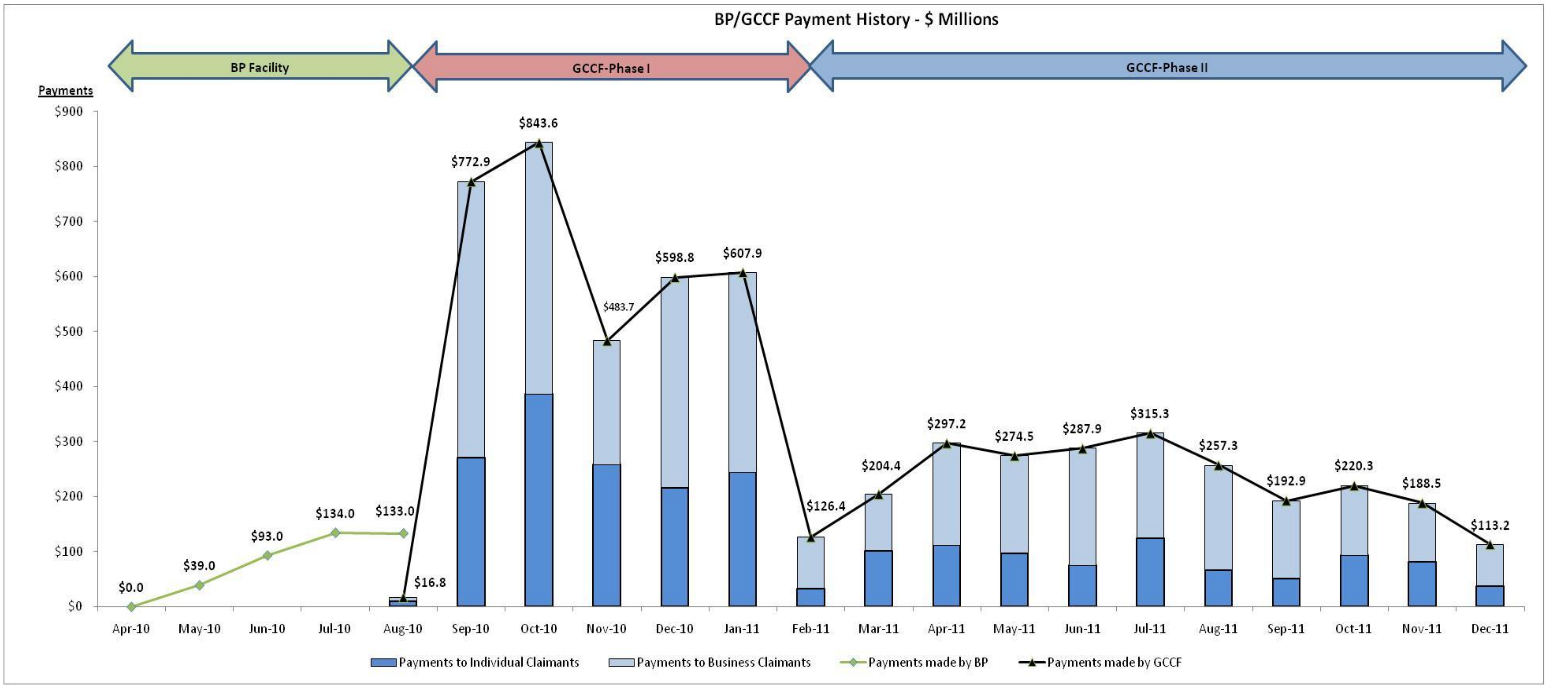
a. Claims Paid

During its one and one-half year tenure, the GCCF processed over one million claims and paid a total of more than $6.2 billion to over 220,000 individual and business claimants (not including the first-time and additional payments and/or offers for payment made as a result of our independent evaluation). In its second full month of operation, the GCCF paid claimants over $840 million – an average of more than $27 million per day – in emergency advance payments.

The summary statistics cited below are based on our access to the GCCF database "frozen" as of December 30, 2011. Approximately 99.8% of the claims paid and 96.8% of the amounts paid related to claims for lost earnings or profits.

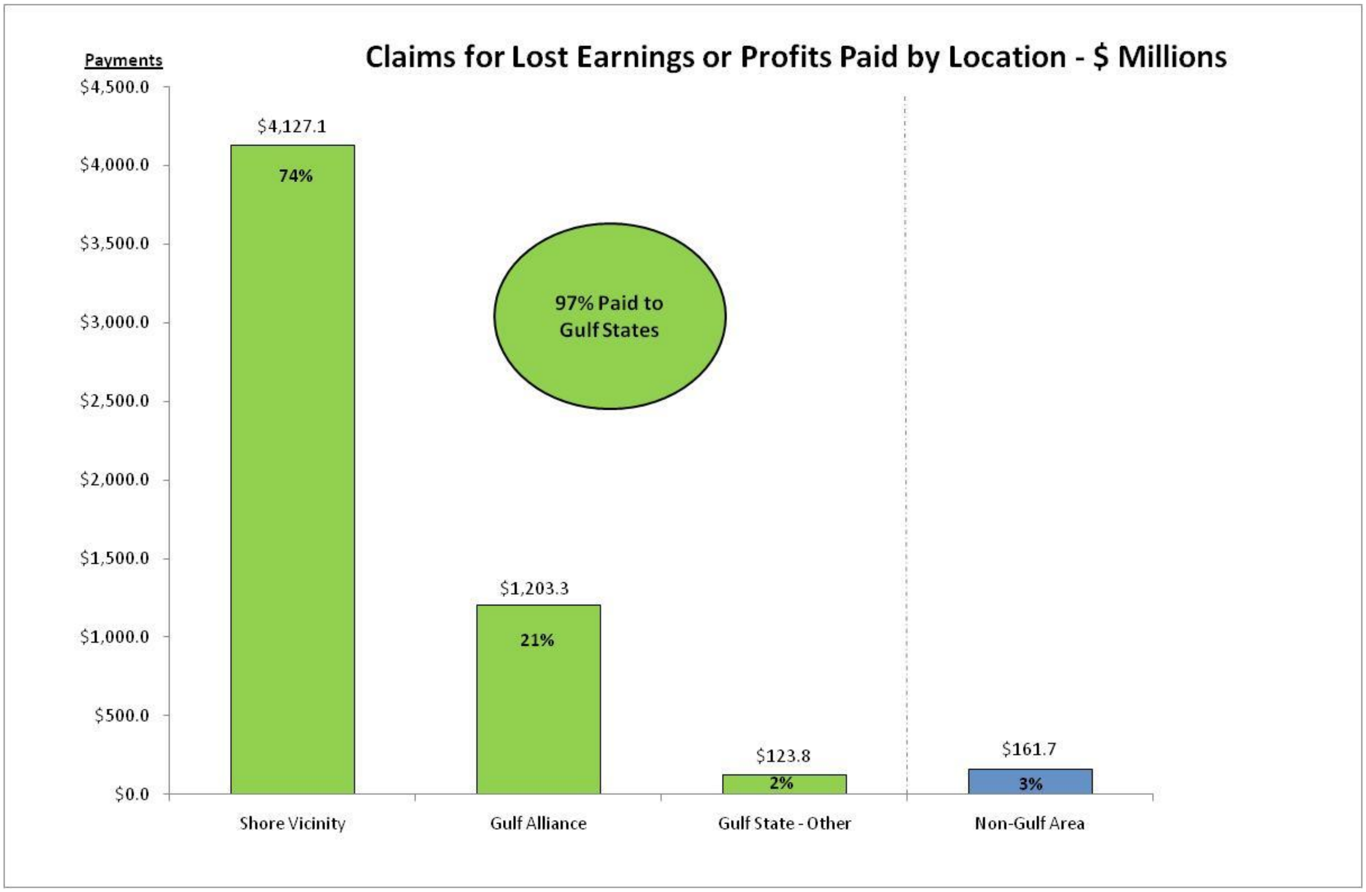
During the BP-operated facility and the GCCF's Phase I and Phase II programs, the following amounts were paid to individuals and businesses each month from April 2010 through December 30, 2011:

Figure 2: *BP/GCCF Payment History Chart*



Consistent with the GCCF's established methodology of basing claimant eligibility on a combination of loss location and business type, 97% of the payments made by the GCCF were made to claimants in the Gulf States, almost exclusively to individuals and businesses in the Gulf Coast Shore Vicinity and Gulf Alliance counties. As noted in the graph below, most of the lost earnings or profits ("LEP") payments were made to claimants in the Shore Vicinity (74%) followed by payments to claimants in the Gulf Alliance counties (21%) and in other sections of Gulf States (2%). In contrast, payments to claimants from non-Gulf areas represented a much smaller portion (3%) of the payments made by the GCCF.

Figure 3: *Claims Paid by Location*



In addition to locations primarily impacted by the Spill, industries that were not precluded from filing a claim with the GCCF and had more favorable eligibility requirements (for example, retail, sales and service; food, beverage and lodging; fishing, seafood processing, tourism, rental properties) received most of the payments made by the GCCF while certain other industries (for example, legal, accounting and other professional services; banks and financial institutions; financial services and insurance) had higher eligibility requirements and, accordingly, received a smaller portion of the payments.

The foregoing payment distribution is consistent with the eligibility criteria that granted automatic eligibility to claimants closest to the Gulf. We did not identify any patterns with respect to paid claims that would suggest the GCCF departed from its protocols or methodologies in an attempt to minimize amounts paid generally or to specific types of claimants.

b. Claims Denied

The GCCF data indicate that it denied approximately 60% of the claimants who filed claims. During Phase I, a significant portion of the claims were denied because the GCCF determined that the claimants' business types were not compensable or the claimants failed to submit the required financial documentation. During Phase II, a majority of the claims denied were due to claimants not providing documentation sufficient, according to the GCCF's protocols and methodologies, to establish that their financial losses occurred as a result of the Spill. The remainder of the denied claims during Phase II was largely due to claimants: (1) failing to respond to Deficiency Letters requesting documents necessary for the GCCF to evaluate their claims or submitting insufficient additional information to evaluate their claims; or (2) submitting information that showed their losses were due to alternate causes.

The high incidence of denied claims is consistent with some of the concerns brought to our attention. Media reports concerning the GCCF include discussions of claimant dissatisfaction, including from those whose claims were denied. As described previously, during its early phases and, indeed, throughout its history, the GCCF undertook an outreach program in an effort to encourage potentially eligible claimants to submit claims to the facility. These efforts included, but were not limited to, a mass mailing sent to all claimants who had filed claims during the tenure of the BP-operated facility to inform them of the GCCF's creation; Mr. Feinberg's appearance at Town Hall meetings throughout the Gulf Coast region; the availability of claims forms at the various site offices which the GCCF maintained in the Gulf region; and the creation of a website. Undoubtedly, these outreach efforts, combined with the well-publicized fact that BP had agreed to set aside at least $20 billion to pay claimants, attracted claims from persons who may not have sustained any losses from the Spill and, therefore, were not entitled to payment from the GCCF. Indeed, the GCCF received claims arising out of the Spill, which most directly affected the Gulf Region, from claimants from all 50 states in the United States and from 39 foreign countries, many of whom would have difficulty tying any losses that they sustained to the Spill. Had the GCCF only received claims from eligible claimants, there would have been a very substantial risk that an additional and significant number of claimants with compensable claims had not been reached by the GCCF's outreach efforts and, therefore, had not submitted claims.

While the GCCF's outreach is one potential factor leading to the high incidence of denied claims, it likely is not the only one. As noted above, a majority of the claims denied during Phase II were due to claimants not providing documentation sufficient to establish that their financial losses occurred as a result of the Spill. To a large degree, the GCCF's approach to determining claimant eligibility was driven by two factors: (1) loss location; and (2) claimant business type. As discussed in the section above on Paid Claims, 97% of the payments made by the GCCF were made to claimants in the Gulf States, almost exclusively to individuals and businesses with loss locations in the Gulf Coast Shore Vicinity and Gulf Alliance counties. Only 54% of the claims filed with loss locations in the Gulf Shore Vicinity were denied, whereas 70% of the claims with loss locations in the Gulf Alliance Counties and 76% of the claims with loss locations in other areas within the Gulf States were denied. Similarly, in terms of business type, over 92% of the claims paid by the GCCF were paid to claimants in the food, beverage and lodging; retail, sales and service; real estate; fishing; seafood processing and distribution; and tourism and recreation industries.

During Phase II, claimants (other than individual claimants who were deemed automatically eligible by operation of the GCCF's "coattails eligibility" policy) whose loss location and industry type placed them within Group 2 and Group 3 needed to demonstrate that claimed losses were caused by the Spill. For business claimants in Group 2, this requirement could be satisfied by passing the Financial Test. Individual claimants in Group 2 and all claimants in Group 3 were required to provide an SCD, prepared contemporaneously with the event described in the document. Only 2.8% of the individual claimants and 11.3% of the business claimants who, as a result of being in Group 2 or Group 3, were required to provide an SCD were able to actually do so. While we do not take a position on its appropriateness, the GCCF's adoption of the contemporaneous SCD requirement likely was another factor that contributed to the high incidence of claim denials, particularly in locations outside of the Gulf Shore Vicinity.

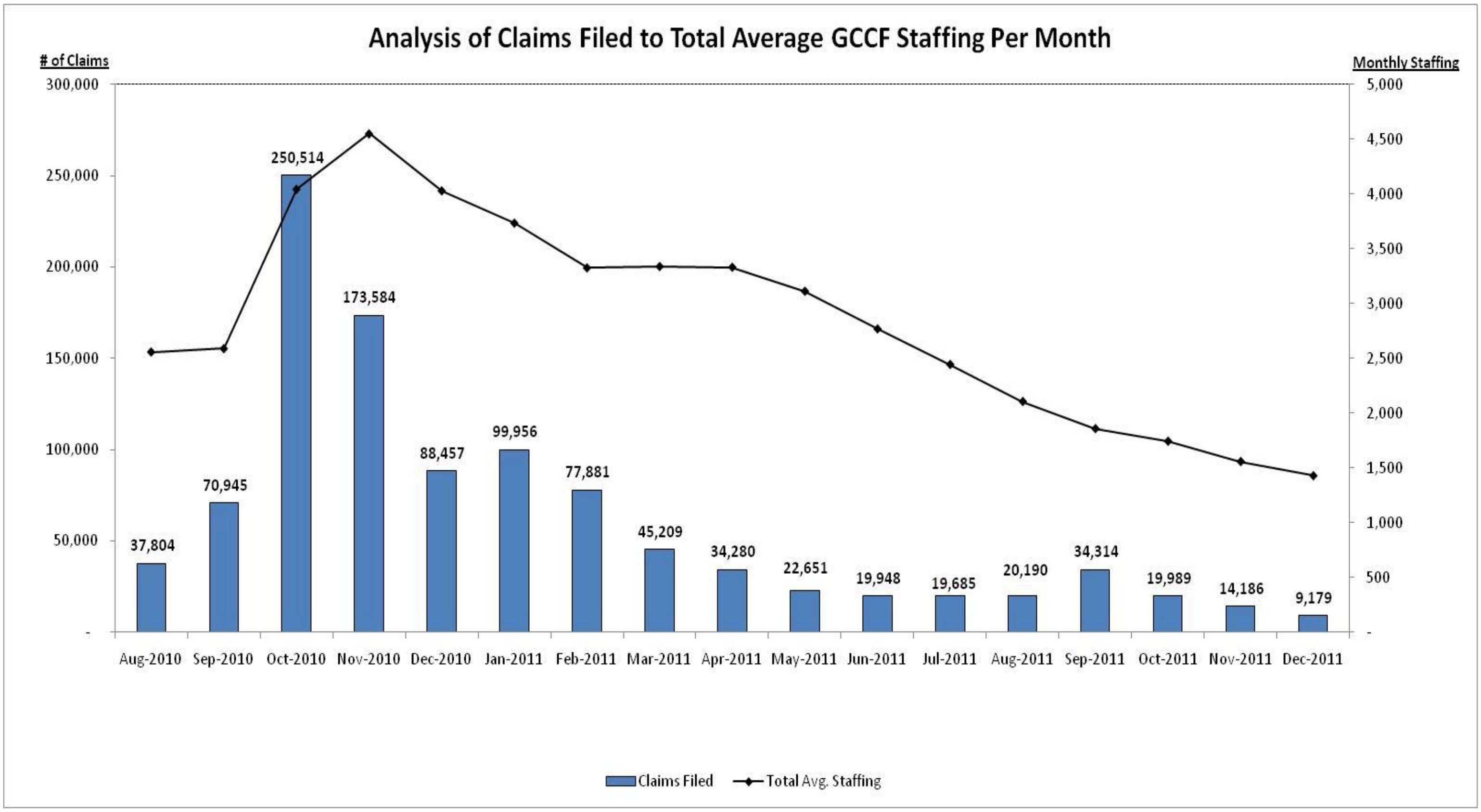
Additionally, as described earlier, we have observed instances, such as those relating to changes in eligibility requirements and the applicability of the "coattails eligibility," in which a denied claimant would have been deemed eligible for payment from the GCCF had the claimant filed the claim at a later date. Because the GCCF did not apply retroactively the changes that would have made these claimants eligible, unless they filed a new claim with the GCCF, these claimants would never receive a payment to which, by the GCCF's own protocols and methodologies, they may have been entitled.

c. Claims In-Process

The timing of processing individual and business claims was affected by a variety of factors, such as the availability of the information needed to process the claim; the quality (completeness, legibility) of the information provided by the claimant; the complexity of the claim, including whether accountants/attorneys were involved and whether there were ongoing negotiations with the claimant to settle the claim; the effectiveness and clarity of the GCCF's communications with the claimants advising them precisely which documents were needed to process and complete their claim; the timing of when the claim was filed (higher volume periods vs. lower volume periods); and whether the GCCF placed the claim on hold pending further refinement of the GCCF's policies and procedures.

In evaluating the timeliness of the GCCF's processing of claims, as the graph below shows, we observed that the GCCF committed significant resources to claims processing in response to fluctuations in claims volume.

Figure 4: *GCCF Staffing Levels*



In addition, significant other attempts were made by the GCCF to meet commitments for timely processing of claims and to expedite payment to claimants. For instance, at several points, the GCCF implemented the Special Determination Letter policy wherein it made the determination to suspend its normal processing procedures and calculate the losses of individual claimants that requested less than $5,000 and business claimants that requested less than $25,000 by multiplying the requested amount by the applicable Future Recovery Factor. Also, there were times when the GCCF adjusted its quality control process for a brief period of time in order to expedite payments to claimants. The Quick Payment option was another approach taken by the GCCF to expedite payments to claimants.

To further evaluate the GCCF's timing of claims processing, using the date of the last document received from the claimant, we selected claims that had been in-process for an extended period of time and requested explanations from the GCCF. The majority of the claims that had been in-process for an extended period of time had extenuating circumstances, including:

- Claims that were referred for investigation of potential indicators of fraud;
- Claims for which the GCCF had requested additional information from the claimants; and
- Business claims in the process of being resolved through discussions between the GCCF and the claimants or their representatives.

As noted above, the GCCF also experienced "holds" on its process at various points for reasons both self-imposed and beyond its control. Furthermore, there were a very limited number of claims that did not appear to have extenuating circumstances or to have been placed on "hold." We provided a list of these in-process claims to the GCCF and upon our inquiry they seemed to have been accelerated and processed.

Concerns regarding the timeliness of claims processing may have been amplified by the high expectations set by the GCCF initially. These high expectations were expressed by Mr. Feinberg in some of his earliest public statements concerning the GCCF's claims evaluation process. Additionally, as mentioned above, the GCCF's Phase I protocol set forth an ambitious timeframe for the processing of claims, a timeframe which Mr. Feinberg later acknowledged the GCCF was not able to meet. The high expectations created by Mr. Feinberg's early statements and the Phase I protocol language concerning claims processing times, when combined with the fact that, for reasons both within and outside the GCCF's control, the processing of certain claims was delayed, likely led to some of the concerns expressed by claimants and brought to our attention by the DOJ regarding the timely processing of claims.

2. Claims with Identified Errors Corrected by the GCCF

While our independent evaluation did uncover instances in which errors were made in the claims evaluation process, in general, the GCCF appeared to have consistently applied its protocols and methodologies in processing claims. During the course of our evaluation, we identified (and received cooperation from the GCCF in further identifying) claims that both BDO and the GCCF agreed were processed erroneously.

Overall, we evaluated aspects of tens of thousands of claims files and programmatically searched the entire database of over one million claims for those with attributes similar to claims found to contain errors. We then supplemented our findings by requesting documents and information from the GCCF and undertook a process with the GCCF to develop an accurate understanding of the factual information required to complete our independent evaluation. Specifically, upon identifying a potential issue, our approach for resolution included:

- Discussing the factual bases of our findings, the applicable processes and the outcome with the GCCF to confirm that the outcome was the result of an error;
- Determining the likely cause(s) of the error (data input error, coding error or reviewer misapplication of GCCF policies);
- Working cooperatively with the GCCF to develop SQL programs to thoroughly search the entire database of over one million claims to determine whether the identified errors negatively affected other claimants; and
- Confirming our understanding of the GCCF's redetermination of the claim and the GCCF's calculation of any first-time or additional payment and/or an offer for payment due the claimant.

In this regard, approximately 30 GCCF professionals worked with a team of about 15 BDO professionals in Richmond, Virginia for several weeks to perform data mining techniques over the entire population of claims to identify other claims affected by the issues we identified through our claims testing. Roughly 80 SQL queries (averaging about 400 lines of coding syntax with the largest query approximating over 6,000 lines of coding syntax) were processed across the entire population of claims to identify claimants impacted by data input errors, coding errors and reviewer misapplication of GCCF policies.

The claims for these claimants were all re-reviewed either manually (full claims reviews and limited claims reviews) or programmatically to determine whether any claimants were negatively affected by identified errors and, if so, whether any first-time or additional payments and/or offers for payment were necessary. Upon completion of our evaluation, we determined that almost 7,300 claimants were negatively affected by the identified errors, requiring first-time and additional payments and/or offers for payment of more than $64 million. Certain errors identified during our independent evaluation resulted in overpayments being made to claimants. In no instance did the GCCF request that claimants return any of these overpayments (regardless of the amount or circumstances).

The following example illustrates the approach taken when we identified a potential error. We presented a claim to the GCCF where it appeared that the final payment amount offered to a claimant in the determination letter was incorrectly calculated. In this example, it appeared that the GCCF had failed to add the 2010 lost earnings of $131.61 to the 2011 lost earnings of $7,253.51 to arrive at the correct final payment calculation of $7,385.12. Instead, the GCCF had taken the 2010 lost earnings of $131.61, multiplied it by a Future Recovery Factor of two (2) and arrived at a total loss of $263.22, which resulted in the claimant receiving a $5,000 final payment offer (the GCCF's minimum final payment offer to individual claimants) rather than $7,385.12.

The GCCF confirmed our finding and determined that this error was caused by a program coding error resident in the GCCF system for 3 days. We determined that this error might have affected other claims and worked with the GCCF to develop SQL queries to mine the database and identify claims that were potentially similarly affected. The GCCF identified, and we confirmed, that 7 claimants were potentially affected by this error, of which 4 were negatively affected and underpaid a total of $15,650. The GCCF agreed to issue payments to these 4 claimants for the difference between the amount they received and the amount they should have received by adding their 2010 and 2011 losses.

At the conclusion of our testing, we determined that the identified errors where the GCCF concluded there was sufficient information in the claimant's file to enable a calculation of either a first-time and additional payment and/or an offer for payment to the claimant totaled more than $64 million. In particular, we identified errors by the GCCF as follows (amounts shown reflect only those claimants for whom the GCCF has determined, according to its protocols and methodologies, that sufficient information was available to calculate a first-time or additional payment and/or an offer for payment):

__Figure 5:__ Summary of First-time or Additional Payments and/or Offers for Payment[47]

Identified Error	Reference	Claimants Negatively Affected	Dollar Impact
Selection and Use of Claimant's Financial Documents	A-1	3,155	$25,716,201
Coattails Eligibility Policy	A-2	796	12,569,781
Selection of Pre-Spill Income	A-3	873	8,203,236
Selection of Loss Location Zip Code	A-4	221	5,485,150
Treatment of Individuals and Businesses in the Casino Industry and Other Businesses with Gaming Operations	A-5	560	4,011,124
System Issue Affecting Allocation of Year End Earnings to Multiple Periods	A-6	1,168	2,785,719
Alternate Cause Denials	A-7	82	1,384,060
Treatment of Claimants Linked in the Business Correlation Queue	A-8	69	1,178,512
Use of Non-Claimant Information to Determine Loss	A-9	67	760,461
Claimants Reclassified from "Other" Business Type Without Re-Review	A-10	29	669,434
Designation of Eligibility Group	A-11	42	503,359
Claimants Considered Deficient in the Presence of Complete Documentation	A-12	29	294,357
Claimants with Post-Spill Income Included Twice	A-13	142	279,141
Offsets Included as Post-Spill Earnings	A-14	19	219,545
Claim Preparation Fees	A-15	21	184,753
Selection of Business Type	A-16	10	122,988
Coding Issue Affecting Calculation of Lost Earnings	A-17	4	15,650
Miscellaneous Adjustments to Claimant's Lost Earnings or Profits	A-18	5	102,504
Totals		**7,292**	**$64,485,975**

Further information about each of these errors is contained in Appendix A.

The distribution of errors by state (based on loss location) is as follows:[48]

State	Claimants	Dollar Impact
Alabama	553	$6,119,654
Florida	4,437	37,675,080
Louisiana	1,676	15,590,646
Mississippi	574	4,620,185
Texas	49	463,130
Other	3	17,280
Totals	**7,292**	**$64,485,975**

47 The GCCF has informed us that it will be making payments to each of these affected claimants subject to the caveat that it will not be making payments to claimants who have submitted claims which are determined to be fraudulent.

48 See Exhibit BB for a breakdown of this data by county.

The distribution of errors by state of residence is as follows: [49]

State	Claimants	Dollar Impact
Alabama	515	$5,793,502
Florida	4,352	33,909,898
Louisiana	1,617	15,152,348
Mississippi	573	4,691,471
Texas	60	3,229,443
Other	175	1,709,313
Totals	**7,292**	**$64,485,975**

We also identified more than 2,600 claimants whose claims were erroneously denied to whom payments or offers will not be issued by the GCCF. According to the GCCF, the claim files for these claimants do not contain sufficient information, as required by its protocols and methodologies, to determine whether the claimant sustained a financial loss and, therefore, the GCCF is unable to calculate a first-time or additional payment, or an offer for payment for these claimants. In light of Judge Barbier's March 8, 2012 First Amended Order, discussed above, the GCCF has determined that it cannot contact those claimants. As a result, the GCCF is not sending a communication to these claimants requesting the additional information needed to enable the GCCF to determine whether those claimants would be entitled to a first-time or additional payment and/or an offer for payment.[50]

B. Observations Relating to Certain Concerns of Claimants, Public Officials and Other Stakeholders

The DOJ requested that our independent evaluation seek to identify the possible causes of certain concerns raised by claimants, public officials and other stakeholders. The presence of concerns is not surprising given the scope and scale of the GCCF's operations; the sensitive political, legal, economic and environmental context; and the unprecedented nature of the Spill and its impact on the economy in the Gulf. Further, the large number of claimants, their geographic proximity and the potential importance of the claimed amounts to individuals, businesses and the

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49 See Exhibit CC for a breakdown of this data by county.

50 The GCCF noted that the denial letters it initially sent to these claimants contained language instructing them that, if they disagreed with the GCCF's denial, claimants could submit their claims to the U.S. Coast Guard's National Pollution Funds Center or could file claims in court, including in the MDL. Those claimants who are members of the class in the proposed MDL settlement will have the opportunity to submit their claims to the court-supervised claims process. Those claimants who are not members of the class in the proposed MDL settlement will be able to submit their claims to a new claims processing facility that BP will be operating pursuant to OPA.

entire region provided an opportunity and interest in comparing outcomes and addressing potential concerns. The concerns presented to BDO by the DOJ were also reflected in input from Gulf States public officials, media articles and commentary from public officials, trade associations and others posted by the GCCF on its website. The GCCF advised us that it was aware of these concerns, had taken steps to address them (and committed to address any errors we identified), and would provide us with information responsive to our requests to evaluate their potential bases.

The concerns brought to our attention by the DOJ included the following:

1. Why there seemed to be inconsistent outcomes among claimants that may appear to have been similarly situated;
2. Whether the GCCF gave appropriate consideration to documentation submitted by claimants; and
3. Whether communications with claimants were effective.

We were also asked to evaluate other concerns regarding: timely processing of claims; accuracy of inputs considered and formula/protocols applied; and quality and adequacy of resources.

We discuss each of these areas of inquiry in the following sections. The focus of our work was not on any one specific complaint raised by an individual or business, but rather on general aggregated concerns that were based on collective inputs from Gulf States public officials, as well as feedback that the DOJ received during the GCCF's tenure. It is not possible to determine the number of claimants who experienced these concerns or which specific claimants may have experienced each concern. As noted above, our approach included interviews and site visits, requests for documentation and selection of a broad range of claims for testing and data analytics of the GCCF databases to identify potential errors and, potentially, evaluate potential bases for the concerns brought to our attention. As we gained an understanding of the GCCF's processes and became familiar with the results of the application of the GCCF's protocols and methodologies in performing our detailed claims testing, we were better positioned to understand potential causes of these concerns. We cannot, however, identify with certainty the direct cause of one or more of those concerns. A confluence of factors, including those beyond the control of the GCCF, likely contributed to certain of these concerns.

1. Why There Seemed To Be Inconsistent Outcomes Among Claimants That May Appear To Have Been Similarly Situated

During our independent evaluation, we found that eligibility and loss calculations were based on a wide range of factors, in part due to the recognition by the GCCF that the Spill affected specific claimants differently and that each claimant's expected post-Spill earnings might be shaped by the claimant's particular prior earnings, occupation and other background factors. As the GCCF's protocols and methodologies were based on calculating specific claimants' lost earnings, the variation among outcomes is to be expected.

Claimants that may appear to have been similarly situated may have received different outcomes; however, "similarly situated," in many cases, is a subjective consideration and may not reflect differences among claimants that were not evident to observers (or understood to have implications to the outcomes). For purposes of our work, we sought to understand how the GCCF processed the claims submitted by specific claimants and, as a result, became familiar with the reasons that the GCCF arrived at specific outcomes. Since each claimant provided unique information, the extent to which two or more claimants are "similarly situated" is a matter of degree. The differences in the claims filed by two claimants, in terms of their respective earnings, circumstances and documentation, were often sufficient, by themselves, to result in different outcomes.

Claimants who may appear to have been similarly situated may have received different outcomes for a variety of reasons. These reasons include, among others: (1) the range of options for claimants to document pre-Spill earnings; (2) the timing of an individual's claim as compared to business claims by his employer; (3) the evolution of the GCCF's methodologies during its tenure; (4) the periodic implementation of processes to expedite payments; (5) the automatic eligibility in Phase II of claimants who may have been paid in error in Phase I; (6) human error by GCCF claims processors; and (7) the temporary differences in outcomes that were subsequently corrected. The following illustrative examples are drawn from our independent evaluation:

- GCCF protocols and methodologies included the option to select 2008 for pre-Spill earnings: Claimants who earned the same amounts from the same employer in 2009 and 2010 prior to the Spill might nonetheless have received different payment amounts under accurate application of GCCF protocols and methodologies. As discussed in Section III.D.3.b, above, during Phase II, the GCCF calculated payment amounts based on the *highest* of a claimant's 2008, 2009 or annualized pre-Spill 2010 earnings. Even though two claimants earned the same amount from the same employer at the time of the Spill, one of them may have earned a higher amount in 2008 and, therefore, have received an Interim Payment and a Final Payment offer based on that higher amount rather than the claimant's 2009 or pre-Spill 2010 earnings. Thus, this example of accurate application of the GCCF's protocols and methodologies – that provided for use of the highest of three possible measures of pre-Spill earnings – resulted in different outcomes for claimants who may appear to have been similarly situated.

- <u>GCCF protocols and methodologies included eligibility determinations affected by prior or subsequent claims by *other* claimants</u>: Claimants who earned the same amounts from the same employer at the time of the Spill might nonetheless have received different outcomes under accurate application of GCCF protocols and methodologies depending upon whether the GCCF reviewed a business claim filed by their employer prior or subsequent to their claims as individuals. As discussed in Section III.D.3.a, above, beginning March 31, 2011, a claimant in Group 2 or Group 3 was deemed automatically eligible through the application of the GCCF's "coattails eligibility" policy if the GCCF previously deemed the claimant's employer eligible. As with the majority of the GCCF's protocols and methodologies, the GCCF did not search previously processed claims submitted by individual employees to determine if subsequent changes to their employers' eligibility as businesses would affect their payment eligibility as individuals (although claimants were entitled to resubmit previously denied claims). An individual employee may have been determined to be ineligible for calculation of possible payment based on accurate application of GCCF protocols and methodologies (for example, based on an absence of an SCD linking the claimant's lost earnings to the Spill). If, however, the GCCF subsequently determined that the individual claimant's employer were eligible, it would deem automatically eligible any employee of the business who thereafter filed a claim, even if that employee failed to provide a sufficient SCD linking the employee's losses to the Spill. If the first employee did not re-submit the previously denied claim, the GCCF's determination that this claimant was ineligible would remain in effect even though the claimant's co-workers who filed subsequently would be deemed automatically eligible. Thus, this example of accurate application of the GCCF's protocols and methodologies – that provided for automatic eligibility for individuals who filed claims after their employers were determined to be eligible – resulted in different outcomes for claimants who may appear to have been similarly situated.

- <u>GCCF protocols and methodologies that changed during the GCCF's tenure to exclude pre-Spill earnings from different lines of work</u>: Claimants who earned the same amounts from the same employer might nonetheless have received different payment amounts under accurate application of GCCF protocols and methodologies if they submitted their claims at different times. As discussed in Section III.D.3.g, above, the GCCF's protocols and methodologies changed during its tenure. As an example, the GCCF calculated payment amounts for individuals based on the highest of a claimant's 2008, 2009 or annualized pre-Spill 2010 earnings; however, the GCCF changed its protocols and methodologies on March 11, 2011 such that individual claimants lost earnings were based on the highest of a claimant's 2008, 2009 or annualized pre-Spill 2010 earnings *provided that those earnings were from the same or similar line of work in which the individual was working at the time of the Spill*. Even though two claimants earned the same amount from the same employer at the time of the Spill and *both* earned a higher amount in 2008 from a different line of work, one of them may have submitted a claim prior to March 11, 2011 and, therefore, have received an Interim Payment and a Final Payment offer based on that higher 2008 amount rather than his 2009 or pre-Spill 2010 earnings. If the other individual submitted his claim after March 11, 2011, accurate application of the changed GCCF protocols and methodologies would have excluded consideration of the 2008 earnings from the different line of work. Therefore, the claimant who submitted a claim prior to March 11, 2011 would have received an Interim Payment and a Final Payment offer based on his higher 2008 earnings rather than his 2009 or pre-Spill 2010 earnings, but the second claimant who submitted the same information after March 11, 2011 would have received an Interim Payment and a Final Payment offer based on the higher of the earnings in 2009 and pre-Spill 2010 when the claimant was working in the same or similar line of work as at the time of the Spill (with no consideration of his 2008 earnings). Thus, this example of accurate application of the GCCF's protocols and methodologies – based on the highest of three possible measures of earnings if, after March 11, 2011, the employment was in the same or similar line of work – resulted in different outcomes for claimants who may appear to have been similarly situated.

- <u>Periodic implementation by the GCCF of special measures designed to expedite claims processing</u>: Claimants who earned the same amounts in the same or similar line of work from the same employer in 2008, 2009 and 2010 prior to the Spill might nonetheless have received different payment amounts under accurate application of GCCF protocols and methodologies based on periodic measures taken to expedite claims processing. As discussed in Section III.D.3.g.i (e), above, the GCCF advised us that, during Phase II, it periodically implemented a Special Determination Letter methodology intended to expedite claims processing. The GCCF issued Special Determination Letters – that paid eligible claimants amounts based on their claimed amounts if certain criteria were met – for periods lasting from one to several weeks, depending on when it viewed the process in need of expediting pending claims. For example, the GCCF would have calculated the losses of an eligible individual who submitted a claim prior to March 28, 2011 (when the Special Determination Letter policy was first implemented) based on a calculation drawing on the higher of the claimant's 2008, 2009 or pre-Spill 2010 earnings less actual post-Spill earnings and, if the resulting loss was less than $1,000, would have made a minimum $1,000 Initial Payment and a $5,000 minimum Final Payment offer. However, an eligible individual who submitted identical documentation during, for example, the period beginning March 28, 2011, when the GCCF temporarily issued Special Determination Letters, would have received a Final Payment offer based on a multiple (two or four, depending on the relevant Future Recovery Factor) of the amount claimed by the claimant (with a minimum of $5,000 if prior payments had been made). The result might be: less than $5,000 if the amount claimed by the claimant was less than $2,500; $5,000 if the minimum applied; or greater than $5,000 if the amount claimed by the claimant was between $2,501 and $4,999 (and no minimum applied). The GCCF advised us that claimants who had received less than the minimum Final Payment offer under the Phase II protocols and methodologies as a result of the Special Determination Letters were subsequently identified and sent additional payments to reach the minimum that would have been offered if the Special Determination Letter process had not been temporarily in effect (claimants who received higher amounts were not asked to return the amounts of the overpayments). Thus, this example of accurate application of the GCCF's protocols and methodologies – that provided for use of Special Determination Letters to expedite claims processing – resulted in different outcomes for claimants who may appear to have been similarly situated. The impact was temporary for claimants who were paid less during the implementation of the Special Determination Letter policy than the amount that they would have otherwise received.

- <u>GCCF protocols and methodologies that provided for payment to claimants in Phase II based on eligibility determinations made in Phase I, even if originally made in error</u>: Claimants who earned the same amounts from the same employer in 2009 and 2010 prior to the Spill might nonetheless have received different outcomes under accurate application of GCCF protocols and methodologies since claimants who were determined to be eligible during Phase I received payments in Phase II, even if the original eligibility determination was made in error. As discussed in Section III. C, above, the GCCF deemed more than 169,000 claimants eligible during Phase I. As a result of the limited documentation requirements and the speed of processing, certain claimants were determined to be eligible in Phase I who did not meet the criteria. If a claimant working in a combination of a loss location and business type that should have resulted in a determination of no eligibility nonetheless received a payment during Phase I, the GCCF deemed that claimant automatically eligible for payment during Phase II. If a claimant from the same employer did not submit a claim in Phase I (or was correctly determined to be ineligible), the claimant's eligibility in Phase II would be based on the then existing GCCF protocols and methodologies that, although eligibility was expanded in Phase II, could have resulted in a determination of ineligibility (and thus no calculation of payment amounts). Thus, this example of accurate application of the GCCF's protocols and methodologies – that provided for calculation of payment amounts for claimants in Phase II based on eligibility determinations made in Phase I even if originally made in error – resulted in different outcomes for claimants who may appear to have been similarly situated.

- <u>Human error in the selection of financial records of claimants' pre-Spill earnings</u>: Claimants who earned the same amounts from the same employer in 2009 and 2010 prior to the Spill (or otherwise appear to have been similarly situated) might nonetheless have received different payment amounts due to human error in the application of GCCF protocols and methodologies. As discussed in more detail in Appendix A (A-1), the GCCF calculated payment amounts based on a claimant's pre- and post-Spill earnings as documented, based on a range of financial documents. We observed a number of instances where the GCCF reviewer selected an incorrect financial document for use in calculating a claimant's 2010 post-Spill earnings, resulting in the underpayment of over 3,000 claimants based on this type of error.[51] As a result of this error, claimants who submitted similar (or even identical) financial documentation might receive differing payments and offers of payment. Thus, human error in the application of the GCCF's protocols and methodologies – that provided for use of a wide range of documentation of earnings – may have resulted in different outcomes for claimants who may appear to have been similarly situated.

- Temporary differences in outcomes that were corrected by the GCCF: As noted in Section III.D.3.g.i (e), above with respect to Special Determination Letters, the GCCF periodically reviewed previously processed claims and corrected temporary differences in outcomes. Other issues that the GCCF corrected on a periodic basis included a July 2011 review of business types classified by GCCF claims processers as "Other" (and thus requiring additional steps to establish eligibility for calculation of a payment amount). Temporary issues in these areas may have resulted in different outcomes for several weeks or months for claimants that may appear to have been similarly situated.

A number of these illustrative examples (those related to inclusion of the highest of 2008, 2009 or pre-Spill earnings, "coattails eligibility," Special Determination Letters and automatic eligibility during Phase II based on Phase I errors) result from protocols and methodologies that the GCCF informed us were intended to benefit claimants and expedite payments.

With regard to business claimants that may appear to have been similarly situated, we found differences in outcomes that were related to factors such as differing cost structures. As noted in Sections III.C and III.D.3.b, above, in general, the GCCF paid business claims based on their projected 2010 revenues multiplied by the applicable seasonality percentage for the month(s) covered by the claims, resulting in amounts from which the claimants' actual 2010 revenues would be subtracted. The resulting lost revenue amounts were multiplied by a Loss of Income percentage ("LOI"), which adjusted the lost revenue amounts for expenses avoided or discontinued as a result of the reduction in revenues. During Phase I, businesses were paid based on an LOI percentage for their industry as a whole. Therefore, two businesses located in the same geography with approximately similar historical revenues but in different industries would have received different payments since the estimates of their lost profits would vary based on the GCCF's use of industry-wide LOI's. During Phase II, in calculating a business claimant's lost

[51] We did not identify the number of claimants who were overpaid based on this type of error as the GCCF did not correct errors by requesting the return of previously overpaid amounts; however, those claimants would also have experienced a difference in the outcome as compared to others who may appear to have been similarly situated.

profits, the GCCF generally applied the higher of the LOI percentage that were derived from the materials submitted by the specific business and the LOI percentage for the claimant's industry as a whole. The application of business-specific LOI's recognized that, even in the same industry, businesses may have different cost structures (for example, a greater use of subcontractors or a more capital-intensive manufacturing process). Therefore, businesses that may appear to have been similarly situated (for example, in the same geographic area, having approximately similar historical revenues and the same business type) may have submitted documentation showing different cost structures. As a result, accurate application of the GCCF's protocols and methodologies would result in different outcomes for business claimants that appeared to have been similarly situated.

2. Whether the GCCF Gave Appropriate Consideration to Documentation Submitted by Claimants

As discussed in Section IV.A.1, above, in general, the GCCF appeared to have consistently applied its protocols and methodologies, including the appropriate consideration of documentation submitted by claimants. The significant volume of claims, the wide range of documentation submitted by claimants and the necessary use of human claims reviewers led inevitably to some errors in the use of documentation submitted by claimants.

As set forth above in the illustrative example regarding human error as a possible cause of different outcomes for claimants that may appear to have been similarly situated, we identified 3,155 claims that were negatively affected by misapplication of available financial documentation (see Appendix A, A-1 for more detail). These errors have been corrected.

Based on our detailed claims testing, we identified, and confirmed with the GCCF, a very limited number of instances where the GCCF requested information from claimants that had already been provided. We were not able to search the GCCF's databases programmatically for similar errors since there were no consistent characteristics present in these claims. It is reasonable to conclude that other claims may have experienced this issue; however, based on our claims testing, this error did not appear to be pervasive.

Other errors that we noted during our claims testing include documents that were misfiled in an incorrect claimant's file and data entry errors from claimant financial documentation. In total, we identified a very limited number of these errors. These errors have been corrected and we found no indication that human error in the use of documentation submitted by claimants affected significant numbers of claimants.

3. Whether Communications With Claimants Were Effective

As directed by the DOJ, we conducted our independent evaluation to include consideration of communications with claimants. As discussed in Section III.C, above, the GCCF conducted outreach to potential claimants, hosted a website in multiple languages, solicited comments on proposed protocols and methodologies, operated a call center, developed more than seventy different templates for letters sent directly to claimants and contacted previously denied claimants to suggest resubmission of claims.

The GCCF communications with claimants evolved both with regard to general public statements and claimant-specific letters. During our independent evaluation, we found – and the GCCF confirmed – that, as an initial matter, the early remarks during the design phase of the claims process regarding 48-hour turnaround time for individual claims and seven-day turnaround time for business claims were unrealistic. As early as September 2010, Mr. Feinberg acknowledged that claims processing was taking longer than anticipated.

With respect to claimant-specific communications, as discussed in Sections III.C and III.B.3.d, above, the GCCF modified the format and content of letters sent to claimants during its tenure. Letters sent to claimants during Phase I were less detailed (reflecting the urgent and initial nature of the Emergency Advance Payments being processed) and evolved during Phase II to be more specific.

For example, letters requesting additional information became more specific over time. In Phase I, letters requesting additional information included language such as:

> You submitted a Claim Form to the Gulf Coast Claims Facility ("GCCF") relating to the Deepwater Horizon Incident on April 20, 2010. Your claim is missing information that is necessary to complete the review of your claim. No further action can be taken on your claim until you complete the missing information and return this letter to the GCCF.

> When we reviewed your claim, we did not have certain documents or information that we needed to be able to evaluate your claim. We cannot take further action on your claim until you provide us with the following:
>
> Claim No: [Redacted]; Lost Profits & Lost Earning Capacity – Individual
>
> LEP-I-3: Documents sufficient to determine the total gross amount the Claimant earned as wages or salary from May 1, 2010, until the present, or proof that the Claimant has earned no income during this time.

(See Exhibit O.)

Subsequently, in Phase II, letters to claimants requesting additional information were modified to be more specific, and included language such as:

> This Deficiency Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted and determined that your file is missing information that is necessary to the review of your claim. The GCCF cannot take any further action on your claim until you provide the following:

Why We Need the Missing Information		**What You Need to Submit**
1.	We are unable to determine what kind of business your employer in 2009 did.	For all of your sources of employment in 2009, documents or information showing the type of business in which you worked or were engaged.
2.	We are unable to determine the location where you were working in 2009.	For all of your sources of employment in 2009, documents or information showing the location, including the Zip Code, where you worked or were doing business.
3.	We are unable to determine what kind of business your employer in 2008 did.	For all of your sources of employment in 2008, documents or information showing the type of business in which you worked or were engaged.

Why We Need the Missing Information		What You Need to Submit
4.	We are unable to determine the location where you were working in 2008.	For all of your sources of employment in 2008, documents or information showing the locations, including the Zip Code, where you worked or were doing business.
5.	We are unable to determine your total earnings in 2008 or 2009.	Documents that establish your earnings for the entire year of 2008 or 2009, such as 1) a federal income tax return for 2008 or 2009, including all W-2 forms, 1099 forms, and other attachments or schedules to the return; 2) paycheck stubs or other payroll records from all employment demonstrating all earnings from 1/1/08 to 12/31/08 or 1/1/09 to 12/31/09; or 3) a letter or other records from an employer that describe when you were working in 2008 or 2009 and your rate of pay and total earnings. If your federal income tax return for 2008 or 2009 was jointly filed, you must submit proof of your salary, separate from your spouse's, in 2008 or 2009, such as a W-2 form, a 1099 form, copies of your paycheck stubs or direct deposit slips, or a personnel file.

	Why We Need the Missing Information	What You Need to Submit
6.	We are unable to determine whether you were working at the time of the Spill on April 20, 2010.	Documents that establish your employment at the time of the Deepwater Horizon Incident on 4/20/10, such as 1) paycheck stubs or other payroll records from all employment on or around 4/20/10, or 2) a letter or other records from an employer that confirm your employment on or around 4/20/10 because the nature of your employment is seasonal, you must provide a letter or other records from your employer that describe when you were scheduled to work in 2010.
7.	We are unable to determine your income after the Spill.	Documents sufficient to determine the total gross amount you earned as wages or salary from all employers from May 1, 2010, until the present, or proof, such as a letter from your employer, that you have earned no income during this time.

(See Exhibit V.)

Other types of letters that were modified by the GCCF during its tenure included those sent to claimants communicating denial of eligibility for calculation of a payment amount. In Phase I, these letters included language such as:

> You submitted a claim to the Gulf Coast Claims Facility ("GCCF") for an Emergency Advance Payment for damages relating to the Deepwater Horizon Incident on April 20, 2010 (the "Spill"). After review of your claim, we have determined that your claim does not meet the criteria established for Emergency Advance Payments from the GCCF.

> Your claim was denied for the following reason(s):
>
> The documents and information you submitted did not show any lost earnings or profits due to the Spill.

(See Exhibit N.)

Subsequently in Phase II, letters to claimants communicating denial of eligibility for calculation of a payment amount included language such as:

> This Letter is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment claim that you submitted. To receive an Interim Payment or a Final Payment, each claimant must demonstrate both actual financial loss and a connection between that loss and the Oil Spill. The Final Rules Governing Eligibility and Substantiation Criteria followed by the GCCF (available on the GCCF website, **www.gulfcoastclaimsfacility.com**), provides that the GCCF will review claims to determine whether the claimant has established that a financial loss occurred as a result of the Oil Spill. Attachment A to the Final Rules Governing Eligibility and Substantiation Criteria provides guidance to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation. We have reviewed all the materials that you submitted and determined that you have not provided documents sufficient to establish that your financial loss occurred as a result of the Oil Spill. Therefore, you do not qualify for an Interim Payment or a Final Payment and your claim has been denied. [Bold in original.]

(See Exhibit DD.)

During Phase II, letters to claimants communicating denial of eligibility for calculation of a payment amount evolved to contain additional detail as shown in this example:

> The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted, and your claim is denied for the following reason(s):

Lost Profits & Lost Earning Capacity – Individual	To receive an Interim Payment or a Final Payment, each claimant must demonstrate both actual financial loss and a connection between that loss and the Oil Spill. Under the Final Rules Governing Eligibility and Substantiation Criteria followed by the GCCF (available on the GCCF website, www.gulfcoastclaimsfacility.com), the GCCF reviews each claim to determine whether the claimant has established financial losses caused by the Oil Spill. Attachment A to the Final Rules Governing Eligibility and Substantiation Criteria provides guidance to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation. We have reviewed all the materials that you submitted and determined that you have not provided documents sufficient to establish that your financial loss occurred as a result of the Oil Spill. If you have documents that support your claim that your income losses were caused by the Oil Spill, you may submit them to the GCCF and we will review them. The documents must have been created at the time of the events described in them to be acceptable proof.

(See Exhibit U.)

We found that – not surprisingly – communications with claimants during Phase I reflected less specific consideration of claimant-specific documentation; however, these communications were modified in Phase II to provide more detail, particularly in the important area of requesting additional documentation.

We were also apprised of concerns regarding communication in non-English languages. According to the GCCF, approximately 1.8 percent of all GCCF claimants indicated a preference that the GCCF communicate with them in a language other than English (of those claimants, 83.2 percent indicated a Spanish language preference, 16.1 percent indicated a Vietnamese language preference and 0.7 percent indicated a Khmer language preference). As noted in Section III.D.3.d., above, the GCCF took significant steps to communicate in these and other non-English languages. Claimants were initially required to take the additional step of requesting a translation to receive certain types of communications in their preferred language. The GCCF advised us that it would have preferred to have provided individualized correspondence to claimants in their selected language earlier, but was hindered by insufficient start-up time before the commencement of the program.

4. Other Concerns

The DOJ asked us to evaluate certain other concerns regarding: timely processing of claims; accuracy of inputs considered and formula/protocols applied; and the quality and adequacy of resources. We have discussed these concerns in the context of the GCCF's operations as well as our findings regarding claims-specific testing. With regard to the timely processing of claims, we have noted the GCCF recognition that its initial comments regarding 48-hour and seven-day processing were unrealistic given the volume of claims; however, we also found that significant efforts were made to expedite claims. We also addressed the timing and reasons for delays affecting "In-Process" claims in Section IV.A.1.c, above. As discussed in Section IV.A.2, above, regarding errors and in more detail in Appendix A, we identified human errors as well as certain temporary errors in coding that affected the accuracy of inputs considered and protocols and methodologies applied (in other cases, differing outcomes received by claimants who may appear to have been similarly situated may be classified more appropriately as the results of GCCF protocols and methodologies applied accurately to claims that were slightly different or submitted at different times). We address the quality and adequacy of resources in Section III.B, above. The GCCF leadership consisted of professionals with significant experience in large scale claims processing and further assembled a group of well-regarded subcontractors, including PwC (the world's largest professional services firm), BrownGreer, GCG, ARPC, and others. We also noted, as discussed above, the initial and on-going training of personnel as well as quality control efforts. As discussed in connection with our evaluation of "In-Process" claims, there were delays resulting from a variety of factors, many of which were outside the GCCF's control.

Throughout its tenure, the GCCF responded to the large volume and complexity of claims being filed by adding claims review personnel in an effort to expedite the processing of those claims.

5. Findings and Observations Regarding Concerns

As noted above, the GCCF appeared to have processed the majority of claims in accordance with its protocols and methodologies. Nonetheless, claimants had concerns, including those discussed above. During our independent evaluation, we identified potential bases for these concerns arising from the necessary functions of the GCCF mandate, the accurate application of the GCCF's protocols and methodologies and, potentially, certain errors.

Accurate application by the GCCF of its protocols and methodologies may have resulted in certain of the concerns, such as the concern regarding different outcomes for claimants who may appear to have been similarly situated. Further, outcomes as a result of human error or coding errors may also have contributed to certain concerns.

As discussed in the next sections, the GCCF and BDO recommend consideration of additional processes that may alleviate certain of these concerns in the event that a similar claims administration process becomes necessary to respond to a mass disaster. Many of these concerns were, however, inevitable in the context of the highly-charged operating environment, the uncertainty regarding the volume and type of claims and the necessary evolution of the GCCF's processes. These factors and the mandate for a rapid response are likely to recur in future claims processing settings.

C. Considerations for Future Claims Processing Facilities

1. GCCF's Suggestions for Future Claims Facilities

Because the GCCF was created amid unique and unprecedented circumstances, the insights of those who were involved in its daily operations and who experienced its challenges, achievements and frustrations, will likely prove useful to those seeking to address the compensation of a wide range of individuals and businesses immediately following future catastrophic events. We inquired of the GCCF regarding those aspects of its operations that, in hindsight, it would have addressed differently. Several of the GCCF's own suggestions for improvements dealt with communications and interactions with claimants, including, fundamentally, not making statements that set unachievable expectations regarding the time needed to process claims.

Beyond this, the GCCF recommended staffing site offices with, and providing greater access to, GCCF representatives, such as the liaison firms, at an earlier phase in its tenure; providing more detailed and specific information for deficient or denied claims; immediately advising disgruntled claimants when their claims had been referred to law enforcement as being potentially fraudulent; and providing, from the outset, claimant-specific communications in the language of the claimant's choice, without the additional step of the claimant requesting a translation. The GCCF implemented most of these suggestions at some point during its operations; however, the GCCF acknowledged that, had it been able to do so earlier, the GCCF claims evaluation process would have been more efficient.

Further, during its tenure, the GCCF instituted the "coattails eligibility" policy whereby it treated as automatically eligible (without further documentation that claimed losses were caused by the Spill) any individual claimant who was employed by a business which the GCCF had deemed eligible. Potential inconsistencies arose in cases in which a business was deemed eligible after the claim of one of its employees was denied. The GCCF stated to us that, with the benefit of hindsight, it would have been preferable to have put into place procedures whereby it would have re-evaluated the claim of a denied individual claimant upon the subsequent determination that the claimant's employer was eligible.

The GCCF also informed us that, from its inception, it attempted to arrange for a process by which claimants would be able to receive free legal assistance. Its initial attempts to do this, by approaching law firms both in the Gulf region and nationally to provide this legal assistance on a *pro bono* basis, were frustrated because most law firms in the region had a conflict of interest. As described above, on December 15, 2010, the GCCF entered into an agreement with the Mississippi Center for Justice, a nonprofit, public interest law firm, to oversee a consortium of legal service entities in the Gulf region that provided legal assistance to all claimants who sought it, regardless of income level. The GCCF made clear that the provision of free legal assistance to individuals and businesses submitting claims to the GCCF was an important practice and recommended that it be adopted by claims facilities addressing losses from future catastrophic events.

As future claims administrators may be able to build on the overall approach implemented by the GCCF or face smaller volumes of claims, they may be able to implement these recommendations at inception or earlier in their tenure.

2. Further Suggestions for Future Claims Facilities

In addition to the suggestions made by the GCCF, that are consistent with observations we have made during our independent evaluation, we suggest several additional approaches that future claims facilities may wish to consider adopting.

First, as mentioned above, one of the primary concerns raised by the DOJ at the beginning of our independent evaluation dealt with communications with claimants and, indeed, the GCCF's own suggestions for potential improvements focused upon communications. In this context, we recommend that future claims facilities dedicate time and resources upfront to the development of an integrated communications strategy incorporating the lessons learned by the GCCF's experiences.

Second, we recommend that, as resources and circumstances permit, future facilities include a function, independent of claims processing, dedicated to: identifying potential errors in processing; recommending claims processing improvements; and providing input to the facility regarding inquiries and criticisms. Importantly, this function would need to operate in a manner that does not interfere with the primary goal of compensating adversely impacted claimants as expeditiously as possible.

Third, with a few exceptions, the GCCF did not retroactively review previously processed claims in light of subsequent changes to its methodologies. This approach may have created instances in which the outcome of a claim would be dependent upon the timing of its submission and may have resulted in different outcomes for claimants that appeared to be similarly situated. We recommend that future facilities consider a process by which, in appropriate circumstances, previously processed claims will be re-evaluated periodically in the wake of changes to methodologies.

V. Conclusion

The GCCF was designed to respond, and did respond, with urgency to the economic difficulties of those most likely affected by the Spill. However, because of the complexity and unprecedented nature of the task undertaken by the GCCF, it was inevitable that some claimants and stakeholders would have concerns about its operations. While hundreds of thousands of individual and business claimants received payment without litigation over the two years immediately following the Spill, many others have sought an alternative to the GCCF. We hope that all those who have been genuinely affected by the Spill ultimately receive an appropriate resolution to their claims.

Very truly yours,

BDO USA, LLP

BDO USA, LLP

The BDO Project Leadership Team thanks the DOJ for the trust they placed in BDO to perform this independent evaluation of the GCCF. We have undertaken our responsibilities with the understanding that the events that precipitated the creation of the GCCF had a real and substantial negative impact on the quality of life of many persons living and working in the Gulf region.

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APPENDIX

APPENDIX

Claims with Identified Errors Corrected by the GCCF

A-1: Selection and Use of Claimant's Financial Documents

One component of the GCCF's calculation of an individual claimant's lost earnings was the claimant's earnings for the period in 2010 after the Spill. In determining a claimant's 2010 post-Spill earnings, the GCCF rules permitted the use of various financial documents. These included annual financial documents such as Forms W-2 and Forms 1099-MISC, as well as periodic financial documents such as Paycheck Stubs, payroll records and Trip Tickets (i.e., documentation of individual commercial fishing excursions that demonstrate the amount of seafood caught and sold).

GCCF rules required that, if both annual and periodic documentation were present in a claimant's file, then the annual document, in most cases, must be used to calculate the claimant's 2010 post-Spill earnings. An exception to this rule was if the claimant had submitted "complete Paycheck Stubs that cover 5/1/10 through the end of the claimant's tenure with the employer OR through 12/31/10, *then* the Paycheck entries trump the 2010 W-2 entry." To the extent one or two weeks of Paychecks Stubs were missing at the end of the year, the rules provided that Paycheck Stubs be used in the calculation of the claimant's 2010 post-Spill earnings. To the extent the Paycheck Stubs (or other periodic payroll records) were either not provided by the claimant or were considered incomplete, the GCCF rules required that the annual record be used in the calculation of the claimant's 2010 post-Spill earnings.

Calculation of a claimant's 2010 post-Spill earnings using an allocation from an annual financial document could inflate the GCCF's calculation of a claimant's post-Spill earnings for claimants who are hourly wage workers. The allocation methodology adopted by the GCCF assumed that claimants, if hourly wage workers, earned higher portions of their annual earnings in May through August which resulted in higher income being allocated to the post-Spill period. This could then understate the GCCF's determination of a claimant's lost earnings.

We observed a number of instances where the GCCF reviewer selected an incorrect financial document for use in calculating a claimant's 2010 post-Spill earnings. The GCCF confirmed our observation; recognized the likelihood that this type of error could have affected a larger group of claimants; worked with our programmers, data analysts and claims specialists to identify other instances of this error; and agreed to provide additional payments to all negatively affected claimants identified during our independent evaluation.

Specific instances of this error included:

- Using an annual financial document when complete (or substantially complete) periodic payroll records were available;
- Using a year-to-date paycheck or other full-year amounts when complete (or substantially complete) periodic payroll records were available;
- Using incomplete periodic payroll records when an annual financial document was available;
- Using incorrect payroll period start or end dates when entering a claimant's paycheck information into the review database, resulting in payroll records incorrectly appearing incomplete; and
- Using incorrect end dates of employment (year-end) instead of the actual employment termination dates when entering a claimant's annual financial document information into the review database, resulting in payroll records incorrectly appearing incomplete.

During the course of our work, BDO and the GCCF identified 3,155 claimants who were underpaid as a result of the reviewer selecting an incorrect financial document for use in calculating a claimant's 2010 post-Spill earnings. The GCCF then re-performed the loss calculation for each of these claimants using the correct financial document and made, or is in the process of making, additional payments to the affected claimants totaling $25,716,201.

Instances where the GCCF reviewer selected an incorrect financial document for use in calculating a claimant's 2010 post-Spill earnings was the most common type of error identified during the course of our independent evaluation. This was due to human error that may have been caused by a combination of a misunderstanding of the instructions in the GCCF Operations Manual; the fact that the claimants' financial documents varied in formats, levels of completeness, legibility and consistency over the periods; and the presence of substantial pressure to process claims quickly in order to expedite payments to claimants.

As part of its efforts to continuously improve its processes, the GCCF added warning screens and other control mechanisms to its system to prevent and educate reviewers regarding the correct financial documents (annual vs. periodic) to use when processing claims.

A-2: Coattails Eligibility Policy

To determine whether claimants might be deemed eligible for payment consideration, the GCCF established a policy, using a business's zip code of loss and business type, to categorize all claimants into eligibility group designations. These group designations determined whether documentation, known as an SCD, was required for a claimant to prove that losses were related to the Spill. Beginning on March 31, 2011, the GCCF implemented the "coattails eligibility" policy. Pursuant to that policy, the GCCF would apply a business claimant's eligibility group determination to a subsequent claim filed by the business's employee and deem automatically eligible, without an SCD, an individual claimant in Group 2 or Group 3 if the claimant's employer had been paid during Phase I or had previously been deemed eligible in Phase II. This policy change made it easier for individual claimants to prove eligibility.

During our testing of claim files, we observed instances where the GCCF had determined that individual claimants were ineligible even though employers had been determined to be eligible. We also identified instances where employers might have filed claims using a different Tax ID than that reflected in the employee claimant's files. As a result, these employee claimants may not have been properly linked to their employer's claim files. These errors were the result of data entry errors and claimant errors during the application process – for example, claimants completed their application with incorrect information. Such errors reduced the effectiveness of the GCCF's business correlation queue (see Appendix, A-8, below, for a discussion of the business correlation queue) and its ability to consistently apply eligibility among individual claimants and their employers.

The GCCF worked with our programmers, data analysts and claims specialists to identify instances in which an individual claimant was deemed ineligible where the claimant's employer had been paid during Phase I or had been deemed eligible during Phase II, or where a different Tax ID number was used resulting in the failure to link an employee claimant with an employer claimant. The GCCF agreed to provide additional payments to all affected claimants identified during our independent evaluation, regardless of whether it was a GCCF error or a claimant error.

BDO and the GCCF identified 796 claimants that were negatively affected and were not appropriately found eligible for payment when their employers were found eligible. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $12,569,781.

A-3: Selection of Pre-Spill Income

When calculating a claimant's potential lost earnings, the GCCF projected the claimant's 2010 earnings by annualizing the claimant's 2010 pre-Spill earnings (January – April 2010 earnings multiplied by 3) and compared this amount to the claimant's 2008 and 2009 earnings, using the higher of these amounts for the projection. When various financial documents were provided as support for 2010 pre-Spill earnings, the GCCF reviewers were instructed to choose the financial document that presented the highest income for the period. Documents that might have been provided by claimants included:

- Annual Tax Documents, such as Forms W-2, Forms 1099-MISC and Individual Income Tax Forms 1040 and Forms 1040-C;
- Paycheck Stubs/payroll records dated between January 1, 2010 and April 30, 2010; and
- Paycheck year-to-date amounts at April 30, 2010.

The highest 2010 pre-Spill earnings determined from these documents was selected and annualized, if appropriate, by the reviewer. This amount was then compared to 2008 and 2009 earnings to determine the amount to use to project 2010 earnings.

During our testing of claim files, we observed instances in which incorrect amounts for 2010 pre-Spill earnings were selected by the reviewer. In some cases, this resulted in an incorrect amount being used to calculate projected 2010 earnings and a resulting incorrect determination of lost earnings for 2010 and/or 2011. As a result, certain claimants were incorrectly paid. The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other instances where claimants were affected by this selection error. The GCCF agreed to provide additional payments to all negatively affected claimants identified during our independent evaluation.

BDO and the GCCF determined that 873 claimants were negatively affected by this error. The GCCF recalculated the lost earnings for each of these claimants using the correct methodology and made, or is in the process of making, additional payments to the affected claimants totaling $8,203,236.

A-4: Selection of Loss Location Zip Code

In evaluating a claimant's eligibility for lost earnings during Phase II, the GCCF reviewers determined the claimant's eligibility based upon the business type and loss location zip code that related to the claimant's lost earnings. The GCCF's determination regarding eligibility dictated the nature and extent of the documentation that claimants were required to submit to prove their financial loss occurred as a result of the Spill and, therefore, potentially receive payment. In addition, under the GCCF's coattails eligibility policy, all individual claimants filing claims as employees of a business would have received the same eligibility group determination as the business itself. By assigning eligibility group determinations in this manner, business claimants and their employees received consistent eligibility treatment as businesses in similar industries and geographic regions.

The GCCF reviewers determined the predominant nature of the claimant's business and used it to select the correct business type. Reviewers were instructed by the GCCF to use the following sources to determine the claimant's business type and loss location zip code: (1) the claim form; (2) financial documentation; (3) a letter from the claimant; or (4) an Internet search.

The incorrect assignment of a loss location zip code could impact a claimant's eligibility group determination because eligibility group determinations for certain business types were dependent upon the loss location zip code.

During our review of claim files, we identified instances in which:

- Typographical errors were made resulting in erroneous zip codes being assigned to claimants;

- Claimants were assigned zip codes that related to the corporate headquarters of their employer rather than the actual location of their employment; and

- Claimants were assigned zip codes for the payroll service that processed their payroll check rather than the actual location of their employer.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other claimants potentially affected by these errors. The GCCF agreed to provide additional payments to all affected claimants identified during our independent evaluation.

BDO and the GCCF determined that 221 claimants were negatively affected as a result of not having their claim reviewed under a proper loss location zip code. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $5,485,150.

A-5: Treatment of Individuals and Businesses in the Casino Industry and Other Businesses with Gaming Operations

The GCCF encountered various challenges processing individual and business claims in the casino industry. The GCCF attributed these challenges to conflicting information on whether casinos were actually affected by the Spill, as well as concerns expressed by officials in certain Gulf States where casinos are present. As the GCCF amended its methodologies to address these concerns, it adopted changes in policies that caused inconsistencies and delays in claims processing for casino workers and other workers employed by businesses with gaming operations, including changes in eligibility status and the adoption of unique rules for processing claims from casino workers.

In Phase I, casinos and individual claimants who worked in the casinos were not eligible for EAPs. According to the GCCF, it received information from a variety of sources, including casino experts, officials in the gaming industry and the general public, indicating that gaming was independent from tourism and that casinos had not been adversely affected by the Spill.

Nevertheless, despite their non-eligibility, some casino workers were inadvertently paid during Phase I, making them automatically eligible for Phase II.

Early in Phase II, the Casino business type was put into eligibility groups that required claimants to provide SCD evidence demonstrating their financial losses occurred as a result of the Spill. In response to concerns raised by casinos in Mississippi and their employees, the GCCF undertook to conduct more research into the issue of appropriate treatment of casino workers. As a result of that research, in March 2011, the GCCF adopted rules to process claims from individual casino workers. Pending finalization of these rules, claims from all casino workers were put on "hold" in order to prevent further denial of these claims. In April 2011, the GCCF implemented the rules for processing claims from casino workers (the "Casino Worker Methodology"), including the following:

- Workers at casinos on the coast were considered eligible for payment without any SCDs;
- Casino claimants were required to provide complete financial documentation for 2008, 2009 and 2010; and
- The average of a casino worker's 2008 and 2009 income was used to project earnings, which generally resulted in a different outcome than would be achieved by using the loss calculation methodology applied to non-casino workers.

In June 2011, the GCCF began to process claims for casino workers in 43 additional businesses located in Alabama, Florida, Louisiana and Mississippi that had some gaming operations on their sites using the Casino Worker Methodology. Many of these claims had been on "hold" since March 2011. At this time, the GCCF was classifying any business with a gaming operation as a Casino business type. For example, a restaurant with some gaming operations was classified as a casino. In September 2011, the GCCF placed all casino claims on "hold" again to further evaluate and accurately distinguish between the claims from casino workers and those from non-casino workers employed by businesses with gaming operations. Shortly thereafter, the GCCF began the task of reclassifying casino worker claimants into their correct eligibility groups.

In November 2011, the GCCF decided to reconsider the Casino business type that was assigned to the 43 additional businesses that had some gaming operations on their site to ensure they had been placed in a business type that represented the predominant nature of their operations. As a result, the GCCF reclassified 31 businesses formerly classified as casinos to a business type that better represented the predominant nature of their operations. By this time, however, the GCCF had already paid (or offered to pay) claimants working at 28 of the 43 businesses, 24 of which were newly classified in other business types.

As a result of the foregoing reclassification, all affected claimants with pending claims were re-reviewed under their new eligibility group determination. Claimants who had already received a determination letter under their previous eligibility group determination and who had not submitted a new claim form were not re-reviewed. The GCCF elected not to retract any outstanding final payment offers from claimants who were now required to provide an SCD, but who had received a determination letter without providing an SCD. It also made additional payments to those claimants who may have received lower determination amounts as a result of being wrongly classified as casino workers.

During our testing of claim files, we noted the following observations in certain claims we reviewed:

- There were claimants whose job was not in the gaming portion of the business's operation or who did not work at a casino who were treated like casino workers using the Casino Worker Methodology;
- Some claimants were inadvertently sent Zero Loss Determination Letters or Deficiency Denial Letters because the extent of the financial information required for casino workers was more stringent than for non-casino workers; and
- Certain claimants were sent letters denying them for a lack of specific causation even though they did not require an SCD.

The GCCF confirmed our observations and acknowledged that certain claimants may have been underpaid as a result of the foregoing issues. The GCCF worked with our programmers, data analysts and claims specialists to identify other instances of these issues and agreed to provide additional payments to all affected claimants identified during our independent evaluation. BDO and the GCCF identified 560 claimants who were negatively affected by these issues. The GCCF re-performed the loss calculation for each of these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $4,011,124.

A-6: System Issue Affecting Allocation of Year End Earnings to Multiple Periods

To determine an individual claimant's potential lost earnings, GCCF policy instructs reviewers to project a post-Spill earnings amount using the claimant's highest yearly wage amount earned in either 2008, 2009 or, in some cases, based on pre-Spill annualized 2010 earnings (January – April 2010 income multiplied by 3). This projected amount was multiplied by a seasonality percentage, 80.43% for hourly workers and 66.67% for salaried workers, to arrive at projected earnings for the May through December 2010 period. Projected post-Spill earnings were then compared to actual earnings for the same time period to determine 2010 lost earnings.

When a claimant submitted complete paycheck records as proof of actual 2010 post-Spill earnings, the reviewer added the May through December 2010 paychecks to calculate the total actual 2010 post-Spill earnings. If a paycheck spanned multiple time periods (contained income earned at the end of December 2010 and the beginning of January 2011), the reviewer allocated the total amount reported on the paycheck to each period according to the amount of days within each period. For example, a paycheck that spans December 22, 2010 through January 4, 2011 would have ten days of income applied to 2010 and 4 days of income applied to 2011. The selection of documentation used for calculations of projected and actual post-Spill earnings was performed systematically through computer coding that selected financial documentation based on programmed criteria and reviewer data input.

We determined that prior to August 22, 2011, a coding error caused the GCCF system to allocate the entire amount of wages reported on paychecks spanning multiple time periods to both 2010 and 2011. For example, if a claimant earned $1,000 during the December 22, 2010 through January 4, 2011 pay period, the system would allocate $1,000 to the December 22, 2010 through December 31, 2010 time period and include that amount in the 2010 post-Spill actual earnings calculation. The system would also apply $1,000 to the January 1, 2011 through January 4, 2011 time period and include that amount in the post-Spill actual earnings calculation for 2011. As a result, this coding error increased the amount of income included in the post-Spill 2010 and 2011 earnings calculations, thereby overstating claimants' actual post-Spill earnings and reducing their calculated lost earnings. The GCCF confirmed our observation and worked with our programmers, data analysts and claims specialists to identify other claimants potentially affected by this coding error. The GCCF agreed to provide additional payments to all affected claimants identified during our independent evaluation.

BDO and the GCCF determined that 1,168 claimants were negatively affected by this coding error. The GCCF recalculated the lost earnings for each of these claimants using the correct methodology and made, or is in the processing of making, additional payments to the affected claimants totaling $2,785,719.

A-7: Alternate Cause Denials

To receive payment, claimants were required to prove they both suffered a financial loss of earnings and their financial loss occurred as a result of the Spill. A claimant's eligibility group determined the level of documentation required to prove their financial loss occurred as a result of the Spill. Claimants who provided evidence indicating that their financial losses were the result of events other than the Spill were denied under the GCCF's alternate causation policy.

When processing a claim, the GCCF reviewed the claimant's documentation to determine whether there was sufficient evidence to relate the claimant's financial losses to the Spill. For example, if the claimant submitted any documentation indicating that: (1) they voluntarily quit their job before the Spill; (2) they were terminated from their job before the Spill; (3) their employer closed for a reason unrelated to the Spill; or (4) they were in jail or prison at the time of the Spill, they were denied for alternate cause.

During our review of claims, we identified claims that were incorrectly denied under the GCCF's alternate causation policy. Specific instances of this error included:

- Claimants who were terminated after the Spill whose losses were not calculated through their date of termination;
- Seasonal workers who were improperly denied for alternate cause when appropriate documentation was in the file demonstrating they were seasonal workers and scheduled to work in 2010 but did not because of the Spill;
- Misinterpretation or misapplication of the GCCF's alternate causation policy; and
- Start-up businesses that were denied but had appropriate documentation in their file demonstrating they were a start-up business.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other claimants potentially affected by these errors. The GCCF agreed to provide additional payments to all affected claimants identified during our independent evaluation. During the course of our work, BDO and the GCCF identified 82 claimants who were underpaid as a result of the GCCF reviewer inappropriately denying them for alternate cause. The GCCF then performed the loss calculation for each of these claimants using the financial information in their file and made, or is in the process of making, additional payments to the affected claimants totaling $1,384,060.

These instances were due to human error committed by GCCF reviewers, which may have been caused by a misunderstanding of the instructions in the GCCF Operations Manual and the presence of substantial pressure to process claims quickly to expedite payments to claimants.

As part of its efforts to continuously improve its processes, the GCCF implemented process improvements to reduce the number of improper alternate cause denials. Reviewers were subsequently required to obtain approval from a supervisor when they suspected a claimant's financial losses were the result of a cause other than the Spill. The reviewer had to include a specific comment in the claim file supporting the alternate cause denial determination.

A-8: Treatment of Claimants Linked in the Business Correlation Queue

During Phase II, the GCCF created a specialized business correlation queue ("BCQ") for the purpose of matching related businesses and their employees by Tax ID and location. For eligibility purposes, the GCCF created a unique entity ID for each business entity location and assigned a business type and loss location zip code to the entity ID in the BCQ. This process was designed to provide consistent eligibility group determinations to related businesses in the same geographic area. The BCQ also linked a business with individual claimants who filed as employees of that business. This link was intended to provide all individual claimants filing as employees of a business the same eligibility group determination as the business itself.

When reviewing a claim form during Phase II, the GCCF reviewer searched for the employer-business entity in the BCQ. If the search returned multiple matching entities, the reviewer selected the appropriate entity by matching the business name, Tax ID and loss location zip code to the claimant's documentation. If no matching entity appeared in the BCQ, the reviewer created a new entity ID that included the business's Tax ID, loss location zip code and business type, name and address.

Periodically, the GCCF performed a "clean-up" in the BCQ by reviewing the entity information and linking the entity to any existing related entities within the GCCF system that shared the same Tax ID and location. Once an entity was linked to a group of related entities, it would no longer be available for selection in the BCQ search and all employee-claimants would be associated directly with the group of related entities.

While the GCCF provided guidelines to its reviewers for matching businesses and their employees in the BCQ, the process of creating a new entity and linking claimants to an existing entity ID was a manual process that could be subject to human error. Through our review of claims, we identified instances in which:

- New business entries created by the GCCF reviewers were linked to the wrong group of related entities;
- There were discrepancies between a claimant's employer Tax ID and the actual Tax ID of the claimant's employer due to a combination of GCCF reviewer and claimant human error;
- Claimants were inadvertently linked to incorrect entity IDs;
- Multiple entity IDs were created under the same Tax ID due to data entry errors such as misspellings in the business name or address; and
- Claimants were incorrectly linked to a payroll service or staffing agency rather than their actual employer.

In each of the foregoing situations, the potential existed for selecting an incorrect employer-business entity, thereby linking the claimant to an entity with an eligibility group determination that was inappropriate for the claimant. This created inconsistencies in eligibility between employers and their employees as well as among employees within the same business entity.

The GCCF confirmed our observations and worked in conjunction with our data analytics team, programmers and claims reviewers to identify claimants who were negatively affected by the selection of an inappropriate eligibility group determination. The GCCF agreed to provide additional payments to all affected claimants identified during our independent evaluation. It was determined that 69 claimants were underpaid as a result of these errors. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to these claimants totaling $1,178,512.

A-9: Use of Non-Claimant Information to Determine Loss

According to the GCCF Operations Manual, individuals could not file joint claims with their spouse, co-worker or any other person. The calculation of a claimant's lost earnings was based only on the claimant's financial information and any documentation relating to a spouse or any other person should not have been considered.

Upon receipt by the GCCF, claimant documents were assigned to an individual claimant's file. When a claimant submitted documentation that related to another person, such as a Form W-2, the GCCF separated the documents and had the documentation moved to the appropriate claim file. Documents belonging to another person should not have been included in the claimant's file, with the exception of documents belonging to both the claimant and the claimant's spouse. During the review process, GCCF reviewers were responsible for selecting only financial documentation that specifically related to the claimant.

During our testing of claim files, we observed instances where a spouse's financial information was used in the claimant's lost earnings calculation. In addition, certain instances were noted in which a Form W-2 that did not belong to the claimant or the claimant's spouse was used in the claimant's lost earnings calculation. The inclusion of financial information that did not relate to the claimant could have a negative effect on the lost earnings calculations of certain claimants.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify instances where non-claimant financial information was used in the claim determination and agreed to provide any additional payments to all affected claimants identified during our independent evaluation. The GCCF identified 67 claimants that were found to be negatively affected and made, or is in the process of making, additional payments to the affected claimants totaling $760,461.

A-10: Claimants Reclassified from "Other" Business Type Without Re-Review

In evaluating a claim for lost earnings during Phase II, GCCF reviewers determined whether the claimant was eligible for payment based upon the business type and the loss location zip code that related to the claimant's lost earnings. Frequently, the business type of the claimant's employer and zip code of the claimant's physical place of employment were used for this purpose. The eligibility group determined the nature and extent of documentation claimants were required to submit to prove their financial loss occurred as a result of the Spill and, therefore, potentially receive payment from the GCCF. By assigning eligibility group determinations to claimants in this manner, claimants who worked in similar industries and in similar geographic regions should have received consistent treatment.

The GCCF developed a system for categorizing businesses into business types. Early in the development of the GCCF system, certain businesses were classified and processed as "Other." When the GCCF reclassified some of these "Other" businesses into more specific business types, some claimants were moved into business types with more favorable eligibility group determinations. This eligibility upgrade may have made it easier for claimants in certain business types to demonstrate their financial loss occurred as a result of the Spill and potentially receive payment from the GCCF.

When business types classified as "Other" were reclassified into more specific business types, some business types received eligibility group determination upgrades. The GCCF determined it would not re-review claimants under the changed eligibility group determination who were processed prior to the reclassification. As a result, some claimants who had applied for payment during Phase II prior to the change in eligibility were subjected to less favorable eligibility group determinations than claimants who may appear to have been similarly situated who had their claims reviewed after the business type reclassification and resulting upgrade in the eligibility group determination. This less favorable eligibility classification made it more difficult for claimants who filed first to demonstrate their financial loss occurred as a result of the Spill and receive an Interim or Final Payment.

Through our evaluation, we identified claimants who were reviewed before their employer's business type classification was changed from "Other" to a more specific business type and who would have received a more favorable eligibility group determination after the reclassification. In particular, we identified claimants who were denied under the original eligibility group determination based on the documentation they provided, but would have been considered eligible under the new business type classification without having to provide additional documentation. In addition, certain claimants who should have had their employer's business type changed from "Other" to a more specific business type were inadvertently not upgraded to the more favorable eligibility group determination.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other instances of these issues and agreed to provide additional payments to all affected claimants identified during our independent evaluation. BDO and the GCCF determined that 29 claimants were negatively affected as a result of not having their claim re-reviewed under the updated eligibility status. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $669,434.

A-11: Designation of Eligibility Group

When evaluating a claim for payment, GCCF reviewers determined whether a claimant was eligible based upon the business type and loss location zip code related to the claimant's lost earnings. The eligibility group determined the nature and extent of documentation that a claimant was required to submit to prove their financial loss occurred as a result of the Spill and, therefore, potentially receive payment. In addition, under the GCCF's coattails eligibility policy, all individual claimants filing claims as employees of a business would have received the same eligibility group determination as the business. The eligibility group determination of the claimant could affect whether the claimant received payment for lost earnings.

During our testing of claim files, we identified changes in policy and errors that affected claimants' eligibility group determinations. Specifically, our review identified:

- Errors that resulted in the assignment of incorrect eligibility group determinations to claimants whose business type and loss location zip code warranted a more favorable eligibility group determination;

- Errors that assigned claimants to an eligibility group determination that automatically denied them payment even though their business type and loss location zip code made them eligible for payment; and
- Changes in GCCF policy that resulted in business claimants being upgraded to more favorable eligibility group determinations after their employee-claimants were denied payment and the impacted employees were not re-reviewed for possible payment after the upgrade.

Implementation of these policy changes was carried out through system coding changes that resulted in errors when applying the policy changes prospectively. As a result, some claimants received less favorable eligibility group determinations and were improperly denied payment.

The GCCF confirmed our observations and acknowledged that some claimants may have been underpaid as a result of the foregoing issues. The GCCF worked with our programmers, data analysts and claims specialists to identify other instances of these issues and agreed to provide additional payments to all affected claimants identified during our independent evaluation.

BDO and the GCCF determined that 42 claimants were negatively affected as a result of not having their claims reviewed with the correct eligibility group designation. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $503,359.

A-12: Claimants Considered Deficient in the Presence of Complete Documentation

Claimants that applied for payment during Phase II were first reviewed by GCCF reviewers for claimant eligibility and then for actual financial loss. The GCCF assigned an eligibility group determination to claimants based on the loss location zip code of their physical work address and their business type. Claimants who did not provide sufficient information to determine their business type, loss location zip code, or financial losses were considered deficient.

Based on the documentation provided by the claimant, GCCF reviewers assigned a business type using the predominant nature of the claimant's business and loss location zip code. If the documentation provided by the claimant did not provide sufficient information to determine the business type or loss location zip code, reviewers were instructed by the GCCF to use the following sources to determine the claimant's business type or loss location zip code: (1) the claim form; (2) financial documentation; (3) a letter from the claimant; or (4) an Internet search.

In addition, GCCF reviewers determined the claimant's lost earnings based on the financial documents provided by the claimant. Claimants who did not provide sufficient documentation to prove their financial losses occurred as a result of the Spill were considered deficient.

During our evaluation, we identified instances where GCCF reviewers incorrectly classified claimants as deficient when all required information was present. The GCCF acknowledged that there was a possibility these errors could have affected other claimants. As a result, the GCCF worked with our programmers, data analysts and claims specialists to identify claimants who had sufficient documentation in their file to determine their business type, zip code or financial losses but were considered deficient due to human error. The GCCF agreed to provide additional payments to all affected claimants with sufficient information in their file to determine their correct business type, loss location zip code, or prove their financial losses.

BDO and the GCCF determined that 29 claimants were negatively affected by these issues. The GCCF has re-reviewed these claims and made, or is in the process of making, additional payments to the affected claimants totaling $294,357.

A-13: Claimants with Post-Spill Income Included Twice

To calculate a claimant's lost earnings, the GCCF used the financial documents submitted by the claimant to compute the claimant's projected post-Spill earnings and compared this amount to the claimant's actual post-Spill earnings. The GCCF's Operations Manual states that only one document per employer, per year should be used. Furthermore, the Operations Manual stated that reviewers must "[b]e sure not to select duplicate entries for Post-Spill financial documentation to be used in calculating the claimant's LEP claim."

During our testing of claim files, we observed instances where more than one financial document per year for the same employer was used to compute the claimant's lost earnings. There were also instances in which the same paycheck or the same annual document was included twice in the claimant's post-Spill earnings calculation. As a result of the overstated post-Spill earnings, the claimant's lost earnings were understated.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other instances where post-Spill earnings were included twice in a claimant's lost earnings calculation and agreed to provide additional payments to all affected claimants identified during our independent evaluation. The GCCF identified 142 claimants that were found to be negatively affected and made, or is in the process of making, additional payments to the affected claimants totaling $279,141.

A-14: Offsets Included as Post-Spill Earnings

In determining a claimant's post-Spill earnings, GCCF policy excluded from a claimant's earnings payments related to Spill damages. These Spill-related payments included, among other things, payments from the BP-operated facility.

When GCCF reviewers entered information into the GCCF system for these payments, they should have designated the document type as an IRS Form 1099 issued for Spill damages, which designation prevented the financial information from being included as part of the claimant's post-Spill earnings. During our testing of claim files, we observed instances where the correct document type was not selected and certain Forms 1099 related to payments from the BP-operated facility were treated as independent contractor wages. As a result, amounts listed on these Forms 1099 were included in the claimant's post-Spill earnings.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other instances of these data entry errors and agreed to provide additional payments to all affected claimants identified during our independent evaluation. The GCCF identified 19 claimants that were affected negatively and re-performed the loss calculation for each of these claimants using the correct methodology and made, or is in the process of making, additional payments to the affected claimants totaling $219,545.

A-15: Claim preparation Fees

Since inception of Phase II, the GCCF reimbursed claimants for claim preparation fees deemed reasonable. Initially, there were no limits on the amount a claimant could be reimbursed, and there were limited documentation requirements. However, due to perceived abuses, the GCCF modified its policy for reimbursement of claim preparation fees on August 26, 2011 to limit payment to $2,500 for individuals and $5,000 for businesses. The GCCF subsequently raised the thresholds for reimbursement of claim preparation fees as follows:

- For individual claimants, up to the higher of $2,500 or 10% of the aggregate of the claim determination amount.
- For business claimants, up to the higher of $5,000 or 10% of the aggregate of the claim determination amount.

The GCCF also required more extensive supporting documentation for reimbursement requests in excess of these thresholds.

During our evaluation, we identified a number of claimants who had requested reimbursement for claim preparation fees but were not paid. We determined that the GCCF had placed a hold on the reimbursement of claim preparation fees that exceeded the foregoing thresholds or where the claimant did not provide adequate supporting documentation while its policy was evolving. As a result, during the August 26, 2011 through January 13, 2012 period, claimants that had requested reimbursement of claim preparation fees that exceeded these thresholds or did not provide sufficient documentation to support the requested reimbursement amount were not reimbursed for any claim preparation fees.

The GCCF confirmed our observations and worked with our programmers, data analysts and claims specialists to identify other instances where claim preparation fees had not been paid. BDO and the GCCF identified 21 claimants who were not reimbursed for claim preparation fees. The GCCF re-evaluated the claim files for each of these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $184,753.

A-16: Selection of Business Type

In evaluating a claimant's eligibility for lost earnings during Phase II, GCCF reviewers determined the claimant's eligibility based upon the business type and loss location zip code that related to the claimant's lost earnings. The GCCF's determination regarding eligibility dictated the nature and extent of documentation claimants were required to submit to prove their financial loss occurred as a result of the Spill and, therefore, potentially receive payment. In addition, under the GCCF's coattails eligibility policy, all individual claimants filing claims as employees of a business would have received the same eligibility group determination as the business itself. By assigning eligibility group determinations in this manner, business claimants and their employees received consistent eligibility treatment as businesses in similar industries and geographic regions.

The GCCF developed policies and procedures for classifying claimants into business types. GCCF reviewers determined the predominant nature of the claimant's business and used it to select the correct business type. Reviewers were instructed by the GCCF to use the following sources to determine the claimant's business type and loss location zip code: (1) the claim form; (2) financial documentation; (3) a letter from the claimant; or (4) an Internet search.

If the GCCF reviewer was unable to determine the claimant's business type at the time of the Spill, the claimant was classified under the business type of "Unknown Business" and a loss location zip code of zero was assigned to the claimant. However, these determinations could be subject to reviewer error, causing claimants to be classified under an incorrect business type. If a claimant was classified under an incorrect business type, they could have received an inappropriate eligibility group determination. Claimants who received a less favorable eligibility group determination ordinarily had more difficulty demonstrating their financial loss occurred as a result of the Spill.

During our evaluation, we identified several claimants that were classified under the wrong business type. The GCCF confirmed our observation and determined that this issue was caused by human error. The GCCF acknowledged that there was a possibility this error could have affected other business claimants and their employee-claimants. As a result, the GCCF worked with our programmers, data analysts and claims specialists to identify other instances where this error impacted the eligibility of claimants and agreed to provide additional payments to all affected claimants with sufficient information in their claim file to determine their lost earnings.

BDO and the GCCF determined that 10 claimants were negatively affected as a result of not being assigned the proper business type. The GCCF re-reviewed the claims for these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $122,988.

A-17: Coding Issue Affecting Calculation of Lost Earnings

To calculate an individual claimant's potential lost earnings, the GCCF considered the claimant's pre-Spill earnings for 2008, 2009, and, in some cases, 2010, and actual post-Spill earnings for 2010 and 2011. The pre-Spill earnings were used to project earnings for 2010 and 2011. The claimant's projected earnings for 2010 and 2011 were compared to actual 2010 and 2011 earnings based on the financial documents submitted by the claimant. If actual earnings for 2010 and 2011 exceeded projected earnings, the claimant would have had no lost earnings. If the claimant's projected earnings exceeded actual earnings, the GCCF rules stated that the total lost earnings amount was the higher of: (1) the sum of the lost earnings for 2010 and 2011, or (2) 2010 lost earnings multiplied by a Recovery Factor of two.

During our testing of claim files, we observed instances where the GCCF determined the individual claimant's final payment amount by multiplying the 2010 lost earnings by a Recovery Factor of two without considering whether the sum of the claimant's lost earnings for 2010 and 2011 resulted in a higher amount. As a result, certain claimants were underpaid. The GCCF confirmed our observation and determined this error was caused by a coding error resident in the GCCF system for three days. The GCCF acknowledged that there was a possibility this coding error could have affected other individual claimants. The GCCF worked with our programmers, data analysts and claims specialists to identify other instances where this coding error impacted calculated lost earnings and agreed to provide additional payments to all affected claimants identified during our independent evaluation.

BDO and the GCCF identified 4 claimants who were negatively affected by this coding error. The GCCF re-performed the loss calculation for each of these claimants using the correct methodology and made, or is in the process of making, additional payments to the affected claimants totaling $15,650.

A-18: Miscellaneous Adjustments to Claimants' Lost Earnings or Profits

During BDO's testing of claim files, we observed other instances in which the GCCF reviewers improperly denied claimants or incorrectly calculated a claimant's lost earnings due to human error. Working cooperatively with the GCCF, BDO's programmers, data analysts and claims specialists searched the claims databases to determine the extent to which these errors affected a broader population of claims. We determined that these errors were isolated to a small number of individual and business claimants.

BDO and the GCCF identified 5 claimants that were affected negatively by errors other than the ones described in A-1 through A-17, above. The GCCF re-performed the loss calculation for each of these claimants and made, or is in the process of making, additional payments to the affected claimants totaling $102,504.

EXHIBITS

EXHIBIT A

U. S. Department of Justice

Exhibit A

Office of the Associate Attorney General

The Associate Attorney General

Washington, D.C. 20530

December 21, 2011

Anthony Lendez
Carl Pergola
BDO Consulting
100 Park Avenue
New York, NY 10017

Kevin Hubbard
BDO Consulting
333 Clay Street, Suite 4700
Houston, TX 77002

Dear Mr. Lendez, Mr. Pergola and Mr. Hubbard:

On behalf of the Attorney General, I would like to thank you for your willingness to conduct an independent evaluation of the Gulf Coast Claims Facility. As you know, the GCCF was established when, at the Administration's insistence, BP turned decision-making authority over to Kenneth R. Feinberg to establish an independent, fair, efficient claims-processing facility. Since the GCCF's creation, the Department of Justice has remained continually engaged with the GCCF to ensure that it is living up to BP's commitments.

This evaluation is an important element of our commitment to the people of the Gulf. Over the past 15 months, the GCCF has received over one million claims and paid out over $6 billion in damages. Where it has performed well, the people of the Gulf deserve to know that they have been fairly served. Where it has fallen short, we must take appropriate steps to ensure that victims of the oil spill are fairly treated and properly compensated.

In the course of your work, I will ask that you keep a number of things in mind.

First, the goal of this evaluation is to ensure that any systematic errors that may have occurred in the handling of claims of those who have been harmed by the Deepwater Horizon oil spill are corrected. Because the settling of these claims is an essential part of the Gulf peoples' recovery from the disastrous spill a year and a half ago, we ask that you pursue this task with urgency and that the review be completed in March. A prolonged review would simply delay the implementation of improvements that may be needed today.

Second, it is absolutely critical that your review be fully independent. While Mr. Feinberg has agreed that the GCCF will pay the costs associated with the review, *your work will be overseen and directed by the Department of Justice.* If at any time you are not receiving the cooperation or information you need for your review, please let me know immediately.

Finally, your work must meet the highest professional standards. Your findings will be of great import and must be based on your objective review of the facts. In the compressed time frame that we have established, it will not be possible to second-guess every claim decision or re-visit every policy. It may not be possible to reach a level of statistical certainty with respect to every issue. But in a highly sensitive context, this independent review must approach the issue with clear eyes, an open mind, and uncompromising professional judgment.

In order to complete this effort in the necessary time, I would ask that you commence work designing the review immediately. Over the past several weeks, with great assistance from the offices of Gulf State public officials and stakeholders from throughout the region, the Department of Justice has identified some of the most significant concerns that have been raised regarding the GCCF's performance. Among other things, we have heard concerns about improper handling of documents submitted by claimants, unnecessary delays in the processing of interim claims, and inconsistent payments for similarly situated claimants. This independent review will help determine whether these concerns are valid and, if they are, how the processes can be improved. The Department will work with you as you design the review to ensure that, given the time allotted, it can address these and others of the most important issues.

Once again, I would thank you for your work on the independent evaluation of the GCCF.

Sincerely,

Thomas J. Perrelli

Thomas J. Perrelli

EXHIBIT B

Exhibit B

BDO Consulting, a Division of BDO USA, LLP

INDEPENDENT EVALUATION OF THE GULF COAST CLAIMS FACILITY

EXECUTIVE SUMMARY

April 19, 2012

BDO

INDEPENDENT EVALUATION OF

THE GULF COAST CLAIMS FACILITY

EXECUTIVE SUMMARY

BDO Consulting, a division of BDO USA LLP ("BDO"), presents to the U.S. Department of Justice, this Executive Summary of BDO's findings and observations drawn from our independent evaluation of the Gulf Coast Claims Facility ("GCCF").

I. Overview of BDO's Findings and Observations

After a process that included meetings with representatives of Attorneys General of the Gulf States, the DOJ selected BDO to perform an independent evaluation of the GCCF. We assembled a team of over 130 professionals, including those with experience in investigations, claims administration, and the preparation of business interruption claims related to losses in the Gulf region from catastrophic events, such as Hurricane Katrina. Our independent evaluation combined interviews, document review and testing of claims files to enable us to gain an understanding of the GCCF's operations and to identify potential errors in its processing of claims. As errors were identified, we, in conjunction with the GCCF, conducted searches of its entire database of over one million claims to determine whether the identified errors negatively affected other claimants.

In conducting our independent evaluation, we were at all times mindful of the unprecedented nature of the 2010 *Deepwater Horizon* explosion and resulting oil spill (the "Spill"), and the acute financial distress endured by individuals and businesses in the region. The Spill dwarfed the 1989 *Exxon Valdez* oil spill (which gave rise to the Oil Pollution Act of 1990) both in terms of the amount of oil discharged and the extent of the impact. Nevertheless, the extent to which the GCCF processed and paid claims constituted a significant advance in responding to and compensating affected individuals and businesses in a timely manner. Undoubtedly, further enhancements can be made as lessons are learned from this seminal response to such a catastrophic event.

As a result of our independent evaluation, we note the following:

- During its one and one-half year tenure, the GCCF processed over one million claims and paid a total of more than $6.2 billion to over 220,000 individual and business claimants. In its second full month of operation, the GCCF paid claimants over $840 million—an average of more than $27 million per day—in emergency advance payments.

- Ninety-seven percent of payments made by the GCCF were made to claimants in the Gulf States, almost exclusively to individuals and businesses in the Gulf Coast shore line vicinity and Gulf Alliance counties.

- The GCCF operated in an extremely time-sensitive, challenging and dynamic environment, and its methodologies necessarily evolved during the tenure of the facility. It was evident from our interviews, document reviews and testing of specific individual and business claims that the GCCF continuously communicated its methodologies, and changes to those methodologies, to its claims reviewers.

- While our independent evaluation did uncover instances in which errors were made in the claims evaluation process, in general, the GCCF appeared to have consistently applied its protocols and methodologies in processing claims.

- As a result of our independent evaluation, we identified errors in claims processing that negatively affected almost 7,300 claimants. The GCCF has already begun making first-time and additional payments and/or offers for payment, which are currently estimated to total more than $64 million, to these claimants.

- Certain errors identified during our independent evaluation resulted in overpayments being made to claimants. The GCCF did not request the return of these overpayments from the affected claimants.

- We also identified more than 2,600 claimants whose claims were erroneously denied to whom payments or offers will not be issued because their claim files did not contain information needed to determine whether the claimants sustained a financial loss.

We discuss the above, as well as additional findings and observations, in more detail below.

II. Background

On April 20, 2010, an explosion occurred on the *Deepwater Horizon*, an offshore oil drilling rig owned by Transocean Ltd., which resulted in, among other things, the deaths of eleven crewmen and the discharge of oil into the Gulf of Mexico for several months. Shortly thereafter, the U.S. Coast Guard's National Pollution Funds Center ("NPFC") identified seven entities, including two BP subsidiaries, as "Responsible Parties" under the Oil Pollution Act of 1990 ("OPA") for Spill-related claims. BP established an initial facility ("the BP-operated facility") to receive and process all claims against Responsible Parties and began paying emergency compensation to individuals and businesses within weeks of the explosion.

Shortly after the Spill, BP entered into negotiations with the U.S. Government that resulted in an announcement by President Obama, on June 16, 2010, that BP had agreed to: (a) establish a $20 billion trust, funded over four years, that would be available to pay, among others, claims of individuals and businesses arising under OPA, as well as the claims of local and state governments and claims of Federal, state and tribal trustees for natural resource damages; and (b) create a new claims process to be administered by a neutral third party. Kenneth Feinberg, Managing Partner of the Washington, D.C.-based law firm, Feinberg Rozen, LLP ("Feinberg Rozen"), was appointed to administer this new claims process. The GCCF thereafter undertook to receive, process and, where it deemed appropriate, pay claims of losses resulting from: (1) lost earnings or profits for individuals and businesses; (2) removal and clean-up costs; (3) damage to real or personal property; (4) loss of subsistence use of natural resources; and (5) physical injury or death.[1]

Immediately upon Mr. Feinberg's selection as Claims Administrator, Feinberg Rozen began the process of assembling a large team of experienced professionals, including claims processing firms, accounting firms, investigators, catastrophe response companies, economists, academics and other professionals, to assist it in the development and implementation of claims processing protocols and methodologies. At the same time, the GCCF publicized its existence to potential claimants and created methods through which it communicated with claimants during the tenure of the GCCF.

The GCCF received, processed and, where it deemed appropriate, paid claims during two distinct phases: In Phase I (the "Emergency Advance Payment" or "EAP" claims process), which began on August 23, 2010, the GCCF implemented an interim claims process by which eligible claimants would receive compensation for the loss of earnings or profits, removal and clean-up costs, real or personal property damage, loss of subsistence use of natural resources and physical injury or death caused by the Spill by submitting a lesser level of documentation than would be required in Phase II of the GCCF. During Phase II (the "Interim Payment/Final Payment" or "IP/FP" claims process), the GCCF received claims for both interim payments designed to compensate claimants for past losses and final payments designed to compensate claimants for past and future losses. As a general matter, the GCCF subjected claims filed during Phase II to more stringent documentation requirements than those applied to claims filed during Phase I, while, at the same time, it expanded the types of businesses that potentially would be eligible for compensation and granted automatic eligibility to claimants located on the Gulf shore who were involved in businesses that were particularly reliant upon Gulf resources and, therefore, more likely to be negatively impacted by the Spill.

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1 Other claims processes were available to address other costs associated with the Spill, such as losses by oil rig workers during the moratorium on deepwater drilling in 2010.

III. Genesis and Scope of Independent Evaluation

In July 2011, following input from public officials, claimants and other interested parties regarding their expectations about the transparency and timeliness of the GCCF's operations, Mr. Feinberg reached an agreement with U.S. Attorney General Eric Holder in which Mr. Feinberg agreed that the GCCF would undergo an independent evaluation of its operations and that the independent evaluation would begin before the end of the year. Congress passed legislation that required the U.S. Department of Justice ("DOJ") "to identify an independent auditor to evaluate" the GCCF. On December 21, 2011, the DOJ publicly announced the selection of BDO to perform the independent evaluation and mandated that our work be fully independent and meet the highest professional standards.

During the selection process and in discussions after we were selected, the DOJ requested that we gain an understanding of and memorialize the GCCF's operations, protocols and methodologies; test claims to identify and correct errors and improve GCCF processes; and provide input to help determine the validity of certain concerns brought to our attention by the DOJ, as a result of its meetings with public officials and stakeholders in the Gulf States. We designed our approach to meet these objectives.

We also met with Mr. Feinberg, who, from the outset, pledged cooperation on the part of the GCCF, its subcontractors and expert advisors. We were granted access to GCCF subcontractors and advisors to conduct interviews and provided with access to GCCF databases, including claims files. We also worked with GCCF personnel to understand issues identified in our claims testing. When we determined that an issue might be an error, we worked with the GCCF to confirm whether it was an error, determine its likely cause and search the claims database for other claimants potentially affected by those errors. We also worked with the GCCF to identify errors that resulted in underpayments to claimants and to expedite the issuance of payments and/or offers to those claimants.

BDO professionals who conducted this independent evaluation have experience in:

- **Investigations** - including those undertaken at the direction of the DOJ, the U.S. Securities & Exchange Commission, the Board of Governors of the Federal Reserve System and the U.S. Office of the Comptroller of the Currency;
- **Claims Evaluation** - including preparing business interruption claims as a result of Hurricanes Katrina, Wilma, Gustav and Ike; and
- **Claims Administration** - including serving as claims administrators and as court-accepted expert witnesses in litigation following mass tort claims administration.

Our leadership group included partners and managing directors, each with between 15 and 35 years of forensic accounting, investigative, technology and/or auditing experience, who oversaw the work of over 130 professionals.

We approached our work with open minds and impartiality. Our approach included interviews of over 40 GCCF subcontractor and advisor personnel at their offices, claims processing centers and claims offices in the Gulf States. We also evaluated aspects of tens of thousands of claims files and programmatically searched the entire database of over one million claims for those with attributes similar to claims found to contain errors. We supplemented our findings by requesting documents and information from the GCCF and undertook a process with the GCCF to develop an accurate understanding of the factual information required to complete our independent evaluation.

From the outset of our independent evaluation, Mr. Feinberg made clear that the GCCF's priority was to compensate those claimants most likely to have been adversely affected by the Spill in as expeditious a manner as possible. In its effort to execute this priority, the GCCF's approach to the development and implementation of its protocols and methodologies was, by necessity, a dynamic one. The GCCF constantly made adjustments and improvements as it gained a greater understanding of the myriad challenges that emerged during its operations.

While we did, through the course of the independent evaluation, gain an understanding of the protocols and methodologies of the GCCF, we did not set out to substitute our own judgment for that of the GCCF. Rather, we undertook an objective assessment of certain aspects of the GCCF with the primary purpose of gaining a comprehensive understanding of how it operated and testing compliance with the protocols and methodologies established by the GCCF. Because of the potential historical significance of the GCCF, both in and outside the context of OPA, we will set forth in the body of our forthcoming final report the details of many of those protocols and methodologies and their underlying rationale for consideration, in the future, by the administrators of large claims facilities, policy makers and others.

The analysis of specific claims and the assessment of the implications of this analysis for broader populations of claims were integral to our approach to identify and correct errors in the GCCF's implementation of its claims processing protocols and methodologies. Mr. Feinberg informed us that, throughout its tenure, the GCCF strived to apply its protocols and methodologies in a consistent manner and that while errors undoubtedly occurred in processing such a substantial number of claims in such a short period of time, the GCCF in the past had corrected any identified errors and was committed to doing so as part of the independent evaluation. Our experienced professionals were trained on the GCCF processes and collectively committed thousands of hours to reviewing claim files. As potential issues were identified, they were discussed with the GCCF until we were independently satisfied as to whether they were, in fact, issues that might affect a broader population of claims. Our professionals, both independently and in cooperation with the GCCF, made extensive efforts to search the claims data in the GCCF database using a variety of sophisticated approaches to determine broader populations that may have been affected by the issues we identified. While it was not possible to ensure that every claimant was treated fairly or in accordance with GCCF protocols and methodologies, these activities provided the GCCF with an opportunity to address issues negatively affecting specific claimants. These activities also permitted the GCCF to make enhancements to its processes to improve the processing of future claims during its tenure.

IV. Results of Interviews, Document Review and Claims-Testing

As a result of our interviews, document review and claims-testing, we make the following findings and observations:

- The GCCF received claims from a broad range of claimants, from individuals who were living paycheck-to-paycheck to businesses with annual revenues in the billions of dollars. Some claimants had losses that were difficult to quantify, including individuals working on a cash-basis (with no formal documentation of earnings) and start-up businesses with limited historical earnings. Claimants also included those whose claims needed to be referred to other funds (for example, the fund to compensate those affected by the moratorium on certain oil drilling operations). The volume and diversity of claimants necessitated significant complexity in the claims administration process and presented unique challenges to the GCCF.

- The GCCF operated in an extremely time-sensitive, challenging and dynamic environment, and its methodologies necessarily evolved during the tenure of the facility. It was evident from our interviews, document reviews and testing of specific individual and business claims that the GCCF continuously communicated its methodologies and changes to those methodologies to its claims reviewers.

- While our independent evaluation did uncover instances in which errors were made in the claims evaluation process, in general, the GCCF appeared to have consistently applied its protocols and methodologies in processing claims.

- Ninety-seven percent of payments made by the GCCF were made to claimants in the Gulf States, almost exclusively to individuals and businesses in the Gulf Coast shore line vicinity and Gulf Alliance counties.[2]

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2 According to the GCCF, the concept of the "Gulf Alliance Counties" was derived from the Gulf of Mexico Alliance ("GOMA"). On its website, www.gulfofmexicoalliance.org, GOMA describes itself as "a partnership of the states of Alabama, Florida, Louisiana, Mississippi, and Texas, with the goal of significantly increasing regional collaboration to enhance the ecological and economic health of the Gulf of Mexico." GOMA has identified 141 counties as being part of the Gulf of Mexico Region. The GCCF included in its definition of "Gulf Alliance Counties" any non-coastal Zip Code that was wholly or partially within one of these 141 counties.

- GCCF data indicated that it denied approximately 60 percent of the claimants who filed claims from its inception. During Phase I, a significant portion of the claims were denied because the claimants' business types were not compensable or the claimants failed to submit required financial documentation. During Phase II, a majority of the claims denied were due to claimants not providing documentation sufficient to establish that their financial losses occurred as a result of the Spill. The remainder of the denied claims during Phase II was largely the result of the claimants: (1) failing to respond to Deficiency Letters requesting documents necessary for the GCCF to evaluate their claims or submitting insufficient additional information for the evaluation of their claims; or (2) submitting information that showed that losses were due to alternate causes.

- In the course of our claims-testing, we inquired about claims that had been in process for an extended period of time. We observed that most of these claims had extenuating circumstances, including: (1) claims that were referred for investigation of potential indicators of fraud; (2) claims for which the GCCF had requested additional information from the claimants; and (3) business claims in the process of being resolved through discussions between the GCCF and the claimants or their representatives.

- During the course of our independent evaluation, we identified errors in claims processing that negatively affected almost 7,300 claimants. As a result, the GCCF has made (or will shortly make) first-time and additional payments and/or offers for payment, which are currently estimated to total more than $64 million, to these claimants.

- Certain errors identified during our independent evaluation resulted in <u>overpayments</u> being made to claimants.[3] The GCCF did not request the return of these overpayments from the affected claimants.

- We also identified more than 2,600 claimants whose claims were erroneously denied to whom payments or offers were not issued because their claims files did not contain information needed to determine whether the claimant sustained a financial loss.[4] In light of Judge Barbier's March 8, 2012 First Amended Order Creating Transition Process in the multi-district class action lawsuit (the "MDL"), *In Re: Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, the GCCF has determined that it cannot contact those claimants.

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3 We did not perform the same extensive procedures to search for, and quantify, additional errors that resulted in overpayments as our focus was on addressing claimants who were negatively affected.

4 The GCCF noted that the denial letters it initially sent to these claimants contained language instructing them that, if they disagreed with the GCCF's denial, claimants could submit their claims to the U.S. Coast Guard's National Pollution Funds Center or could file claims in court, including in the MDL. Those claimants who are members of the class in the proposed MDL settlement will have the opportunity to submit their claims to the court-supervised claims process if the proposed settlement receives preliminary approval. Those claimants who are not members of the class in the proposed MDL settlement will be able to submit their claims to a new claims processing facility that BP will be operating pursuant to OPA.

- The GCCF modified its processes to improve accuracy and consistency among outcomes throughout its tenure. In addition, as a result of our independent evaluation, the GCCF instituted over 20 additional process improvements.

V. Practices and Achievements of the GCCF

Because the scope of the Spill's economic impact in the Gulf region was so extensive, the experience of the GCCF, in processing more than a million claims from such a diverse claimant population, was unprecedented. In the unfortunate, but inevitable, event of future disasters requiring the creation of large claims administration processes, we hope that the experience of the GCCF, along with our forthcoming final report will prove instructive. As described below, there are many aspects of the approach taken by the GCCF that should provide a foundation for future claims facilities; the GCCF's experience also provides some insight into additional efforts that the administrators of those facilities may want to undertake.

Notwithstanding the challenges that it faced throughout its tenure, the GCCF implemented many meaningful practices that resulted in significant achievements. These practices and achievements included, but were not limited to:

- **Payment Disbursement:** Consistent with its priority of compensating those claimants most likely to have been adversely affected by the Spill in as expeditious a manner as possible, during its one and one-half year tenure, the GCCF processed over one million claims and paid a total of more than $6.2 billion to over 220,000 individual and business claimants.[5] The GCCF's efforts in this regard were facilitated by its implementation of the EAP claim process during Phase I, which enabled individuals and businesses in locations and industries the GCCF determined were most likely to be impacted by the Spill to receive compensation for their losses on an expedited basis without providing extensive documentation. During October 2010, the GCCF's second full month of operation, it paid claimants over $840 million – an average of more than $27 million per day – in emergency advance payments.

- **Rapid Response:** The GCCF began its operations approximately two months after Mr. Feinberg was selected as its Administrator. Feinberg Rozen assembled a large team of experienced professionals, including claims processing firms, accounting firms, investigators, catastrophe response companies, economists, academics and other professionals, which at one point numbered in excess of 4,500, to assist it in the development and implementation of claims processing protocols and methodologies.

5 The GCCF also created a fund (the "Real Estate fund") by distributing $60 million to the five Gulf States to compensate real estate brokers and agents harmed by the Spill. That fund paid more than $54 million in claims.

- **Range Of Payment Options:** During Phase II, the GCCF offered claimants three different payment options: Two of these – Final Payments (for past and future losses) and Quick Payments (final payments of predetermined amounts based on no additional documentation requirements beyond having received a prior payment from the GCCF or the fund created by the GCCF to compensate real estate brokers and agents harmed by the Spill) – compensated affected claimants for future anticipated losses, after they executed a release in which they agreed not to sue BP and other potentially liable parties. The third option, Interim Payments, permitted claimants to seek compensation for past losses without waiving the right to continue to submit additional claims in the future.

- **Claims Processing Platform:** The GCCF created and utilized a sophisticated claims processing platform that allowed for maintenance of digital claims files containing all claims-related documentation. This system both facilitated the uniform processing of claims and provided a document trail allowing for the subsequent review (including this independent evaluation) of the GCCF's operations.

VI. Observations Relating to Certain Concerns of Claimants, Public Officials and Other Stakeholders

The DOJ requested that the independent evaluation seek to identify the possible causes of certain concerns raised by claimants, public officials and other stakeholders. These concerns included, among others: whether communications with claimants were effective; whether the GCCF gave appropriate consideration to documentation submitted by claimants; and why there seemed to be inconsistent outcomes among claimants that may appear to have been similarly situated. As we conducted our interviews and gained an understanding of the GCCF's processes and became more familiar with the results of the application of the GCCF's protocols and methodologies in performing our detailed claims testing, we were better positioned to understand potential causes of these concerns. We cannot, however, identify with certainty the direct cause of one or more of those concerns. A confluence of factors, including those beyond the control of the GCCF, likely contributed to certain of these concerns.

Regarding communications with claimants, despite substantial efforts to communicate effectively with claimants so as to efficiently and expeditiously process claims, the GCCF recognized that, with hindsight, there were areas where improvements could have been made sooner. These are noted below in Section VII, "GCCF's Suggestions for Future Claims Facilities." In our forthcoming final report, BDO will identify specifics regarding the GCCF's communications with claimants, and we emphasize below in Section VIII, "Further Suggestions for Future Claims Facilities," the importance of effective communications with claimants.

We observed that the GCCF generally handled documentation submitted by claimants in accordance with its processes and that the facility's processes provided a complete trail of the claimant-submitted information and communications. This enabled us to review claim files effectively and permitted the GCCF to process claims or correct for identified errors. Some human errors occurred in the selection of documents to use in processing claims. These types of errors, which represented the most frequent type of error we identified, may have contributed to this concern, as well as to different outcomes for claimants that may appear to have been similarly situated. As an example, the GCCF rules specified the circumstances under which various types of financial documents, including Forms W-2, Forms 1099-MISC, Paycheck Stubs and payroll records, were to be used to calculate losses. We observed instances where GCCF reviewers selected the incorrect type of financial document when calculating an individual claimant's losses.

A variety of factors contributed to different outcomes for claimants that may appear to have been similarly situated, including, among others: differences in earnings preceding the Spill; differences in cost structures of businesses; the effect of when claimants submitted claims to the GCCF (as a result of evolving methodologies); and the effect of errors that resulted in overpayments, underpayments or erroneous denials. Ironically, some of the GCCF's methodologies which were clearly intended to be (and were) beneficial to claimants, such as automatic eligibility in Phase II for any claimant who was paid in Phase I, actually created circumstances in which claimants that may appear to have been similarly situated received different outcomes. A deeper understanding of the GCCF's protocols and methodologies, which will be presented in our forthcoming final report, is needed to appreciate the variety of factors that contributed to different outcomes for claimants that may appear to have been similarly situated.

Overall, valid reasons existed for certain concerns raised by claimants, public officials and other stakeholders; however, it is important to understand that a variety of factors contributed to those concerns (including those beyond the control of the GCCF). We identify here and will identify in our forthcoming final report improvements that can, and should, be made in the administration of future claims facilities.

VII. GCCF's Suggestions for Future Claims Facilities

Because the GCCF was created amid unique and unprecedented circumstances, the insights of those who were involved in its daily operations and who experienced its challenges, achievements and frustrations, will likely prove useful to those seeking to address the compensation of a wide range of individuals and businesses immediately following future catastrophic events. We inquired of the GCCF regarding those aspects of its operations that, in hindsight, it would have addressed differently. Several of the GCCF's own suggestions for improvements dealt with communications and interactions with claimants, including, fundamentally, not making statements that set unachievable expectations regarding the time needed to process claims.

Beyond this, the GCCF recommended staffing site offices with, and providing greater access to, more knowledgeable GCCF representatives; providing more detailed and specific information for deficient or denied claims; immediately advising disgruntled claimants when their claims had been referred to law enforcement as being potentially fraudulent; and providing all communications with claimants in the language of their choice. The GCCF implemented most of these suggestions at some point during its operations; however, the GCCF acknowledged that, had it been able to do so earlier, the GCCF claims evaluation process would have been more efficient.

Further, during its tenure, the GCCF instituted a policy whereby it treated as automatically eligible (without further documentation that claimed losses were caused by the Spill) any individual claimant who was employed by a business which the GCCF deemed eligible. Potential inconsistencies arose in cases in which a business was deemed eligible after the claim of one of its employees was denied. The GCCF stated to us that, with the benefit of hindsight, it would have been preferable to have put into place procedures whereby it would have re-evaluated the claim of a denied individual claimant upon the subsequent determination that the claimant's employer was eligible.

The GCCF also informed us that, from its inception, it attempted to arrange for a process by which claimants would be able to receive free legal assistance. Its initial attempts to do this, by approaching law firms both in the Gulf region and nationally to provide this legal assistance on a *pro bono* basis, were frustrated because most law firms in the region had a conflict of interest. On December 15, 2011, the GCCF entered into an agreement with the Mississippi Center for Justice, a nonprofit, public interest law firm, to oversee a consortium of legal service entities in the Gulf region that provided legal assistance to all claimants who sought it, regardless of income level. The GCCF made clear that the provision of free legal assistance to individuals and businesses submitting claims to the GCCF was an important practice and recommended that it be adopted by claims facilities addressing losses from future catastrophic events.

VIII. Further Suggestions for Future Claims Facilities

In addition to the suggestions made by the GCCF, which are consistent with observations we have made during our independent evaluation, we suggest several additional approaches that future claims facilities may wish to consider adopting.

First, as mentioned above, one of the primary concerns raised by the DOJ at the beginning of our independent evaluation dealt with communications with claimants and, indeed, the GCCF's own suggestions for potential improvements focused upon communications. In this context, we recommend that future claims facilities dedicate time and resources upfront to the development of an integrated communications strategy incorporating the lessons learned by the GCCF's experiences.

Second, we recommend that, as resources and circumstances permit, future facilities include a function, independent of claims processing, dedicated to: identifying potential errors in processing; recommending claims processing improvements; and providing input to the facility regarding inquiries and criticisms. Importantly, this function would need to operate in a manner that does not interfere with the primary goal of compensating adversely impacted claimants as expeditiously as possible.

Third, with a few exceptions, the GCCF did not retroactively review previously processed claims in light of subsequent changes to its methodologies. This approach may have created instances in which the outcome of a claim would be dependent upon the timing of its submission and may have resulted in different outcomes for claimants that appear similarly situated. We recommend that future facilities consider a process by which, in appropriate circumstances, previously processed claims will be re-evaluated periodically in the wake of changes to methodologies.

IX. Conclusion

The GCCF was designed to respond, and did respond, with urgency to the economic difficulties of those most likely affected by the Spill. However, because of the complexity and unprecedented nature of the task undertaken by the GCCF, it was inevitable that some claimants and stakeholders would have concerns about its operations. While hundreds of thousands of individual and business claimants received payment without litigation over the two years immediately following the Spill, many others have sought an alternative to the GCCF. We hope that all those who have been genuinely affected by the Spill, ultimately receive an appropriate resolution to their claims.

Finally, we hope that the findings and observations discussed above and those contained in our forthcoming final report will provide insight into the operations of the GCCF, including the causes of claimant concerns, and assist those charged with designing future claims facilities to address catastrophic events.

Very truly yours,

BDO USA, LLP

BDO USA, LLP

The BDO Project Leadership Team thanks the DOJ for the trust they placed in BDO to perform this independent evaluation of the GCCF. We have undertaken our responsibilities with the understanding that the events that precipitated the creation of the GCCF had a real and substantial negative impact on the quality of life of many persons living and working in the Gulf region.

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EXHIBIT C

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Exhibit C

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Carl W. Pergola is the Executive Director of BDO Consulting with over 25 years of experience providing auditing, accounting and consulting services to leading organizations and their counsel. Mr. Pergola is the U.S. member firm representative responsible for Forensic and Risk Management Advisory Services worldwide through BDO International's Advisory Leadership Group.

He has led national and international engagements responding to some of the most high-profile and complex Securities and Exchange Commission investigations, broker-dealer litigation, shareholder lawsuits, hedge fund liquidations and contract disputes. Mr. Pergola has assembled and led multidisciplinary teams of professionals instrumental in the resolution of prominent matters, including the independent examination of AOL Time Warner, as well as securities litigation matters related to Countrywide, Enron, Cendant, Adelphia, Oxford Health Plans, major international banks and Big Four accounting firms.

In addition, Mr. Pergola has significant experience investigating allegations of fraud and corruption in connection with bribery, kickbacks and self-dealing, as well as Foreign Corrupt Practices Act violations. He has testified in federal and state court and several ADR forums.

Mr. Pergola has been quoted and published on financial fraud investigation and prevention topics in several national publications.

PROFESSIONAL AFFILIATIONS

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Anthony M. Lendez has over 30 years of experience assisting clients with securities litigation and corporate internal investigations involving alleged financial statement irregularities and management fraud. He has testified before, among others, the International Court of Arbitration, American Arbitration Association and U.S. district courts.

Mr. Lendez formerly investigated alleged audit failures as a senior member of the American Institute of Certified Public Accountants' SEC Practice Section. He has also presented investigative findings to the staff of the U.S. Securities and Exchange Commission and members of various committees.

He has led numerous high-profile investigations, including matters related to New Century, AOL Time Warner, Enron, Countrywide, Fannie Mae and Cendant. Providing expert and consulting litigation services to some of the nation's largest financial institutions and investors of complex financial instruments, Mr. Lendez assists counsel in evaluating audit, accounting and financial reporting issues, identifying key documents during discovery and preparing for depositions and trial.

Mr. Lendez is a Certified Public Accountant, a Certified Fraud Examiner and Certified in Financial Forensics. Prior to BDO Consulting, he was a Partner in BDO's National Assurance Department and served as an Audit Manager at a Big Four accounting firm.

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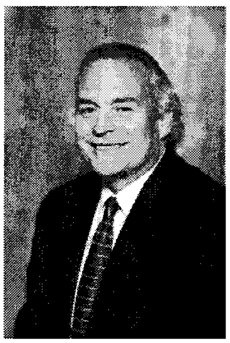

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EXPERIENCE SUMMARY

Lee M. Dewey is a Certified Public Accountant with over 35 years of public accounting experience assisting clients with financial statement audits, transactions, corporate investigations, securities litigation and regulatory enforcement matters. Mr. Dewey has significant experience testifying as an expert witness, as well as presenting to Boards of Directors on auditing topics, including Securities and Exchange Commission and internal investigation matters, perecived corporate misconduct and internal control violations.

Mr. Dewey has led numerous high-profile securities litigation engagements, including matters related to Enron, Countrywide and Big Four accounting firms. He has also led a number of significant corporate investigations involving employee embezzlement and financial reporting manipulation for Fortune 500 companies on diverse issues, including the application of generally accepted accounting principles, international tax matters and stock option backdating.

He consults and presents on international accounting matters and has led investigations involving alleged Foreign Corrupt Practices Act violations. Previously in his career, Mr. Dewey spent six years providing services in Europe. In addition, Mr. Dewey consults with clients on complex transactions, including business combinations, spin-offs and management buy-outs. Prior to BDO Consulting, he was a Partner in BDO's Assurance Practice.

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Kevin Hubbard leads BDO's Energy Industry Practice with 15 years of public accounting experience and extensive knowledge of exploration and production, oilfield service and equipment, as well as terminal and pipeline companies. Mr. Hubbard is well-versed on the economic conditions endemic to doing business offshore in the Gulf of Mexico and in the onshore Gulf Coast region of Texas and Louisiana. He also has a deep understanding of the beneficial impact that business activities in the Gulf of Mexico have upon the regional economy.

Managing the firm's Houston and Austin offices, Mr. Hubbard leads BDO's services for numerous clients active in the Gulf of Mexico. He has assisted numerous clients with initial public offerings (IPOs), secondary offerings and private placement offerings of debt and equity.

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Stephanie L. Giammarco leads the firm's Forensic Technology Services practice with over 17 years of experience and a background in accounting, information technology and criminology. Having worked on some of the largest financial frauds to date, she has led teams creating databases of millions of records, performed advanced data analytics and provided testimony pertaining to damages and electronically stored information.

Ms. Giammarco provides litigation and consulting services to organizations and their counsel, including data analytics, computer forensics and e-discovery services related to matters involving financial statement fraud, class action lawsuits, internal investigations, securities fraud, employee and vendor schemes and breach of contract. She is skilled in the collection, preservation and analysis of electronic evidence, as well as the implementation of various e-discovery tools.

She has been deposed as a Rule 30(b)6 e-discovery witness and testified before the Judicial Arbitration Services on the calculation of damages in a contract dispute. Ms. Giammarco has published and presented on a range of computer forensics and e-discovery topics, including before the Securities and Exchange Commission, Security Industry Authority and National Futures Association. She is a member of BDO's Women's Initiative Steering Committee.

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Brian J. Mich co-chairs the firm's U.S. Anti-Corruption Compliance & Investigations Practice, with over 25 years of experience as a consultant and prosecutor, investigating complex financial and white collar crimes, inlcuding fraud, embezzlement, money laundering and tax violations.

Formerly Senior Counsel to the Independent Inquiry Committee into the United Nations Oil-For-Food Programme in Iraq, Mr. Mich conducted investigations of alleged corruption and mismanagement, interfacing with prosecutorial, law enforcement and regulatory authorities from jurisdictions worldwide.

Mr. Mich has developed and implemented anti-corruption training programs and assisted counsel in conducting internal investigations, including those in response to inquiries by the Department of Justice and Securities and Exchange Commission. He has published and presented on a variety of topics related to the Foreign Corrupt Practices Act.

A former prosecutor, Mr. Mich served as an Assistant District Attorney in the Queens County and Kings County District Attorney's Offices. In Queens County, he served as Chief of the Economic and Environmental Crimes Bureau, the Organized Crime and Rackets Bureau and the Narcotics Investigations Bureau.

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Clark A. Schweers leads the firm's Insurance Claim Services practice with nearly 15 years of experience, including three years in the Gulf Coast region assisting clients with claims matters related to Hurricane Katrina, in the hospitality, retail, commercial and residential properties, seafood processing, consumer products and transportation sectors. He has also prepared and analyzed hundreds of insurance claims related to losses from catastrophic events, including the World Trade Center collapse, Hurricane Ike in 2008, the 2011 Japanese earthquake and the 2011 Thailand flooding.

Advising clients on complex property and business interruption claims for insured businesses, Mr. Schweers is experienced in assisting Fortune 1000 companies in preparing and analyzing complex insurance claims. He has also conducted extensive work on international losses, leading engagements encompassing more than $1 billion dollars in recoveries.

Prior to BDO Consulting, Mr. Schweers was a Senior Manager at Ernst & Young, where he advised clients on complex business interruption and property damage claims, construction damage and fraud investigation matters. A Certified Fraud Examiner, he has also assisted clients with fraud investigation matters involving alleged violations of the Foreign Corrupt Practices Act, as well as state and federal regulatory inquiries and Department of Justice investigations.

PROFESSIONAL AFFILIATIONS

American Bar Association - Associate Member
Association of Certified Fraud Examiners
Risk and Insurance Management Society - Associate Member

EDUCATION

Executive MBA Programs, Competitive Strategy, Kellogg School of Business, Northwestern University
B.S., Business Administration, University of Richmond

EXHIBIT D

Exhibit D

Individuals Interviewed

Key contacts are listed in bold.

	Entity	Name	Title
1	Feinberg Rozen LLP	**Camille S. Biros**	**Business Manager**
2		**Jackie E. Zins**	**Lead Senior Counsel and Consultant**
3	BrownGreer PLC	**Orran L. Brown**	**Partner**
4		William G. Atkinson	Partner
5		Roma Petkauskas	Partner
6		David E. Smith	Partner
7		Philip R. Strunk	Partner
8		Morgan M. Meador	Senior Counsel
9		William O. Quirey, Jr.	Senior Counsel
10		David D. Abbondanza	Counsel
11		Jessica M. Toone	Counsel
12		Heather Walczak	Counsel
13	GCG Inc.	**Karen B. Shaer**	**Senior Executive Vice President & General Counsel**
14		**Jennifer M. Keough**	**Executive Vice President & Chief Operating Officer**
15		Andrew Sommer	Senior Vice President, Systems & Technology
16		Shandarese Garr	Vice President & Managing Director, Strategic Initiatives
17		Lisa Buckser-Schulz	Vice President & Deputy General Counsel
18		Daniel J. Lane	Vice President, Audit & Compliance
19		Perry Carbone	Assistant Director, Operations
20	PricewaterhouseCoopers LLP	**Charles R. Hacker**	**Partner**
21	Cowheard & Associates	**David Cowheard**	**Litigation Services Principal**
22	Assurance Forensic Accounting CPAs, LLC	**Chad E. Thompson**	**Partner**
23	Worley Catastrophe Response	**Allen Carpenter**	**Chief Administrative Officer**
24		**Charlie Bilbe**	**Director – Environmental Division**
25	Guidepost Solutions LLC	**Kenneth Citarella**	**Managing Director, Investigations**
26		**Andrew J. O'Connell**	**Chief Executive Officer**
27	Block Law Firm	**Matthew F. Block**	**Attorney**
28	Hammerman & Gainer, Inc.	**Tim Temple**	**Chief Executive Officer**
29	Long Law Firm LLP	**C. Kris Kirkpatrick**	**Partner**
30	The Triton Group, P.C.	**Jim Walker**	**Principal**
31	ARPC	**Thomas Vasquez, PhD**	**Partner**

Prepared at the Request of
The U.S. Department of Justice

BDO also met with the following individuals at the site offices:

- **From Worley Catastrophe Response**
  32. Don Cannon
  33. Kevin Thibodeaux
  34. Patrick Levy
  35. Patrick Knight
  36. Carlo Pedalino
  37. Adam Dilley
  38. Tammi Bell
  39. Bryan Skeen

- **From the liaison firms**
  40. Jerald P. Block
  41. Joseph E. Juban
  42. Bruce Akler
  43. Tommy DePuy
  44. Ryan Kelly
  45. John Siros

EXHIBIT E

Exhibit E

Aud.
GCG

GCG

People. Power. Performance.

GCG GCCF Employee Count

(June 2010 - November 2011)

Date	Total GCG Employee Count
November 1, 2011	537
October 1, 2011	597
September 1, 2011	619
August 1, 2011	645
July 1, 2011	702
June 1, 2011	846
May 1, 2011	992
April 1, 2011	1,066
March 1, 2011	1,232
February 1, 2011	1,424
January 1, 2011	1,762
December 1, 2010	2,006
November 1, 2010	2,402
October 1, 2010	2,306
September 1, 2010	1,011
August 1, 2010	1,031
July 1, 2010	143
June 1, 2010	20

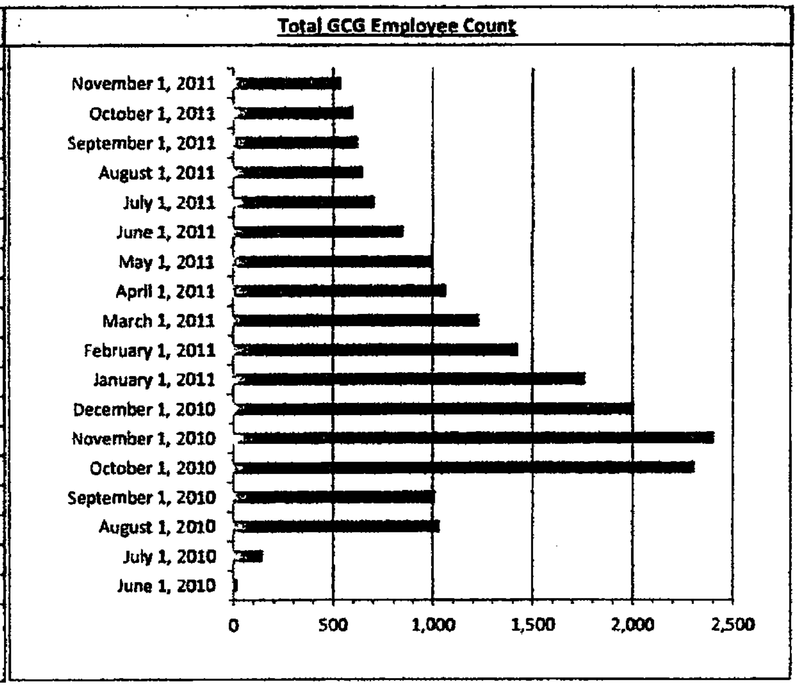

EXHIBIT F

Exhibit F

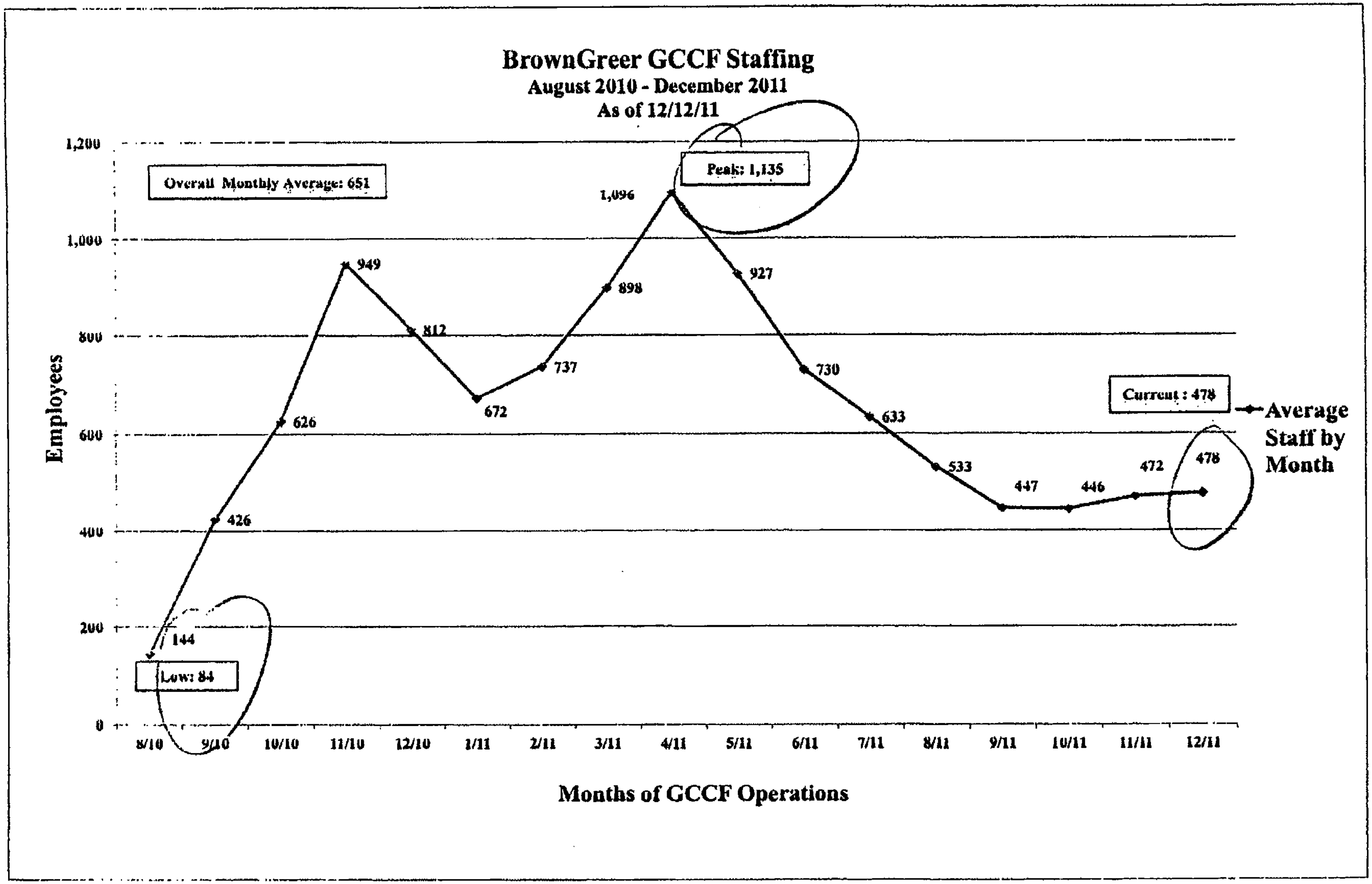
BrownGreer GCCF Staffing
August 2010 - December 2011
As of 12/12/11
Overall Monthly Average: 651
Peak: 1,135
Current : 478
Low: 84
Employees
1,200
1,000
800
600
400
200
0
144
426
626
949
812
672
737
898
1,096
927
730
633
533
447
446
472
478
8/10
9/10
10/10
11/10
12/10
1/11
2/11
3/11
4/11
5/11
6/11
7/11
8/11
9/11
10/11
11/11
12/11
Months of GCCF Operations
Average Staff by Month

EXHIBIT G

Exhibit G

GCCF STAFF 08-2010 THRU 01-2012

MONTH	PROJECT MANAGERS	MANAGERS	SUPERVISORS	EVALUATORS	CLERICAL	TECHS	TOTAL STAFF
Aug-10	5	65	63	1071	57	58	1319
Sep-10	5	60	45	837	54	56	1057
Oct-10	5	58	42	794	48	49	996
Nov-10	5	62	39	786	42	53	987
Dec-10	5	63	39	778	41	55	981
Jan-11	5	63	39	776	41	55	979
Feb-11	4	60	51	668	24	45	852
Mar-11	4	61	51	651	25	46	838
Apr-11	4	61	52	638	25	47	827
May-11	4	49	50	614	23	45	785
Jun-11	4	44	48	599	22	36	753
Jul-11	4	44	44	534	23	37	686
Aug-11	4	40	37	461	15	36	593
Sep-11	4	32	28	366	9	25	464
Oct-11	4	31	27	293	8	23	386
Nov-11	2	31	25	160	4	11	233
Dec-11	2	19	20	49	0	0	90
Jan-12	2	18	20	49	0	0	89

* Staffing Numbers are based on the employment records at the end of the listed month

*Additional Individuals work on the project but do not invoice (i.e. Allen Carpenter, Charlie Bilbe)

EXHIBIT H

Exhibit H

Number of PwC Staff Included on Bill by Month

Month & Year	Number of PwC Staff (1)
Aug-2010	11
Sep-2010	25
Oct-2010	24
Nov-2010	21
Dec-2010	23
Jan-2011	23
Feb-2011	32
Mar-2011	47
Apr-2011	51
May-2011	53
Jun-2011	58
Jul-2011	58
Aug-2011	61
Sep-2011	54
Oct-2011	57
Nov-2011	62
Dec-2011	57

(1) Represents the numer of PwC staff included on the monthly billings and does not necessarily represent full time equivalents.

EXHIBIT I

Exhibit I

COWHEARD & ASSOCIATES WEEKLY STAFF COUNT

Gulf Coast Claims Facility (GCCF)

Week Ended	GCCF Staff	Staff Invoiced
8/29/2010	37	28
9/5/2010	37	30
9/12/2010	37	29
9/19/2010	37	31
9/26/2010	37	30
10/3/2010	37	30
10/10/2010	37	27
10/17/2010	37	24
10/24/2010	37	24
10/31/2010	37	28
11/7/2010	37	28
11/14/2010	37	28
11/21/2010	37	28
11/28/2010	37	28
12/5/2010	37	29
12/12/2010	37	30
12/19/2010	37	29
12/26/2010	37	21
1/2/2011	37	19
1/9/2011	37	25
1/16/2011	37	27
1/23/2011	37	29
1/30/2011	37	30
2/6/2011	38	31
2/13/2011	38	37
2/20/2011	45	42
2/27/2011	46	44
3/6/2011	53	45
3/13/2011	54	49
3/20/2011	54	49
3/27/2011	54	52
4/3/2011	54	49
4/10/2011	57	49
4/17/2011	59	48
4/24/2011	59	50
5/1/2011	61	58

COWHEARD & ASSOCIATES WEEKLY STAFF COUNT

Gulf Coast Claims Facility (GCCF)

Week Ended	GCCF Staff	Staff Invoiced
5/8/2011	62	60
5/15/2011	63	61
5/22/2011	64	62
5/29/2011	66	60
6/5/2011	68	67
6/12/2011	68	64
6/19/2011	70	67
6/26/2011	71	68
7/3/2011	71	67
7/10/2011	71	64
7/17/2011	71	66
7/24/2011	71	67
7/31/2011	71	64
8/7/2011	71	64
8/14/2011	72	65
8/21/2011	72	66
8/28/2011	72	63
9/4/2011	72	66
9/11/2011	72	61
9/18/2011	72	63
9/25/2011	72	64
10/2/2011	72	60
10/9/2011	72	61
10/16/2011	72	61
10/23/2011	72	62
10/30/2011	72	66
11/6/2011	72	67
11/13/2011	72	71
11/20/2011	76	71
11/27/2011	76	66
12/4/2011	77	70
12/11/2011	77	72
12/18/2011	77	72
12/25/2011	77	69
1/1/2012	77	59
1/8/2012	77	70

COWHEARD & ASSOCIATES WEEKLY STAFF COUNT
Gulf Coast Claims Facility (GCCF)

Week Ended	GCCF Staff	Staff Invoiced
1/15/2012	78	72
1/22/2012	78	73

EXHIBIT J

Exhibit J

ASSURANCE FORENSIC ACCOUNTING
EMPLOYEES WORKING BY WEEK
GCCF PROJECT

Confidential

Week ended	Month	Employees working
8/30/2010	August-10	14.00
	August-10 Average	14.00
9/6/2010	September-10	12.00
9/13/2010	September-10	14.00
9/21/2010	September-10	17.00
9/27/2010	September-10	17.00
	September-10 Average	15.00
10/4/2010	October-10	15.00
10/11/2010	October-10	14.00
10/18/2010	October-10	14.00
10/25/2010	October-10	15.00
	October-10 Average	14.50
11/1/2010	November-10	15.00
11/8/2010	November-10	16.00
11/15/2010	November-10	16.00
11/22/2010	November-10	15.00
11/29/2010	November-10	16.00
	November-10 Average	15.60
12/6/2010	December-10	16.00
12/13/2010	December-10	17.00
12/20/2010	December-10	16.00
12/27/2010	December-10	14.00
	December-10 Average	15.75
1/3/2011	January-11	15.00
1/10/2011	January-11	19.00
1/17/2011	January-11	19.00
1/24/2011	January-11	19.00
1/31/2011	January-11	16.00
	January-11 Average	17.60
2/7/2011	February-11	20.00
2/14/2011	February-11	17.00
2/21/2011	February-11	16.00
2/28/2011	February-11	21.00
	February-11 Average	18.50
3/7/2011	March-11	21.00
3/14/2011	March-11	20.00
3/21/2011	March-11	18.00
3/28/2011	March-11	15.00
	March-11 Average	18.50
4/4/2011	April-11	18.00
4/11/2011	April-11	16.00

ASSURANCE FORENSIC ACCOUNTING
EMPLOYEES WORKING BY WEEK
GCCF PROJECT

Confidential

Week ended	Month	Employees working
4/18/2011	April-11	19.00
4/25/2011	April-11	21.00
	April-11 Average	18.50
5/2/2011	May-11	26.00
5/9/2011	May-11	25.00
5/16/2011	May-11	24.00
5/23/2011	May-11	23.00
5/30/2011	May-11	25.00
	May-11 Average	24.60
6/6/2011	June-11	25.00
6/13/2011	June-11	26.00
6/20/2011	June-11	24.00
6/27/2011	June-11	25.00
	June-11 Average	25.00
7/4/2011	July-11	25.00
7/11/2011	July-11	23.00
7/18/2011	July-11	23.00
7/25/2011	July-11	23.00
	July-11 Average	23.50
8/1/2011	August-11	20.00
8/8/2011	August-11	21.00
8/15/2011	August-11	24.00
8/22/2011	August-11	28.00
8/29/2011	August-11	26.00
	August-11 Average	23.80
9/5/2011	September-11	24.00
9/12/2011	September-11	25.00
9/19/2011	September-11	26.00
9/26/2011	September-11	26.00
	September-11 Average	25.25
10/3/2011	October-11	26.00
10/10/2011	October-11	23.00
10/17/2011	October-11	25.00
10/24/2011	October-11	26.00
10/31/2011	October-11	27.00
	October-11 Average	25.40
11/7/2011	November-11	27.00
11/14/2011	November-11	28.00
11/21/2011	November-11	24.00
11/28/2011	November-11	26.00
	November-11 Average	26.25

ASSURANCE FORENSIC ACCOUNTING
EMPLOYEES WORKING BY WEEK
GCCF PROJECT

Confidential

Week ended	Month	Employees working
12/5/2011	December-11	24.00
12/12/2011	December-11	27.00
12/19/2011	December-11	26.00
12/26/2011	December-11	24.00
	December-11 Average	25.25
1/2/2012	January-12	20.00
1/9/2012	January-12	25.00
1/16/2012	January-12	26.00
1/23/2012	January-12	26.00
	January-12 Average	24.25

NOTE: The above is based on the number of employees that worked by week. On any given week, there are people who are employed, but did not work due to vacations, sickness, normal rotations, etc. Such people are not included in the totals above.

EXHIBIT K

Exhibit K

From: Anthony Lendez
To: GCCF-CTG
Subject: FW: Guidepost Personnel..monthly staff count
Date: Saturday, January 28, 2012 11:31:07 AM

FYI

Anthony Lendez
Partner
212-885-8025 (Direct) 305-8025 (Internal)
631-921-5401 (Mobile) 212-697-1299 (Fax)
ALendez@bdo.com

BDO
100 Park Avenue
New York, NY 10017
UNITED STATES
212-885-8000
www.bdo.com

From: Camille Biros [mailto:CBiros@feinbergrozen.com]
Sent: Saturday, January 28, 2012 11:27 AM
To: Anthony Lendez
Subject: Fwd: Guidepost Personnel..monthly staff count

Tony,

See below summary From Guidepost

Here is our monthly personnel count. We used the larger number of individuals appearing in either of the two semi-monthly invoices to represent how many personnel were working for Guidepost in any capacity during that month.

Month	Staff
Aug 2010	12
Sept 2010	25
Oct 2010	52
Nov 2010	149
Dec 2010	166
Jan 2011	257
Feb 2011	225
Mar 2011	258
Apr 2011	226
May 2011	272
June 2011	291
July 2011	277
Aug 2011	186

Sept 2011	186
Oct 2011	170
Nov 2011	159
Dec 2011	148

Ken

EXHIBIT L

Exhibit L

Gulf Coast Claims Facility
Protocol for Emergency Advance Payments
August 23, 2010

I. PURPOSE

This Protocol sets forth the procedure for the submission and resolution by the Gulf Coast Claims Facility ("GCCF") of claims for Emergency Advance Payments by Individuals and Businesses for costs and damages incurred as a result of the oil discharges from the April 20, 2010 Deepwater Horizon incident ("the Spill").

A. Role

The United States Coast Guard ("USCG") has designated BP Exploration & Production, Inc. ("BP"), as a Responsible Party under the Oil Pollution Act of 1990 ("OPA") for oil discharges from the Deepwater Horizon facility. Under OPA, Responsible Parties must establish a claims process to receive certain claims by eligible claimants. USCG, without in any way relieving other Responsible Parties of liability, directed BP to maintain a single claims facility for all Responsible Parties to avoid confusion among potential claimants.

The GCCF is intended to replace BP's claims facility for individuals and businesses. The GCCF (and the protocols under which it operates) are structured to be compliant with OPA. A final claim may be presented to the GCCF at any time that the facility is receiving claims. Whether or not a claim has been presented shall be governed by OPA and applicable law. All open Individual and Business claims that have been filed with the BP Claims Process will be transferred to the GCCF. BP has also authorized the GCCF to process certain non-OPA claims involving personal injury. Submission of such claims shall be wholly voluntary and participation in the GCCF shall not affect any right that the claimant would have had absent such participation unless final resolution and settlement of the claim is achieved.

B. Approach

The following non-exclusive principles apply to the operation of the GCCF:

- The GCCF will evaluate all claims in a prompt and fair manner guided by applicable law.
- The establishment of the GCCF does not diminish any right of any individual or business that existed prior to the creation of the GCCF; claimants have all of the same rights with respect to their various claims that they had prior to the creation of the GCCF and shall not be forced to relinquish any rights for the opportunity to seek compensation through the GCCF.
- The GCCF claims process is structured to comply with OPA and apply the standards of OPA.

The GCCF is administered by Kenneth R. Feinberg ("the Claims Administrator"), a neutral fund administrator responsible for all decisions relating to the administration and processing of claims by the GCCF. This Protocol addresses only claims for Emergency Advance Payments; a subsequent Protocol will deal with all Final Claims. Under the Final Protocol, interim claims will be considered where appropriate.

II. ELIGIBILITY

Claimants who are experiencing hardship resulting from damages set forth below incurred due to the Spill may apply for an Emergency Advance Payment.

A. Removal and Clean Up Costs

1. Who may make a claim?

Any Individual or Business that incurred costs, as a result of the Spill for the removal of oil or to prevent, minimize, or mitigate oil pollution.

2. Required Proof

- The costs are for removal of oil discharged due to the Spill or that are to prevent, minimize or mitigate oil pollution from the Spill;
- The costs are reasonable and necessary; and
The actions taken to remove, prevent, minimize, or mitigate oil pollution were approved by the Federal On-Scene Coordinator or are otherwise proven to be consistent with the National Contingency Plan.

3. What information should the claimant submit?

- Information or documentation (e.g., bills) showing the costs incurred after the Spill for removal of oil discharged as a result of the Spill or incurred to prevent, minimize, or mitigate oil pollution from the Spill.
- Information or documentation explaining how the actions taken were necessary to prevent, minimize, or mitigate the effects of the Spill.
- Information or documentation showing that the actions taken were approved by the Federal On-Scene Coordinator or were consistent with the National Contingency Plan.
- Information or documentation explaining why the costs were reasonable.

B. Real or Personal Property

1. Who may make a claim?

Any Individual or Business that owns or leases real or personal property physically damaged or destroyed as a result of the Spill.

In order to avoid duplication of claims, an owner or lessee of the property must provide notice to all others with an ownership or lease interest in the property of the intent to file a claim. If duplicate claims are received, the GCCF will determine the appropriate claimant.

2. What information should the claimant submit?

- Information or documentation showing an ownership or leasehold interest in the property.
- Information or documentation showing the property was physically damaged or destroyed.
- Information or documentation showing the damages claimed were incurred as the result of the physical damage to or destruction of the property.
- Information or documentation showing the cost of repair or replacement of the property, or economic losses resulting from destruction of the property.
- Information or documentation showing the value of the property both before and after damage.

C. Lost Profits and Lost Earning Capacity

1. Who may make a claim?

An Individual or Business that incurred a loss in profits or earning capacity due to the injury, destruction, or loss of real property, personal property or natural resources as a result of the Spill. The individual or business need not be the owner of the injured property or resources to recover for lost profits or income.

2. What information should the claimant submit?

- Identification of injury, destruction, or loss to a specific property or natural resource.
- Information concerning Claimant's lost earnings or profits that were caused by the injury, destruction, or loss of specific property or natural resource as a result of the Spill (such as lost income by a fisherman whose fishing grounds have been closed or a hotel or rental property that has had decreased profits because beaches, swimming, or fishing areas have been affected by the oil from the Spill).
- Reduction of earnings or profits, or increase in expenses resulting from such damage.
- Amount of profits and earnings or expenses in comparable time periods.
- Income received from alternative employment or business during the period when the loss was suffered, and expenses incurred in generating the alternative income.
- Savings to overhead and other normal expenses not incurred as a result of the Spill.

D. Subsistence Use of Natural Resources

1. Who may make a claim?

   Any Individual who uses the natural resources that have been injured, destroyed or lost as a result of the Spill to obtain food, shelter, clothing, medicine, or other subsistence uses.

2. What information should be submitted?

   - Identification of the specific natural resources that have been injured, destroyed or lost as a result of the Spill for which compensation for loss of subsistence use is being claimed. The Claimant need not own the affected natural resource.
   - Description of the actual subsistence use made of each specific natural resource.
   - Description of how and to what extent the subsistence use was affected by the injury to or loss of each specific natural resource as a result of the Spill.
   - Description of expenditures made to replace or substitute for the subsistence use.

E. Physical Injury /Death

1. Who may make a claim?

A claim may be made by an injured individual or the representative of a deceased individual for a physical injury or death proximately caused by the Spill or the explosion and fire associated with the Deepwater Horizon incident, or by the clean-up of the Spill.

Submitting a physical injury or death claim to the GCCF is entirely voluntary. However, unlike claims under the Oil Pollution Act, claims for physical injury and death cannot be submitted to the National Pollution Funds Center.

2. What information should be submitted?

   - Medical records or death certificate demonstrating physical injury or death.
   - Medical records reflecting diagnosis by a medical practitioner.
   - Information concerning the cause of physical injury.
   - Information concerning the circumstances of the physical injury and the location where the physical injury occurred.
   - Information concerning any total or partial disability of the Claimant.
   - Records showing expenditures for medical care not otherwise compensated.

- Proof of lost income, if the Claimant seeks compensation for such lost income.

F. Causation

The GCCF will only pay for harm or damage that is proximately caused by the Spill. The GCCF's causation determinations of OPA claims will be guided by OPA and federal law interpreting OPA and the proximate cause doctrine. Determinations of non-OPA claims will be guided by applicable law. The GCCF will take into account, among other things, geographic proximity, nature of industry, and dependence upon injured natural resources. (1) (2) (3)

III. FILING FOR AN EMERGENCY ADVANCE PAYMENT

A. Equal Access and Fair Adjudications in the Claims Process

All potential claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. The GCCF shall strive to ensure that all claimants can equally access the GCCF process, and that claims will be adjudicated fairly. Individuals with disabilities will be able to effectively communicate their claims and problems to the GCCF. Individuals with language barriers will have meaningful access to the process and to the GCCF. Individuals with low literacy will have documents and forms explained to them plainly and in a simple manner they understand.

B. Claim Form

1. The Claimant will indicate on the Claim Form if the Claimant is applying for an Emergency Advance Payment.[1] Claimants will complete a Claim Form for an Individual or Business.

2. Claimants shall submit the documentation requested on the Claim Form for an Emergency Advance Payment or other similar information as is sufficient to substantiate the claim and for the GCCF to review and process the Claim.

C. Process for Filing a Claim for an Emergency Advance Payment

A Claim Form may be obtained and submitted in any one of the following ways:

1. Via the Internet – Claimants may submit a claim online by visiting the GCCF website: www.gulfcoastclaimsfacility.com. Claimants will be instructed to follow simple steps for completing a claim. Once completed, the claim will be automatically submitted to the GCCF Database, a printable confirmation notification will be generated and displayed immediately confirming submission and providing the Claim Number and a confirmation email will be sent

[1] A claim for an Emergency Advance Payment is an interim claim under OPA. To the extent that the claimant incurs additional compensable damages that are not reflected in the Emergency Advance Payment, receipt of an Emergency Advance Payment shall not preclude a claimant from seeking additional damages not reflected in the Emergency Advance Payment.

to those Claimants who have provided email addresses. The Claim Number will be the claim identifier throughout the process. The Claim Form and Instructions will be available in English, Spanish, Vietnamese and Khmer.

2. By Visiting a GCCF Claims Site Office – Claimants may visit one of the 36 Claims Site Offices established to assist Claimants with the claims submission process to (1) seek information about filing a claim or to (2) submit a claim in person. Claimants may either walk in to one of the Claims Site Offices or may make an appointment by calling the toll-free telephone line. The locations of the Claims Site Offices are posted on the GCCF website, www.gulfcoastclaimsfacility.com. If a visitor requires an interpreter and an interpreter is not available on site, the Claims Evaluator will make arrangements to provide these services either via conference call or a scheduled return trip to the Claims Site Office. A Claims Evaluator will assist the Claimant in completing the Claim Form. The Claims Evaluator will print a copy of the Claim Form, the claimant will sign the Claim Form and the claim will be automatically submitted to the GCCF Database. A confirmation of the claim submission and Claim Identification Number will be provided by the Claims Evaluator. The Claim Form must be signed by the Claimant.

3. Via U.S. Postal Service – Claimants may call the toll free, dedicated telephone line to request that a Claim Form be mailed via U.S. Postal Service. The Claims Operator will ask the caller to provide basic information which the Claims Operator will enter into the on-line system. The system will automatically generate a unique, pre-populated and bar-coded Claim Form which will include the identifying information provided by the caller. The Claim Form will contain a Claim Identification Number which will be the Claim identifier through the course of the process. The coded Claim Form will be mailed via U.S. Postal Service to the Claimant. The Claim Form must be signed by the Claimant. The Claimant may return the completed form via:

- U.S. Postal Service:
  Gulf Coast Claims Facility
  P. O. Box XXX
  Dublin, OH 43017-4958

- Overnight, Certified or Registered Mail:
  Gulf Coast Claims Facility
  5151 Blazer Parkway, Suite A
  Dublin, OH 43017-4958

- Fax:
  1 866 682-1772

- Email:
  info@gccf-claims.com.

- The toll-free telephone lines are as follows:

  - Toll Free Number: 1-800 916-4893
  - Multilingual Telephone Line: 1-800 916-4893
  - TTY Telephone Line: 1-866 682-1758

All submitted Claim Forms, regardless of the method of submission, will be automatically forwarded to the Central Processing Database and integrated into a comprehensive GCCF Database.

D. Appointment with a Claims Evaluator

The Claimant may request an appointment with a Claims Evaluator at the nearest Claims Site Office to answer or clarify issues regarding a claim for an Emergency Advance Payment. The Claims Evaluator will review the claim for completeness and eligibility and may contact the Claimant to request additional supporting documentation if necessary or if the Claims Evaluator has any questions about the information submitted with the Claim Form. Examples of information and documentation that support a claim are attached as Exhibit A.

E. Evaluation of Application for Emergency Advance Payment

1. Evaluation of an Emergency Advance Payment application will apply a less rigorous standard for required corroboration than evaluation of a claim for Final Payment. Documentation sufficient to establish the claim will be described in the Claim Form.

2. Each Emergency Advance Payment application will be evaluated preliminarily within 24 hours of receipt of the completed form and supporting documentation to determine whether an Emergency Advance Payment is appropriate based on the information submitted by the Claimant. Complex business claims submitted for an Emergency Advance Payment will be evaluated preliminarily within 7 days of receipt of the completed form and supporting documentation to determine whether an Emergency Advance Payment is appropriate based on the information submitted by the Claimant.

3. Upon a determination that the Claimant is eligible for an Emergency Advance Payment, a payment will be authorized within 24 hours.

F. Period for Application for Emergency Advance Payment

1. Emergency Advance Payment applications may be submitted on a monthly basis. Emergency Advance Payment applications for Lost Profits and Lost Earning Capacity, Loss of Subsistence Use of Natural Resources, or loss of income due to physical injury or death may be submitted either on a monthly basis or for six months of losses, at the option of the Claimant. Claimants seeking an Emergency Advance Payment on a six month basis must establish that they will incur loss for the six month period. To the extent possible, six month payments will be based on the seasonally adjusted lost income or lost profits, as applicable.

2. Emergency Advance Payment applications may be submitted during the period August 23 - November 23, 2010. After that date, applications for Emergency Advance Payments will no longer be accepted. Applications for Final Claims, and in appropriate circumstances applications for interim claims, will continue to be accepted pursuant to the Protocol for Final Claims.

G. Request or Receipt of Emergency Advance Payment Does Not Waive Any Rights

Claimants requesting an Emergency Advance Payment or receiving an Emergency Advance Payment will not be asked or required to sign a release or waive any rights to assert additional claims, to file an individual legal action, or to participate in other legal actions associated with the Spill.

H. Credit Against Final Payment

Any Emergency Advance Payment made to a Claimant will be deducted from any Final Payment of a Final Claim.

IV. REPORTING

The GCCF shall provide reports of non-personally identifiable information to state, local, and federal government officials and to BP to permit an evaluation of the claims process. The GCCF shall submit to interested parties, including BP, periodic reports regarding claims made and claims determinations.

V. PRIVACY

Information submitted by a Claimant to the GCCF will be used and disclosed for purposes of: (i) processing the Claimant's claim for compensation and any award resulting from that claim; (ii) legitimate business purposes associated with administering the GCCF, including the prevention of fraud and the determination of collateral source payments; and/or (iii) as otherwise required by law, regulation or judicial process.

VI. QUALITY CONTROL AND PROCEDURES TO PREVENT AND DETECT FRAUD

A. Review of claims

For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of accurate and appropriate payments to Claimants, the GCCF shall implement procedures to:

1. Verify and authenticate claims.

2. Analyze claim submissions to detect inconsistencies, irregularities, and duplication.

3. Ensure the quality control of claims review procedures.

B. Quality Control

1. The GCCF shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments.

2. The GCCF shall engage an independent outside accounting firm to perform an independent test of claims to ensure that the claims have been accurately processed.

C. False or Fraudulent Claims

Each Claimant will sign a form at the time of application, stating that he or she certifies that the information provided in the Claim Form is true and accurate to the best of his or her knowledge, and that he or she understands that false statements or claims made in connection with that application may result in fines, imprisonment, and/or any other remedy available by law, and that suspicious claims will be forwarded to federal, state, and local law enforcement agencies for possible investigation and prosecution. The GCCF shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

EXHIBIT M

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

GCCF	NOTICE OF DETERMINATION EMERGENCY ADVANCE PAYMENT	Payment Date(s) 09/20/2010

Individual Claimant:	[redacted]		
Claimant Identification Number:	[redacted]	Claim Number:	[redacted]
		Type of Claim:	Lost Profits & Lost Earning Capacity - Individual - Six Months

Calculation of Emergency Advance payment	Claimant Determined to be Eligible	Yes
	Damages Asserted and Verified by Claimant	$7,800.00
	Payment Amount	$7,800.00

The GCCF has calculated the amount of your Emergency Advance Payment according to the rules that apply uniformly to all claimants. The amount is an estimate of your projected losses and will not be changed or adjusted at this time. If you disagree with the outcome on your Emergency Payment claim, you can submit a claim for Final Payment and in that claim you will have the opportunity to present all your arguments and any materials that you feel support your position. All such issues will be considered when reviewing the amount of any Final Payment for all losses.

Exhibit M

EXHIBIT N

Exhibit N

[redacted]

November 18, 2010

Re: Claimant Identification Number: [redacted]

Dear Claimant:

You submitted a claim to the Gulf Coast Claims Facility ("GCCF") for an Emergency Advance Payment for damages relating to the Deepwater Horizon Incident on April 20, 2010 (the "Spill"). After review of your claim, we have determined that your claim does not meet the criteria established for Emergency Advance Payments from the GCCF.

Your claim was denied for the following reason(s):

The documents and information you submitted did not show any lost earnings or profits due to the Spill.

This decision is based on criteria that apply to all claimants seeking payments from the GCCF. This denial applies to your request for an Emergency Advance Payment and does not affect your right to submit a Final Claim for any damages or losses you have sustained. However, in preparing any Final Claim, you should review the reasons set forth above for the denial of your claim for an Emergency Advance Payment. If you have any questions about the denial of your claim, contact the GCCF toll-free at 1-800-916-4893 (you will be prompted for multilingual telephone assistance), or visit www.GulfCoastClaimsFacility.com. For TTY assistance call 1-866-682-1758. For more efficient service, have this notice and your GCCF Claimant Identification Number with you when you call.

Sincerely,
Administrator
Gulf Coast Claims Facility

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EXHIBIT O

Exhibit O

[redacted]

November 2, 2010

[redacted]

Re: GCCF Claimant Identification Number: [redacted]

Dear Claimant:

You submitted a Claim Form to the Gulf Coast Claims Facility ("GCCF") relating to the Deepwater Horizon Incident on April 20, 2010. Your claim is missing information that is necessary to complete the review of your claim. No further action can be taken on your claim until you complete the missing information and return this letter to the GCCF.

When we reviewed your claim, we did not have certain documents or information that we needed to be able to evaluate your claim. We cannot take further action on your claim until you provide us with the following:

Claim No: [redacted] Lost Profits & Lost Earning Capacity - Individual

LEP-I-3: Documents sufficient to determine the total gross amount the Claimant earned as wages or salary from May 1, 2010, until the present, or proof that the Claimant has earned no income during this time.

For your convenience, we have enclosed a postage pre-paid return envelope that you may use to submit your documentation. You may also submit documentation by online upload to www.GulfCoastClaimsFacility.com, by fax at 1-866-682-1772, by email at info@gccf-claims.com, or by visiting one of our Site Offices. (A list of those Site Offices is enclosed.) **Please make sure that you write your Claimant Identification Number (referenced above) and your Social Security Number or Taxpayer ID on each document you submit**. This is very important so that we can ensure that your documentation is properly attached to your Claim. Your documents must be received by the GCCF within 30 days of the date of this letter. If you are mailing the documents, please leave enough time for the GCCF to receive them by the deadline. If we do not receive your supporting documents within 30 days of the date of this letter, your claim for Emergency Advance Payment will be denied.

If you have already sent us these materials before you received this letter, then we did not get them in time to use them in our first review of your claim and you can disregard this request. We will review everything you have sent us and get back to you. But if you have not submitted these materials, send them in so we can act on your claim.

If you have questions about anything contained in this letter, contact the GCCF toll free at 1-800-916-4893 (you will be prompted for multilingual telephone assistance), email at info@gccf-claims.com or visit www.GulfCoastClaimsFacility.com. For TTY assistance call 1-866-682-1758.

Sincerely,
Administrator
Gulf Coast Claims Facility

EXHIBIT P

Exhibit P

November 22, 2010

GULF COAST CLAIMS FACILITY PROTOCOL FOR INTERIM AND FINAL CLAIMS

I. PURPOSE

This Protocol sets forth the procedure for the submission and resolution by the Gulf Coast Claims Facility ("GCCF") of Interim and Final Claims by Individuals and Businesses for costs and damages incurred as a result of the oil discharges from the April 20, 2010 Deepwater Horizon incident ("the Spill"). Claims for Emergency Advance Payments are governed by a separate protocol.

A. Role

The United States Coast Guard ("USCG") has designated BP Exploration & Production, Inc. ("BP") as a Responsible Party under the Oil Pollution Act of 1990 ("OPA") for oil discharges from the Deepwater Horizon facility. Under OPA, Responsible Parties must establish a claims process to receive certain claims by eligible claimants. BP accepted the USCG designation as a Responsible Party and established and advertised a single claims facility for all claimants.

The GCCF is intended to replace BP's claims facility for Individuals and Businesses. The GCCF (and the protocols under which it operates) are structured to be compliant with OPA. Whether or not a claim has been presented shall be governed by OPA and applicable law. All documentation submitted by Individuals or Businesses in support of claims filed with the BP Claims Process have been transferred to the GCCF. BP has also authorized the GCCF to process certain non-OPA claims involving physical injury or death. Acceptance of payments offered pursuant to this Protocol shall be wholly voluntary, and participation in the GCCF shall not affect any right that the Claimant would have had absent such participation unless final resolution of the claim is achieved.

B. Approach

The following non-exclusive principles apply to the operation of the GCCF:

- The GCCF will evaluate all claims in a prompt and fair manner guided by applicable law.

- The establishment of the GCCF does not diminish any right of any Individual or Business that existed prior to the creation of the GCCF; Claimants have all of the same rights with respect to their various claims that they had prior to the creation of the GCCF and shall not be forced to relinquish any rights for the opportunity to seek compensation through the GCCF, provided that acceptance of a Final Payment will require the execution of a release of liability, as discussed below.

- The GCCF claims process is structured to comply with OPA and apply the standards of OPA.

- Under OPA a claimant must file a claim with BP or the GCCF for OPA damages prior to seeking payment from the National Pollution Fund Center or commencing an action in court.

The GCCF is administered by Kenneth R. Feinberg ("the Claims Administrator"), a neutral fund administrator responsible for all decisions relating to the administration and processing of claims by the GCCF. While the GCCF is an independent facility, it is important that the views of all stakeholders be considered. All stakeholders, including claimants, government entities, and BP, may provide input and comments regarding the GCCF process.

II. ELIGIBILITY

A. Removal and Clean Up Costs

1. Who may make a claim?

Any Individual[1] or Business that incurred costs, as a result of the Spill for the removal of oil or to prevent, minimize, or mitigate oil pollution.

2. Required Proof

- The actions taken were necessary for removal of oil discharged due to the Spill or to prevent, minimize, or mitigate oil pollution from the Spill;

- The removal costs incurred as a result of these actions are reasonable and necessary; and

- The actions taken to remove, prevent, minimize, or mitigate oil pollution were directed or approved by the Federal On-Scene Coordinator or are otherwise determined to be consistent with the National Contingency Plan.

3. What information should the Claimant submit?

- Information or documentation (e.g., bills) showing the costs incurred after the Spill for removal of oil discharged as a result of the Spill or incurred after the Spill to prevent, minimize, or mitigate oil pollution from the Spill.

- Information or documentation explaining how the actions taken to remove oil discharged as a result of the Spill were necessary to prevent, minimize, or mitigate the effects of the Spill.

- Information or documentation showing that the actions taken were approved by the Federal On-Scene Coordinator or were consistent with the National Contingency Plan.

[1] For purposes of this Protocol, the term "Individual" includes the representative of a minor or incompetent individual.

- Information or documentation explaining why the costs were reasonable.

B. Real or Personal Property

1. Who may make a claim?

Any Individual or Business that owns or leases real or personal property physically damaged or destroyed as a result of the Spill.

In order to avoid duplication of claims, an owner or lessee of the property must provide notice to all others with an ownership or lease interest in the property of the intent to file a claim. If duplicate claims are received, the GCCF will determine the appropriate claimant or claimants and their appropriate shares.

2. What information should the Claimant submit?

- Information or documentation showing an ownership or leasehold interest in the property.
- Information or documentation showing the property was physically damaged or destroyed.
- Information or documentation showing the damages claimed were incurred as the result of the physical damage to or destruction of the property.
- Information or documentation showing the cost of repair or replacement of the property, or economic losses resulting from destruction of the property.
- Information or documentation showing the value of the property both before and after damage.

C. Lost Profits and Lost Earning Capacity

1. Who may make a claim?

An Individual or Business that incurred a loss in profits or earning capacity due to the injury, destruction, or loss of real property, personal property or natural resources as a result of the Spill. The Individual or Business need not be the owner of the injured property or resources to recover for lost profits or earnings.

2. What information should the Claimant submit?

- Identification of injury, destruction, or loss to a specific property or natural resource.
- Information concerning the Claimant's lost profits or earnings that were caused by the injury, destruction, or loss of specific property or natural resource as a result of the Spill (such as lost earnings by a fisherman whose fishing grounds have been closed or a hotel

or rental property that has had decreased profits because beaches, swimming, or fishing areas have been affected by the oil from the Spill).

- Reduction of earnings or profits, or increase in expenses resulting from such damage.

- Amount of profits and earnings or expenses in comparable time periods.

- Earnings received from alternative employment or business during the period when the loss was suffered, and expenses incurred in generating the alternative earnings.

- Savings to overhead and other normal expenses not incurred as a result of the Spill.

D. Subsistence Use of Natural Resources

1. Who may make a claim?

Any Individual who uses the natural resources that have been injured, destroyed, or lost as a result of the Spill to obtain food, shelter, clothing, medicine, or other subsistence use.

2. What information should the Claimant submit?

- Identification of the specific natural resources that have been injured, destroyed or lost as a result of the Spill for which compensation for loss of subsistence use is being claimed. The Claimant need not own the affected natural resource.

- Description of the actual subsistence use made of each specific natural resource.

- Description of how and to what extent the subsistence use was affected by the injury to or loss of each specific natural resource as a result of the Spill.

- Description of expenditures made to replace or substitute for the subsistence use including any documentation verifying such expenditures.

E. Physical Injury or Death

1. Who may make a claim?

A claim may be made by an injured Individual or the representative of a deceased Individual for economic and non-economic damages for a physical injury or death proximately caused by the Spill or the explosion and fire associated with the Deepwater Horizon incident, or by the clean-up of the Spill.

Submitting a physical injury or death claim to the GCCF is entirely voluntary; a Claimant is not required to submit their physical injury or death claim to the GCCF in order to obtain a Final Payment for Removal and Clean up Costs, Real or Personal Property Damage, Lost Profits and Lost Earning Capacity, or Subsistence Use. However, unlike claims under the Oil Pollution Act, claims for physical injury or death cannot be submitted to the National Pollution Funds Center.

2. What information should the Claimant submit?

- Medical records or death certificate demonstrating physical injury or death.
- Medical records reflecting diagnosis by a medical practitioner.
- Information concerning the cause of physical injury or death.
- Information concerning the circumstances of the physical injury or death and the location where the physical injury or death occurred.
- Information concerning any total or partial disability of the Claimant.
- Records showing expenditures for medical care.
- Proof of lost income, if the Claimant seeks compensation for such lost income.
- Information and documentation regarding health care insurance or disability insurance.

F. Costs of Estimating Damages Claimed

Damages for claims for Removal and Clean Up Costs, Damage to Real or Personal Property, Lost Profits and Lost Earning Capacity, and Subsistence Use of Natural Resources, include the reasonable cost of estimating the damages claimed, but not attorney's fees or other administrative costs associated with preparation of the claim.

G. Causation

The GCCF will only pay for harm or damage that is proximately caused by the Spill. The GCCF's causation determinations of OPA claims will be guided by OPA and federal law interpreting OPA. Determinations of physical injury and death claims will be guided by applicable law.

III. FILING FOR COMPENSATION

A. Equal Access and Fair Adjudications in the Claims Process

All potential Claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. The GCCF shall strive to ensure that all Claimants can equally access the GCCF process, and that claims will be adjudicated fairly. Individuals with disabilities will be able to effectively communicate their claims and problems to the GCCF. Individuals with language barriers will have meaningful access to the process and to the GCCF. Individuals with low literacy will have documents and forms explained to them plainly and in a simple manner they understand.

B. Claim Form

1. The Claimant will fill out a Claim Form for an Interim Claim or a Final Claim.

2. Claimants shall submit the documentation requested on the Interim or Final Claim Form or other similar information sufficient both to substantiate the claim and for the GCCF to review and process the Interim or Final Claim.

3. Legal Representatives of decedents, minors, incompetent or legally incapacitated persons may file on behalf of such claimants but will be required to show proof that the legal representative has been duly appointed.

C. Process for Filing a Claim

An Interim or Final Claim Form may be obtained and submitted in any one of the following ways:

1. Via the Internet – Claimants may submit an Interim or Final Claim online by visiting the GCCF website: www.gulfcoastclaimsfacility.com. Claimants will be instructed to follow simple steps for completing an Interim or Final Claim Form. Interim and Final Claim Forms and Instructions will be available in English, Spanish, Vietnamese and Khmer. Claimants who have previously filed a claim for an Emergency Advance Payment will not be required to resubmit previously submitted documentation, but will be required to submit additional documentation necessary to substantiate the Interim or Final Claim. A Claim Form submitted via the Internet will require the electronic signature of the Claimant.

2. By Visiting a GCCF Claims Site Office – Claimants may visit one of the 35 Claims Site Offices established to assist Claimants with the claims submission process. The locations of the Claims Site Offices are posted on the GCCF website, www.gulfcoastclaimsfacility.com. If a visitor requires an interpreter and an interpreter is not available on site, the Claims Evaluator will make arrangements to provide these services either via conference call or a scheduled return trip to the Claims Site Office. A Claims Evaluator will assist the Claimant in completing an Interim or Final Claim Form. The Claimant will not be required to resubmit previously submitted documentation but will only be required to submit additional documentation necessary to substantiate the Interim or Final Claim. The Claim Form must be signed by the Claimant.

3. Via U.S. Postal Service – Claimants may call the toll free, dedicated telephone line to request that an Interim or Final Claim Form be mailed via U.S. Postal Service. The Interim or Final Claim Form will be mailed via U.S. Postal Service to the Claimant. The Claimant will not be required to resubmit previously submitted documentation but will only be required to submit additional documentation necessary to substantiate the Interim or Final Claim. The Claim Form must be signed by the Claimant. The Claimant may return the completed form via:

   - U.S. Postal Service:
     Gulf Coast Claims Facility
     P. O. Box 9658
     Dublin, OH 43017-4958

   - Overnight, Certified or Registered Mail:
     Gulf Coast Claims Facility
     5151 Blazer Parkway, Suite A

Dublin, OH 43017-4958

- Fax:
  1-866 682-1772

- Email:
  info@gccf-claims.com

- The toll-free telephone lines are as follows:

  - Toll Free Number: 1-800 916-4893
  - Multilingual Telephone Line: 1-800 916-4893
  - TTY Telephone Line: 1-866 682-1758

All submitted Claim Forms, regardless of the method of submission, will be automatically forwarded to the Central Processing Database and integrated into a comprehensive GCCF Database.

IV. APPLICATIONS FOR PAYMENT

Claimants have the option of submitting a claim for an Interim Payment or a Final Payment.

A. Applications for Interim Payment

An Interim Payment covers only substantiated, past damages. An Interim Payment does not cover any future damages.

The following principles will apply to claims for an Interim Payment:

- In order to receive an Interim Payment, a Claimant shall not be required to execute a release or waive any rights to assert additional claims, to file an individual legal action, or to participate in other legal actions associated with the Spill.

- A Claimant who seeks an Interim Payment may make a subsequent claim for an additional Interim Payment or a Final Payment.

- An Interim Claim may not be submitted more frequently than once per quarterly period, unless the Claimant is able to demonstrate the presence of exigent circumstances, in which case an Interim Claim may be submitted more than once per quarterly period. An Interim Claim for the first quarterly period may be submitted up to and including December 31. An Interim Claim for the second quarterly period may be submitted up to and including March 31. An Interim Claim for the third quarterly period may be submitted up to and including June 30. An Interim Claim for the fourth quarterly period may be submitted up to and including September 30.

- When evaluating an Interim Claim, the GCCF will take into account and offset prior payments by BP, the GCCF, and collateral sources.

- In the event that the Claimant has submitted an eligible, substantiated claim, the GCCF will provide the Claimant with a payment determination for both an Interim Payment and Final Payment so that the Claimant can select which form of payment the Claimant desires.

- If the Claimant elects to receive an Interim Payment, should the Claimant make a subsequent claim for a Final Payment, GCCF's valuation of the Final Payment may change to reflect additional information and less uncertainty regarding damages.

- Any Interim Payment or Emergency Advance Payment made to a Claimant will be deducted from that Claimant's Final Payment.

B. Applications for Final Payment

By applying for a Final Payment, an applicant is seeking to resolve all claims including any claims for future damages resulting from the Spill. A Final Payment constitutes a complete and final resolution of all claims for any past, current, or future losses that a Claimant has or may have with regard to the Deepwater Horizon incident and oil spill against BP and all other potentially liable parties, except as otherwise noted in paragraph V.C. of this Protocol. Accepting a Final Payment requires the Claimant to sign a release of past and future claims. The Release is attached to this Protocol as Tab A. In determining the Final Payment, the GCCF will take into account and offset prior payments by BP, the GCCF, and collateral sources.

V. REVIEW PROCEDURES

A. Determination of Claims

1. After an Interim Claim or a Final Claim is presented, the GCCF shall determine within 90 days whether to make a payment to the Claimant and if so the amount of such payment.

2. Determinations of claims asserted under OPA will be guided by OPA. Determinations of physical injury or death claims will be guided, as applicable, by other federal law and pertinent state law.

3. If the GCCF determines that more information is necessary in order to resolve a claim, it will advise the Claimant promptly.

B. Notification of GCCF Decision

The Claimant will be sent in writing: (1) the GCCF's decision regarding the claim, including the reason for any denial, reduction or increase to the claimed amount; (2) the amount of the determined compensation; and (3) in the case of an eligible claim for Final Payment, a Release to be signed by the Claimant. Offers of Final Payment shall be valid for 90 days, after which they are null and void.

C. Acceptance of Final Payment

Claimant acceptance of a Final Payment is voluntary. Claimants who accept a Final Payment must sign a Release. A copy of the main Release is attached as Tab A. The Release will waive any rights the Claimant may have against BP and any other potentially liable parties to assert additional claims, to file an individual legal action, to participate in other legal actions associated with the Spill, or to submit any claim for payment by the National Pollution Funds Center. However, except where the Claimant accepts a Final Payment for physical injury or death, the Release will not waive the Claimant's rights with regard to a physical injury or death claim. If the Claimant elects to accept a Final Payment for a claim for physical injury or death, the Claimant will return to the GCCF a Release specifically waiving the Claimant's rights with regard to the Claimant's physical injury or death claim.

D. Rejection of Interim or Final Payment Determination

A Claimant may elect to reject an Interim or Final Payment determination and, as permitted by law, either present the claim to the National Pollution Funds Center or commence an action in court. A claim for physical injury or death is not a claim under OPA and therefore cannot be submitted to the National Pollution Funds Center.

E. Denial of Interim or Final Claim

If an Interim or Final Claim is denied, the Claimant may, as permitted by law, either present the claim to the National Pollution Funds Center or commence an action in court.

F. Payment of Final Claims

Within 14 days of the receipt of the signed Release, the GCCF will issue payment to the Claimant.

G. Collateral Source Compensation

The amount of compensation will be reduced by collateral source compensation that the Claimant has received due to the Spill where such collateral source compensation would be duplicative of payments by the GCCF. [2]

1. Payments that constitute collateral source compensation.

    - Collateral source compensation includes, but is not limited to, insurance payments including health insurance payments, and payments by federal, state, or local governments related to the Spill, including unemployment benefits.

2. Payments that do not constitute collateral source compensation.

    - Charitable donations and the value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing distributed to the Claimant.

VI. APPEAL PROCEDURES

[2] The offset of collateral source compensation will be used to prevent duplicative payments to a Claimant. The rights, if any, of the entity that made the initial payment to the claimant will be determined by the applicable law.

A. No Waiver of Rights

Appeal by a Claimant or BP of a Final Payment determination under this section is voluntary. Such appeal shall not waive any rights the Claimant has under OPA or other applicable law.

B. The Right to Appeal Pursuant to this Protocol

1. The Claimant may appeal a Final Claim determination of the GCCF if a total monetary award (including any Emergency, Interim or Final Payment made by BP or the GCCF) is in excess of $250,000. BP may appeal a Final Claim Determination of the GCCF if a total monetary award (including any Emergency, Interim or Final Payment made by BP or the GCCF) is in excess of $500,000.

2. If either the claimant or BP asserts that the Final Claim : a) presents an issue of first impression under OPA; or b) that the determination of the GCCF is inconsistent with prior legal precedent under OPA and that the Final Claim is likely to be representative of a larger category of claims to be considered by the GCCF, then a right to appeal may be granted by the Claims Administrator in his sole discretion.

C. Timing of Filing of Appeal

Any appeal pursuant to this Section must be made within fourteen (14) days of notification of the GCCF's determination of the Final Claim.

D. Selection of Appeals Judges

1. The Claims Administrator shall select one distinguished member of the legal profession (*e.g.,* a retired federal or state judge, respected legal academic, professional mediator or arbitrator) who will identify distinguished members of the legal community (*e.g.,* retired federal or state judges, respected legal academics, professional mediators or arbitrators) to serve as impartial GCCF Appeals Judges.

2. When an appeal is certified, the Claims Administrator will assign the appeal to a panel of three approved GCCF Appeals Judges for decision.

E. Claim File

For any claim that is appealed by a Claimant, the Claimant will approve disclosure of the complete claim file to both BP and the assigned Panel of Appeals Judges. For any claim that is appealed by BP, the Claims Administrator will release only such information from the claim file as is necessary for BP to evaluate the decision and a decision by the Panel of Appeals Judges.

F. Timing of Appeal Decision

The Panel of Appeals Judges will decide the appeal within fourteen (14) days after receiving the claim file.

G. Applicable Law Governing Appeals

Appeals of claims asserted under OPA will be guided by OPA. Appeals of non-OPA claims (physical injury or death) will be guided by applicable federal and state law.

H. Tolling Period

Once an appeal commences, a Claimant may not file a claim against the Oil Spill Liability Fund, or file a claim in court, until the appeal pursuant to this Section is either decided or withdrawn.

I. Impact of the Appeal Decision

Any decision of the Panel of Appeals Judges shall be deemed final as to BP only. If the Claimant does not agree with the decision of the Panel of Appeals Judges, the Claimant may reject the GCCF determination and pursue a claim in the courts or as otherwise permitted under OPA.

VII. REPORTING

The GCCF shall provide reports of non-personally identifiable information to state, local, and federal government officials and to BP to permit an evaluation of the claims process. The GCCF shall submit to interested parties, including BP, periodic reports of non-personally identifiable information regarding claims made and claims determinations.

VIII. PERIOD FOR SUBMISSION OF CLAIMS

Claims for an Emergency Advance Payment will not be accepted after November 23, 2010. Claims for an Interim or Final Payment may be submitted to the GCCF through August 23, 2013. After that date, BP will continue to receive claims as required by OPA; under OPA, any action in court to recover damages must be filed within three (3) years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care. The time limitations do not begin to run against: (1) a minor until the earlier of the date when the minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor; or (2) an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for the incompetent. Claimants should be aware of this limitation period in determining whether to present their claims to GCCF or BP.

IX. PRIVACY

Information submitted by a Claimant to the GCCF will be used and disclosed for purposes of: (1) processing the Claimant's claim for compensation and any award resulting from that claim; (2) legitimate business purposes associated with administering the GCCF, including the prevention of fraud and the determination of collateral source payments; and/or (3) as otherwise required by law, regulation or judicial process.

X. QUALITY CONTROL AND PROCEDURES TO PREVENT AND DETECT FRAUD

A. Review of Claims

For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of accurate and appropriate payments to Claimants, the GCCF shall implement procedures to:

1. Verify and authenticate claims.

2. Analyze claim submissions to detect inconsistencies, irregularities, and duplication.

3. Ensure the quality control of claims review procedures.

B. Quality Control

The GCCF shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments.

C. False or Fraudulent Claims

Each Claimant will sign an Interim or Final Claim Form at the time of application, stating that he or she certifies that the information provided in the Claim Form is true and accurate to the best of his or her knowledge, and that he or she understands that false statements or claims made in connection with that application may result in fines, imprisonment, and/or any other remedy available by law, and that suspicious claims will be forwarded to federal, state, and local law enforcement agencies for possible investigation and prosecution. Claims filed via the Internet will require an electronic signature which shall be equally as binding upon the Claimant as a physical signature. The GCCF shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

EXHIBIT Q

Exhibit Q

- En Español
- □□□□□□□□□□□□□□□□□□
- Bằng Tiếng Việt

Gulf Coast Claims Facility Protocol for Interim and Final Claims February 8, 2011

I. PURPOSE

This Protocol sets forth the procedure for the submission and resolution by the Gulf Coast Claims Facility ("GCCF") of Interim and Final Claims by Individuals and Businesses for costs and damages incurred as a result of the oil discharges from the April 20, 2010 Deepwater Horizon incident ("the Spill"). Claims for Emergency Advance Payments are governed by a separate protocol.

A. Role

The United States Coast Guard ("USCG") has designated BP Exploration & Production, Inc. ("BP") as a Responsible Party under the Oil Pollution Act of 1990 ("OPA") for oil discharges from the Deepwater Horizon facility. Under OPA, Responsible Parties must establish a claims process to receive certain claims by eligible claimants. BP accepted the USCG designation as a Responsible Party and established and advertised a single claims facility for all claimants.

The GCCF is intended to replace BP's claims facility for Individuals and Businesses. The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP in fulfilling BP's statutory obligations as a "responsible party" under OPA. The GCCF (and the protocols under which it operates) are structured to be compliant with OPA.

Whether or not a claim has been presented shall be governed by OPA and applicable law. All documentation submitted by Individuals or Businesses in support of claims filed with the BP Claims Process have been transferred to the GCCF. BP has also authorized the GCCF to process certain non-OPA claims involving physical injury or death. Acceptance of payments offered pursuant to this Protocol shall be wholly voluntary, and participation in the GCCF shall not affect any right that the Claimant would have had absent such participation unless final resolution of the claim is achieved.

B. Approach

The following non-exclusive principles apply to the operation of the GCCF:

- The GCCF will evaluate all claims in a prompt and fair manner guided by applicable law.
- The establishment of the GCCF does not diminish any right of any Individual or Business that existed prior to the creation of the GCCF; Claimants have all of the same rights with respect to their various claims that they had prior to the creation of the GCCF and shall not be forced to relinquish any rights for the opportunity to seek compensation through the GCCF, provided that

acceptance of a Final Payment will require the execution of a release of liability, as discussed below.

- A claimant has the right to consult with an attorney of his or her choosing prior to accepting any settlement or signing a release of legal rights. The GCCF provides access to free legal assistance, paid for by BP, from lawyers who exercise their independent professional judgment on behalf of claimants.
- The GCCF claims process is structured to comply with OPA and apply the standards of OPA.
- Under OPA a claimant must file a claim with BP or the GCCF for OPA damages prior to seeking payment from the National Pollution Fund Center or commencing an action in court.

The GCCF considers the views of all stakeholders. All stakeholders, including claimants, government entities, and BP, may provide input and comments regarding the GCCF process.

II. ELIGIBILITY

A. Removal and Clean Up Costs

1. Who may make a claim?

   Any Individual[1] or Business that incurred costs, as a result of the Spill for the removal of oil or to prevent, minimize, or mitigate oil pollution.

2. Required Proof

- The actions taken were necessary for removal of oil discharged due to the Spill or to prevent, minimize, or mitigate oil pollution from the Spill;
- The removal costs incurred as a result of these actions are reasonable and necessary; and
- The actions taken to remove, prevent, minimize, or mitigate oil pollution were directed or approved by the Federal On-Scene Coordinator or are otherwise determined to be consistent with the National Contingency Plan.

3. What information should the Claimant submit?

- Information or documentation (e.g., bills) showing the costs incurred after the Spill for removal of oil discharged as a result of the Spill or incurred after the Spill to prevent, minimize, or mitigate oil pollution from the Spill.
- Information or documentation explaining how the actions taken to remove oil discharged as a result of the Spill were necessary to prevent, minimize, or mitigate the effects of the Spill
- Information or documentation showing that the actions taken were approved by the Federal On-Scene Coordinator or were consistent with the National Contingency Plan.
- Information or documentation explaining why the costs were reasonable.

B. Real or Personal Property

1. Who may make a claim?

   Any Individual or Business that owns or leases real or personal property physically damaged or destroyed as a result of the Spill.

In order to avoid duplication of claims, an owner or lessee of the property must provide notice to all others with an ownership or lease interest in the property of the intent to file a claim. If duplicate claims are received, the GCCF will determine the appropriate claimant or claimants and their appropriate shares.

2. What information should the Claimant submit?

- Information or documentation showing an ownership or leasehold interest in the property.
- Information or documentation showing the property was physically damaged or destroyed.
- Information or documentation showing the damages claimed were incurred as the result of the physical damage to or destruction of the property.
- Information or documentation showing the cost of repair or replacement of the property, or economic losses resulting from destruction of the property.
- Information or documentation showing the value of the property both before and after damage.

C. Lost Profits and Lost Earning Capacity

1. Who may make a claim?

An Individual or Business that incurred a loss in profits or earning capacity due to the injury, destruction, or loss of real property, personal property or natural resources as a result of the Spill. The Individual or Business need not be the owner of the injured property or resources to recover for lost profits or earnings. An Individual or Business that incurred a loss in profits or earning capacity due to the injury, destruction, or loss of real property, personal property or natural resources as a result of the Spill. The Individual or Business need not be the owner of the injured property or resources to recover for lost profits or earnings.

2. What information should the Claimant submit?

- Identification of injury, destruction, or loss to a specific property or natural resource.
- Information concerning the Claimant's lost profits or earnings that were caused by the injury, destruction, or loss of specific property or natural resource as a result of the Spill (such as lost earnings by a fisherman whose fishing grounds have been closed or a hotel or rental property that has had decreased profits because beaches, swimming, or fishing areas have been affected by the oil from the Spill).
- Reduction of earnings or profits, or increase in expenses resulting from such damage.
- Amount of profits and earnings or expenses in comparable time periods.
- Earnings received from alternative employment or business during the period when the loss was suffered, and expenses incurred in generating the alternative earnings.
- Savings to overhead and other normal expenses not incurred as a result of the Spill.

D. Subsistence Use of Natural Resources

1. Who may make a claim?

Any Individual who uses the natural resources that have been injured, destroyed, or lost as a result of the Spill to obtain food, shelter, clothing, medicine, or other subsistence use. Any Individual who uses the natural resources that have been injured, destroyed, or lost as a result of the Spill to obtain food, shelter, clothing, medicine, or other subsistence use.

2. What information should the Claimant submit?

- Identification of the specific natural resources that have been injured, destroyed or lost as a result of the Spill for which compensation for loss of subsistence use is being claimed. The Claimant need not own the affected natural resource.
- Description of the actual subsistence use made of each specific natural resource.
- Description of how and to what extent the subsistence use was affected by the injury to or loss of each specific natural resource as a result of the Spill.
- Description of expenditures made to replace or substitute for the subsistence use including any documentation verifying such expenditures.

E. Physical Injury or Death

1. Who may make a claim?

A claim may be made by an injured Individual or the representative of a deceased Individual for economic and non-economic damages for a physical injury or death proximately caused by the Spill or the explosion and fire associated with the Deepwater Horizon incident, or by the clean-up of the Spill.

Submitting a physical injury or death claim to the GCCF is entirely voluntary; a Claimant is not required to submit their physical injury or death claim to the GCCF in order to obtain a Final Payment for Removal and Clean up Costs, Real or Personal Property Damage, Lost Profits and Lost Earning Capacity, or Subsistence Use of Natural Resources. However, unlike claims under the Oil Pollution Act, claims for physical injury or death cannot be submitted to the National Pollution Funds Center.

2. What information should the Claimant submit?

- Medical records or death certificate demonstrating physical injury or death.
- Medical records reflecting diagnosis by a medical practitioner.
- Information concerning the cause of physical injury or death.
- Information concerning the circumstances of the physical injury or death and the location where the physical injury or death occurred.
- Information concerning any total or partial disability of the Claimant.
- Records showing expenditures for medical care.
- Proof of lost income, if the Claimant seeks compensation for such lost income.
- Information and documentation regarding health care insurance or disability insurance.

F. Costs of Estimating Damages Claimed

Damages for claims for Removal and Clean Up Costs, Damage to Real or Personal Property, Lost Profits and Lost Earning Capacity, and Subsistence Use of Natural Resources, include the reasonable cost of estimating the damages claimed, but not attorney's fees or other administrative costs associated with preparation of the claim.

G. Causation

The GCCF will only pay for harm or damage that is proximately caused by the Spill. The GCCF's causation determinations of OPA claims will be guided by OPA and federal law interpreting OPA. Determinations of physical injury and death claims will be guided by applicable law.

III. FILING FOR COMPENSATION

A. Attorney Representation

1. A claimant has the right to consult with an attorney of his or her choosing prior to accepting any settlement or signing a release of legal rights.
2. If a claimant is represented by an attorney, the GCCF will communicate with that attorney rather than directly with the claimant.
3. The GCCF provides access to free legal assistance for the GCCF Interim or Final Claims Process . These legal services are available through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. The free legal services program is being administered by the Mississippi Center for Justice, a nonprofit public interest law firm. The free legal services program will not be providing assistance for litigation or claims filed with the National Pollution Funds Center. The funding for this program comes from BP. However, the Mississippi Center for Justice and the nonprofit civil legal service organizations providing the free legal assistance have no other connection to BP or GCCF. The funding does not affect the advice that a lawyer or any of the legal services organizations gives a claimant. Neither GCCF nor BP will interfere with the independent professional judgment of any of the legal services attorneys.

B. Equal Access and Fair Adjudications in the Claims Process

All potential Claimants will be treated with respect, dignity, and fairness, without regard to race, color, sexual orientation, national origin, religion, gender, or disability. The GCCF shall strive to ensure that all Claimants can equally access the GCCF process, and that claims will be adjudicated fairly. Individuals with disabilities will be able to effectively communicate their claims and problems to the GCCF. Individuals with language barriers will have meaningful access to the process and to the GCCF. Individuals with low literacy will have documents and forms explained to them plainly and in a simple manner they understand.

C. Claim Form

1. The Claimant will fill out a Claim Form for an Interim Claim or a Final Claim.
2. Claimants shall submit the documentation requested on the Interim or Final Claim Form or other similar information sufficient both to substantiate the claim and for the GCCF to review and process the Interim or Final Claim.
3. Legal Representatives of decedents, minors, incompetent or legally incapacitated persons may file on behalf of such claimants but will be required to show proof that the legal representative has been duly appointed.

D. Process for Filing a Claim

An Interim or Final Claim Form may be obtained and submitted in any one of the following ways:

1. Via the Internet – Claimants may submit an Interim or Final Claim online by visiting the GCCF website: www.gulfcoastclaimsfacility.com. Claimants will be instructed to follow simple steps for completing an Interim or Final Claim Form. Interim and Final Claim Forms and Instructions will be available in English, Spanish, Vietnamese and Khmer. Claimants who have previously filed a claim for an Emergency Advance Payment will not be required to resubmit previously submitted documentation, but will be required to submit additional documentation necessary to substantiate the Interim or Final Claim. A Claim Form submitted via the Internet will require the electronic signature of the Claimant.
2. By Visiting a GCCF Claims Site Office – Claimants may visit one of the 34 Claims Site Offices established to assist Claimants with the claims submission process. The locations of the Claims Site Offices are posted on the GCCF website, www.gulfcoastclaimsfacility.com. If a visitor requires an interpreter and an interpreter is not available on site, the Claims Evaluator will make arrangements to provide these services either via conference call or a scheduled return trip to the Claims Site Office. A Claims Evaluator will assist the Claimant in completing an Interim or Final Claim Form. The Claimant will not be required to resubmit previously submitted documentation but will only be required to submit additional documentation necessary to substantiate the Interim or Final Claim. The Claim Form must be signed by the Claimant.
3. Via U.S. Postal Service – Claimants may call the toll free, dedicated telephone line to request that an Interim or Final Claim Form be mailed via U.S. Postal Service. The Interim or Final Claim Form will be mailed via U.S. Postal Service to the Claimant. The Claimant will not be required to resubmit previously submitted documentation but will only be required to submit additional documentation necessary to substantiate the Interim or Final Claim. The Claim Form must be signed by the Claimant. The Claimant may return the completed form via:

- U.S. Postal Service:
  Gulf Coast Claims Facility
  P. O. Box 9658
  Dublin, OH 43017-4958
- Overnight, Certified or Registered Mail:
  Gulf Coast Claims Facility
  5151 Blazer Parkway, Suite A
  Dublin, OH 43017-4958
- Fax:
  1-866 682-1772
- Email:
  info@gccf-claims.com
- The toll-free telephone lines are as follows:
  - Toll Free Number: 1-800 916-4893
  - Multilingual Telephone Line: 1-800 916-4893
  - TTY Telephone Line: 1-866 682-1758

All submitted Claim Forms, regardless of the method of submission, will be automatically forwarded to the Central Processing Database and integrated into a comprehensive GCCF Database.

IV. APPLICATIONS FOR PAYMENT

Claimants have the option of submitting a claim for an Interim Payment or a Final Payment.

A. Applications for Interim Payment

An Interim Payment covers only substantiated, past damages. An Interim Payment does not cover any future damages.

The following principles will apply to claims for an Interim Payment:

- In order to receive an Interim Payment, a Claimant shall not be required to execute a release or waive any rights to assert additional claims, to file an individual legal action, or to participate in other legal actions associated with the Spill.
- A Claimant who seeks an Interim Payment may make a subsequent claim for an additional Interim Payment or a Final Payment.
- An Interim Claim may not be submitted more frequently than once per quarterly period, unless the Claimant is able to demonstrate the presence of exigent circumstances, in which case an Interim Claim may be submitted more than once per quarterly period. An Interim Claim for the first quarterly period may be submitted up to and including December 31. An Interim Claim for the second quarterly period may be submitted up to and including March 31. An Interim Claim for the third quarterly period may be submitted up to and including June 30. An Interim Claim for the fourth quarterly period may be submitted up to and including September 30.
- When evaluating an Interim Claim, the GCCF will take into account and offset prior payments by BP, the GCCF, and collateral sources.
- In the event that the Claimant has submitted an eligible, substantiated claim, the GCCF will provide the Claimant with a payment determination for both an Interim Payment and Final Payment so that the Claimant can select which form of payment the Claimant desires.
- If the Claimant elects to receive an Interim Payment, should the Claimant make a subsequent claim for a Final Payment, GCCF's valuation of the Final Payment may change to reflect additional information and less uncertainty regarding damages.
- Any Interim Payment or Emergency Advance Payment made to a Claimant will be deducted from that Claimant's Final Payment.

B. Applications for Final Payment

By applying for a Final Payment, an applicant is seeking to resolve all claims including any claims for future damages resulting from the Spill. A Final Payment constitutes a complete and final resolution of all claims for any past, current, or future losses that a Claimant has or may have with regard to the Deepwater Horizon incident and oil spill against BP and all other potentially liable parties, except as otherwise noted in paragraph V.C. of this Protocol. Accepting a Final Payment requires the Claimant to sign a release of past and future claims. The Release is attached to this Protocol as Tab A. In determining the Final Payment, the GCCF will take into account and offset prior payments by BP, the GCCF, and collateral sources. A claimant has the right to consult with an attorney of his or her choosing prior to accepting any settlement or signing a release of legal rights.

V. REVIEW PROCEDURES

A. Determination of Claims

1. After an Interim Claim or a Final Claim is presented, the GCCF shall determine within 90 days whether to make a payment to the Claimant and if so the amount of such payment.
2. Determinations of claims asserted under OPA will be guided by OPA. Determinations of physical injury or death claims will be guided, as applicable, by other federal law and pertinent state law. If the GCCF determines that more information is necessary in order to resolve a claim, it will advise the Claimant promptly.
3. If the GCCF determines that more information is necessary in order to resolve a claim, it will advise the Claimant promptly.

B. Notification of GCCF Decision

The Claimant will be sent in writing: (1) the GCCF's decision regarding the claim, including the reason for any denial, reduction or increase to the claimed amount; (2) the amount of the determined compensation; and (3) in the case of an eligible claim for Final Payment, a Release to be signed by the Claimant. Offers of Final Payment shall be valid for 90 days, after which they are null and void. A claimant has the right to consult with an attorney of his or her choosing prior to accepting any settlement or signing a release of legal rights.

C. Acceptance of Final Payment

Claimant acceptance of a Final Payment is voluntary. Claimants who accept a Final Payment must sign a Release. A copy of the main Release is attached as Tab A. The Release will waive any rights the Claimant may have against BP and any other potentially liable parties to assert additional claims, to file an individual legal action, to participate in other legal actions associated with the Spill, or to submit any claim for payment by the National Pollution Funds Center. However, except where the Claimant accepts a Final Payment for physical injury or death, the Release will not waive the Claimant's rights with regard to a physical injury or death claim. If the Claimant elects to accept a Final Payment for a claim for physical injury or death, the Claimant will return to the GCCF a Release specifically waiving the Claimant's rights with regard to the Claimant's physical injury or death claim. A claimant has the right to consult with an attorney of his or her choosing prior to accepting any settlement or signing a release of legal rights.

D. Rejection of Interim or Final Payment Determination

A Claimant may elect to reject an Interim or Final Payment determination and, as permitted by law, either present the claim to the National Pollution Funds Center or commence an action in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 MDL No. 2179. The multidistrict litigation is a consolidated grouping of federal law suits arising out of the Spill. A claim for physical injury or death is not a claim under OPA and therefore cannot be submitted to the National Pollution Funds Center.

E. Denial of Interim or Final Claim

If an Interim or Final Claim is denied, or if the GCCF has not acted on the claim within 90 days of the date the claim was presented under OPA to BP or to the GCCF, the Claimant may, as permitted by law, either present the claim to the National Pollution Funds Center or commence an action in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 MDL No. 2179. The multidistrict litigation is a consolidated grouping of federal law suits arising out of the Spill. A claim for physical injury or death is not a claim under OPA and therefore cannot be submitted to the National Pollution Funds Center.

F. Payment of Final Claims

Within fourteen (14) days of the receipt of the signed Release, the GCCF will issue payment to the Claimant.

G. Collateral Source Compensation

The amount of compensation will be reduced by collateral source compensation that the Claimant has received due to the Spill where such collateral source compensation would be duplicative of payments by the GCCF.[2]

1. Payments that constitute collateral source compensation.
   - Collateral source compensation includes, but is not limited to, insurance payments including health insurance payments, and payments by federal, state, or local governments related to the Spill, including unemployment benefits.
2. Payments that do not constitute collateral source compensation.
   - Charitable donations and the value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing distributed to the Claimant.

VI. APPEAL PROCEDURES

A. No Waiver of Rights

Appeal by a Claimant or BP of a Final Payment determination under this section is voluntary. Such appeal shall not waive any rights the Claimant has under OPA or other applicable law.

B. The Right to Appeal Pursuant to this Protocol

1. The Claimant may appeal a Final Claim determination of the GCCF if a total monetary award (including any Emergency, Interim or Final Payment made by BP or the GCCF) is in excess of $250,000. BP may appeal a Final Claim Determination of the GCCF if a total monetary award (including any Emergency, Interim or Final Payment made by BP or the GCCF) is in excess of $500,000.
2. If either the claimant or BP asserts that the Final Claim: a) presents an issue of first impression under OPA; or b) that the determination of the GCCF is inconsistent with prior legal precedent under OPA and that the Final Claim is likely to be representative of a larger category of claims to be considered by the GCCF, then a right to appeal may be granted by the Claims Administrator in his sole discretion.

C. Timing of Filing of Appeal

Any appeal pursuant to this Section must be made within fourteen (14) days of notification of the GCCF's determination of the Final Claim.

D. Selection of Appeals Judges

1. The Claims Administrator shall select one distinguished member of the legal profession (e.g., a retired federal or state judge, respected legal academic, professional mediator or arbitrator) who will identify distinguished members of the legal community (e.g., retired federal or state judges, respected legal academics, professional mediators or arbitrators) to serve as impartial GCCF Appeals Judges.
2. When an appeal is certified, the Claims Administrator will assign the appeal to a panel of three approved GCCF Appeals Judges for decision.

E. Claim File

For any claim that is appealed by a Claimant, the Claimant will approve disclosure of the complete claim file to both BP and the assigned Panel of Appeals Judges. For any claim that is appealed by BP, the Claims Administrator will release only such information from the claim file as is necessary for BP to evaluate the decision and a decision by the Panel of Appeals Judges.

F. Timing of Appeal Decision

The Panel of Appeals Judges will decide the appeal within fourteen (14) days after receiving the claim file.

G. Applicable Law Governing Appeals

Appeals of claims asserted under OPA will be guided by OPA. Appeals of non-OPA claims (physical injury or death) will be guided by applicable federal and state law.

H. Tolling Period

Once an appeal commences, a Claimant may not file a claim against the Oil Spill Liability Fund, or file a claim in court, until the appeal pursuant to this Section is either decided or withdrawn.

I. Impact of the Appeal Decision

Any decision of the Panel of Appeals Judges shall be deemed final as to BP only. If the Claimant does not agree with the decision of the Panel of Appeals Judges, the Claimant may reject the GCCF determination and pursue a claim in the courts or as otherwise permitted under OPA.

VII. REPORTING

The GCCF shall provide reports of non-personally identifiable information to state, local, and federal government officials and to BP to permit an evaluation of the claims process. The GCCF shall submit to interested parties, including BP, periodic reports of non-personally identifiable information regarding claims made and claims determinations.

VIII. PERIOD FOR SUBMISSION OF CLAIMS

Claims for an Emergency Advance Payment will not be accepted after November 23, 2010. Claims for an

Interim or Final Payment may be submitted to the GCCF through August 23, 2013. After that date, BP will continue to receive claims as required by OPA; under OPA, any action in court to recover damages must be filed within three (3) years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care. The time limitations do not begin to run against: (1) a minor until the earlier of the date when the minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor; or (2) an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for the incompetent. Claimants should be aware of this limitation period in determining whether to present their claims to GCCF or BP.

IX. PRIVACY

Information submitted by a Claimant to the GCCF will be used and disclosed for purposes of: (1) processing the Claimant's claim for compensation and any award resulting from that claim; (2) legitimate business purposes associated with administering the GCCF, including the prevention of fraud and the determination of collateral source payments; and/or (3) as otherwise required by law, regulation or judicial process.

X. QUALITY CONTROL AND PROCEDURES TO PREVENT AND DETECT FRAUD

A. Review of Claims

For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of accurate and appropriate payments to Claimants, the GCCF shall implement procedures to:

1. Verify and authenticate claims.
2. Analyze claim submissions to detect inconsistencies, irregularities, and duplication.
3. Ensure the quality control of claims review procedures.

B. Quality Control

The GCCF shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments.

C. False or Fraudulent Claims

Each Claimant will sign an Interim or Final Claim Form at the time of application, stating that he or she certifies that the information provided in the Claim Form is true and accurate to the best of his or her knowledge, and that he or she understands that false statements or claims made in connection with that application may result in fines, imprisonment, and/or any other remedy available by law, and that suspicious claims will be forwarded to federal, state, and local law enforcement agencies for possible investigation and prosecution. Claims filed via the Internet will require an electronic signature which shall be equally as binding upon the Claimant as a physical signature. The GCCF shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

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[1] For purposes of this Protocol, the term "Individual" includes the representative of a minor or incompetent individual.

[2] The offset of collateral source compensation will be used to prevent duplicative payments to a Claimant. The rights, if any, of the entity that made the initial payment to the claimant will be determined by the applicable law.

EXHIBIT R

Exhibit R

Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

GULF COAST CLAIMS FACILITY
FINAL RULES GOVERNING
PAYMENT OPTIONS, ELIGIBILITY AND SUBSTANTIATION CRITERIA, AND
FINAL PAYMENT METHODOLOGY

February 18, 2011

The Gulf Coast Claims Facility ("GCCF") hereby announces its Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology ("Final Rules"). The GCCF is acting for and on behalf of BP in fulfilling its statutory obligations as a "responsible party" under the Oil Pollution Act of 1990. All claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

I. INTRODUCTION

This document describes: 1) the eligibility criteria required for all private, individual and business claimants to file a claim with the GCCF seeking a Final Payment or an Interim Payment from the GCCF; 2) the calculation methodology being used by the GCCF to determine compensation sought by the claimant; 3) the documentation requirements that need to be met as a prerequisite for compensation; and 4) new procedures designed to promote greater transparency and consistency in the GCCF claims process.

On February 2, 2011, the GCCF published a draft Announcement of Payment Options, Eligibility and Substantiation Criteria and Final Payment Methodology. In an effort to promote full disclosure and transparency, the GCCF's Announcement requested public comment during the period February 2 through February 16, 2011, from all claimants and other interested parties.

During the past two weeks the GCCF has received some 1,440 comments from claimants, businesses, experts, public officials and other interested parties expressing opinions concerning these and other related issues. These comments have been posted for public view on the GCCF website (www.gulfcoastclaimsfacility.com.). The GCCF has carefully considered all comments in the drafting of these Final Rules and, in response to the comments, has revised certain of its proposals to the draft Announcement published on February 2, 2011.

The GCCF continues to seek a comprehensive understanding of the impact caused by the Deepwater Horizon Incident (the "Oil Spill") and its aftermath. Experts retained by the GCCF have researched and studied various reports and data pertaining to the future of the Gulf, and have compiled an extensive list of references. All of these materials were posted on the GCCF website on February 2, 2011, and remain available for review at www.GulfCoastClaimsFacility.com. In adopting its Final Rules governing payment of Final and Interim Claims, the GCCF has gathered facts and opinions from various sources in an effort to develop a credible and fair payment program.

With the promulgation of the Final Rules, the GCCF will now commence the next phase of the Payment Program: the payment of Final and Interim Claims to those claimants who have been damaged as a result of the Oil Spill. All claimants should carefully consider three options:

1. A Final Payment: A Final Payment will provide compensation to the claimant for all documented past damage plus estimated future damage due to the Oil Spill and will resolve the claimant's entire claim against BP and all other potentially liable parties for any and all past and future damages. **To receive a Final Payment, a claimant will be required to sign a release precluding the claimant from seeking further compensation from the GCCF, the Coast Guard, or in court from either BP or any other defendant companies allegedly responsible for the Oil Spill.**

2. An Interim Payment: An Interim Payment will provide compensation to the claimant for all past documented damage due to the Oil Spill; the damage must be documented but no release will be required. Under this option, the claimant may return to the GCCF once each quarter of the calendar year seeking additional documented past damage. This Interim Payment option does not require that the claimant surrender any litigation rights.

3. A "Quick Payment:" A Quick Payment of $5,000 to an individual claimant or $25,000 to a business claimant. This option is available to any claimant who has received either an Emergency Advance Payment or an Interim Payment from the GCCF without any requirement that the claimant provide additional documentation. **This Quick Payment option will be accompanied by a full release, precluding the claimant from seeking further compensation from the GCCF, the Coast Guard, or in court from either BP or any other defendant companies allegedly responsible for the Oil Spill.**

II. ELIGIBILITY CRITERIA

The GCCF adopts the following principles governing the eligibility criteria applicable to both Final and Interim Claims for individuals and businesses.

1. All individuals and businesses that incurred losses due to the Oil Spill are entitled to and are encouraged to file a Final or Interim Claim with the GCCF. Neither physical proximity to the Oil Spill nor a particular type of work or business engaged in by the claimant is a prerequisite to eligibility for payment of a claim. ***But adequate documentation of damage attributable to the Oil Spill is required.*** Physical proximity to the Oil Spill, and the nature of the business or work engaged in by the claimant, are important factors when it comes to the proof needed to document a claim that the damage was caused by the Oil Spill. (See IV, below.) The ability of the claimant to link the alleged damage to the Oil Spill – as opposed to other factors such as a general downturn in the Gulf region economy or other financial uncertainty unrelated to the Oil Spill -- is required. (See Attachment A.)

2. The GCCF will evaluate each claim to determine whether a loss was caused by the Oil Spill. Each claim will stand on its own individual merits. In all cases, there must be an identifiable link between an actual loss and the Oil Spill. Evidence establishing this connection is required.

3. Claimants who were deemed ineligible for a GCCF Emergency Advance Payment are invited to resubmit a claim seeking a Final Payment or an Interim Payment, accompanied by documentation proving a connection to the Oil Spill.

4. Individuals who were physically injured or who represent decedents who suffered death due to the Oil Spill are eligible to receive compensation from the GCCF. Such claims must be documented, proving that the physical

injury or death is attributable to the Oil Spill and not some other cause. In cases where claimants assert a disability caused by the Oil Spill, evidence of partial or permanent disability (such as a Social Security or State Workers' Compensation determination of disability) will be required in order to determine the extent of any long term impact on the ability of the claimant to work in his/her chosen profession.

5. Individuals and businesses with claims for damage to real or personal property are eligible to receive compensation from the GCCF.

6. Individuals who use the natural resources that have been injured or destroyed as a result of the Oil Spill to obtain food, shelter, clothing, medicine or other subsistence use are eligible to receive compensation from the GCCF.

7. **Claims related to the moratorium on deepwater drilling, property damage claims for vessels used in the Vessels of Opportunity Program and claims by all Government entities are ineligible for compensation from the GCCF.**

III. CALCULATION OF AWARDS FOR FINAL AND INTERIM PAYMENTS

The GCCF has retained scientific and economic experts to comprehensively research and review studies pertaining to the impact of the Oil Spill on Gulf resources. These experts reviewed numerous studies analyzing the economic recovery rates from other major catastrophic events affecting tourism. In addition, the GCCF consulted with numerous individuals and businesses located in the Gulf region in order to understand the possible impact to individuals and Gulf businesses due to the Oil Spill. Finally, the GCCF benefitted from input from claimants, experts and other interested parties during the recent two-week public comment period. The GCCF's goal is to determine the impact of the Oil Spill on seafood harvests, the tourism industry and any other effect on the general Gulf economy. An effort has been made by the GCCF to determine the estimated length of time to full economic recovery and the related pattern of gradual recovery over time.

The GCCF will base its calculation of awards for Interim Payments on actual documented losses incurred by a claimant during the period immediately following the Oil Spill on April 20, 2010 and the date the Interim Claim is filed. For Final Payments, the GCCF will base its calculation on two important factors: 1) actual documented losses incurred by the claimant from the date the losses began since the Oil Spill on April, 2010 and, 2) a recovery factor to value the risk of possible future losses as determined by the retained experts and other input received during the public comment period.

Having examined available expert opinions, studies, reports and public comments, the GCCF believes that based on the existing information available:

1. There is evidence of a strong economic recovery underway. However, the GCCF has concluded that it is reasonable to base its future payment calculations on the principle that a full economic recovery in the Gulf region is likely (but not certain) within two to three years from the date of the Oil Spill.

2. Prediction is not an exact science. In light of the uncertainty that remains, the GCCF believes that it is appropriate to provide claimants desiring finally to resolve their claim at this time with a payment that accounts for the inherent uncertainty concerning the future.

3. The GCCF conclusions are based on current data, the opinions of the experts and the comments submitted by claimants and other interested parties during the public comment period. The GCCF will undertake a renewed evaluation of available data every four months. If such reevaluation suggests a change in the relative

uncertainty concerning the future that warrants an adjustment to the payment for future risk, the GCCF will make the appropriate adjustment and will apply the adjustment to all claims submitted from that date forward. However, final claims previously submitted with complete documentation but not yet evaluated will be paid the higher of the Future Recovery Factor applicable at the time the claim submitted was completely documented, or the adjusted Future Recovery Factor.

4. <u>Any claimant who disagrees with the GCCF's approach regarding future payment calculations or is not ready to accept it, is free to opt for Interim Payments based upon documented past damage, while awaiting further evidence of Gulf region economic recovery.</u>

   a. Actual Documented Losses: Once claimants have demonstrated a direct connection linking the sustained losses for past and present damages to the Oil Spill, eligible claimants will be compensated for documented losses directly caused by the Oil Spill incurred during the period immediately following the Oil Spill on April 20, 2010 and the date of the filing of an Interim or Final Claim with the GCCF ("the loss period"). The calculation of these actual documented losses will be based on a comparison to income from prior years for the same months (for example a comparison of income earned in 2008-2009 or another appropriate historical comparison deemed most relevant to the claimant's experience). In these cases, the claimant's actual loss will be determined by taking the difference between the claimant's income during the loss period and the comparison period (in most cases years 2008-2009) to arrive at the claimant's actual loss.

   Each claim will be reviewed and evaluated on its own merits and specific circumstances, including but not limited to business trends leading up to the Oil Spill including January through April 2010. For example, business claims for "start-up" companies which anticipated generating income in 2010, will be subject to a different methodology. Start-up businesses present a unique forecasting challenge due to the limited available historical financial data. In measuring losses for startup businesses, the GCCF will consider business plans, market comparables, pre- and post-loss financial data, start-up costs, industry trends and other relevant information. Special attention will also be given to those businesses that closed as a direct result of the Oil Spill.

   Many comments were received regarding the Loss of Income ("LOI") percentage used for businesses. The LOI used for each business is usually calculated based on the financial information of that particular business. Typically, the LOI percentage calculated for each business is based on the business' own pre-loss (e.g., 2009) annual Profit and Loss statement or Tax Return, depending on documentation provided by the claimant. The LOI percentage adjusts the lost revenues to reflect the saved or discontinued expenses for that particular business. Expenses that are typically considered to be fully or partially saved or discontinued as a result of lost sales include, but are not limited to, costs of goods sold, commissions, payroll and utilities.

   b. Interim Payments: Claimants who are not ready to accept a Final Payment Offer may continue to file Interim Payment Claims for documented past damage. Interim Payment Claims may be filed once each calendar quarter. For many claimants, much of their documented loss has already been compensated by BP and the GCCF Emergency Advance Payment Program. The total amount previously received by a claimant for damages as a result of the Oil Spill from BP or the GCCF will be deducted from the Interim Payments.

   c. Calculation of Future Losses: The calculation of future losses will be based upon the actual losses incurred during the period immediately following the Oil Spill on April 20, 2010, through December 31, 2010. The GCCF will use these actual documented 2010 losses and a Future Recovery Factor that anticipates the gradual economic recovery to estimate the anticipated future losses associated with the Oil Spill. Experience with other unanticipated and catastrophic events suggests that for all businesses other than oyster harvesting and oyster processing, recovery will continue in 2011, with full recovery reasonably expected in 2012. Recovery over this time period would result in a Final Payment Offer of two times the actual documented losses in 2010. During the public comment period, the GCCF received comments from various claimants, experts, public officials and other interested parties urging the GCCF to increase or decrease the Future Recovery Factor. After reviewing all received comments the GCCF continues to believe that a Future Recovery Factor of 1.0 (two times the actual documented losses) in 2010 is fair and reasonable. Claimants who disagree with this conclusion are urged to opt for an Interim Payment for past damage.

Many comments were received regarding the GCCF's proposed calculation of future losses based upon the actual losses incurred during the period immediately following the Oil Spill on April 20, 2010 through December 2010. These comments stated that the GCCF's proposed doubling of the 8 month loss period would only compensate claimants for 16 months' losses and that it would be more equitable to use the 12 month period instead. These comments misunderstand the proposed calculation of future losses for the following reasons:

- If a 12 month loss period was used to calculate future losses rather than an 8 month period, the total Final Offer amount would not change. This is because the Future Recovery Factor was constructed to provide payment to the claimant for the estimated actual losses in the "missing" four months.
- If the GCCF were using a full year of losses (May 2010 through April 2011) no Final Offers could be made until May 2011 at the earliest.

For a more detailed response to comments on the calculation of future losses, see the attached explanation of ARPC, an expert firm of economists retained by the GCCF. (See Attachment B for "Response to Comments on the Derivation and Calculation of Future Damages.")

d. Some experts anticipate that individuals and businesses engaged in harvesting and processing oysters destroyed as a result of the Oil Spill, or due to the diversion of fresh water into the Gulf in reaction to the Oil Spill, will likely require a longer recovery period than that experienced by other claimants, without the same degree of gradual recovery. Accordingly, the Final Payment Offer for those claimants will be equal to an amount four times the actual documented losses in 2010.

5. For claimants with actual documented losses in 2010 of $500,000 or more, the GCCF will not automatically apply the Future Recovery Factor to the claimant's actual 2010 total losses. The Final Payment calculation for these claimants will be determined on an individualized basis after analyzing input from the claimant as well as the experts. The Final Payment Offer will be the actual documented losses in 2010 and an additional amount to compensate for the recovery and risk of possible future losses.

6. In sum, claimants who have documented and proven a financial loss attributable to the Oil Spill will be paid two times actual documented 2010 losses due to the Oil Spill to compensate for all past and anticipated future losses (except, as described above, for claimants with 2010 losses of $500,000 or more). Oyster harvesters who have documented and proven a financial loss attributable to the Oil Spill will be paid four times actual documented 2010 losses due to the Spill to compensate for all past and anticipated future losses. After reviewing all received public comments, the GCCF has concluded that the Future Recovery Factor of four times actual documented 2010 losses will also be applied to actual documented 2010 losses for oyster processors. (For all claimants, the Final Payment Offer will be reduced by compensation already received in Emergency Advance Payments from

BP, Emergency Advance Payments and Interim Payments received from the GCCF and other offsets.) <u>If any claimant believes that the future of the Gulf continues to be uncertain and is not yet prepared to file a Final Claim, that claimant may continue to file Interim Payment Claims demonstrating ongoing damages linked to the Oil Spill with the GCCF. Claimants filing Interim Claims will not be required to sign a release.</u>

7. Final Payments or Interim Payments: The GCCF will pay eligible individuals or businesses either a Final Payment or an Interim Payment, as the claimant may request. The Future Recovery Factor, as determined by the GCCF, may be modified going forward as more information becomes available about the future of the Gulf Coast economy. It is, therefore, entirely possible that the Future Recovery Factor for determining the future impact of the Oil Spill in the Gulf will be increased or reduced as more information becomes available. Claimants should take this possibility into account in deciding whether to file an Interim Payment Claim or a Final Payment Claim.

8. <u>For claimants who have filed a Final Payment Claim with incomplete 2010 documentation, the GCCF will determine and calculate the claim based upon submitted documented actual 2010 losses</u>. Claimants will have the option to accept the Final Payment Offer based upon submitted 2010 documentation of actual loss that was available to the GCCF for determination and calculation, or request the re-evaluation of the Final Payment Claim after they have submitted additional documentation of 2010 losses.

EACH CLAIMANT'S FINAL PAYMENT OFFER AMOUNT WILL BE THE LARGER OF:

(1) Two times each eligible claimant's 2010 Actual Documented Losses (except for claimants with 2010 losses in excess of $500,000); four times 2010 Actual Documented Losses for oyster harvester's and oyster processor's 2010 Actual Documented Losses, or

(2) The total actual documented losses through the date of the filing of the Final Claim.

IV. DOCUMENTATION/SUBSTANTIATION

Although much of the public comment period was devoted to issues concerning the calculation methodology for determining Final Payments, it is important that all claimants seeking Final Payments or Interim Payments focus their attention on the issues of documentation and the ability of each claimant to prove his/her alleged damage caused by the Oil Spill.

It is imperative that all claimants prove their claims by providing the GCCF with adequate documentation that supports the claim for damages. (See Attachments A, C and D for information to assist all claimants with an understanding of the financial tests used by the GCCF to establish a loss, and the required documentation and the evidence required to establish a connection between the loss and the Oil Spill.)

The GCCF advises all claimants that the documentation of both Final Payment and Interim Payment Claims is lacking in most cases. This is particularly true for 2010 supporting documentation. As of the date of this Notice, less than 17% of claimants have submitted completed 2010 documentation. Incomplete records will delay a claim's review, affect the damages calculation and could result in denial of the claim.

1. As expressly indicated from the very beginning of the Emergency Advance Payment Program, the documentation requirements for receiving either a Final Payment or an Interim Payment are more rigorous and exacting than the minimal documentation requirements that governed administration of the Emergency Advance Payment Program. Each claimant is required to establish both actual financial loss and a connection between the loss and the Oil Spill.

2. Each claim stands on its own merits, and the GCCF will evaluate each submission to determine whether a loss was caused by the Oil Spill. When evaluating each claim for compensation, the GCCF will make certain presumptions that losses were caused by the Oil Spill based on the claimant's proximity to the Gulf shore and the nature of the claimant's business activity.

3. The following blueprint for substantiation required by the GCCF to prove a compensable claim is based upon input from the retained experts who evaluated the likelihood of a link between the Oil Spill and a claim for damages. The following blueprint is offered as guidance only.

   a. Physical Proximity to the Oil Spill/Workers and Businesses Directly Dependent Upon Gulf Resources: A connection to the Oil Spill is easiest to demonstrate in cases involving workers and businesses that are heavily dependent on Gulf resources and tourism and are located in the **immediate vicinity of the Gulf shore as well as claimants that were already determined eligible for an Emergency Advance Payment from the GCCF.** Examples are fishermen, shrimpers, oyster harvesters, boat captains, seafood processors, as well as heavily tourist-dependent business activities in the immediate vicinity such as marinas, hotels, restaurants and rental properties located on Gulf Coast beaches. In these cases, as well as in cases where claimants have already submitted adequate documentation to receive an Emergency Advance Payment, the submission of adequate financial information and data contrasting wages and income before and after the Oil Spill will usually be deemed sufficient to document a claim. **Nevertheless, even as to these types of claims, currently the GCCF has found that most filed claims are pervasively lacking documentation contrasting pre- and post-Oil Spill wages and income and complete 2010 financial documentation.**

   b. Physical Distance From the Oil Spill/Workers and Businesses Less Dependent Upon Gulf Resources: For Businesses and individuals that are not in the immediate vicinity of the Gulf shore but are operated in Gulf Alliance counties that are less sensitive to an interruption to Gulf Coast tourism or seafood harvesting, more exacting documentation is required. The GCCF bases this conclusion on the experts' opinion that additional substantiation is necessary to conclude that losses are due to the Oil Spill, the further a business is from the immediate vicinity of the Oil Spill, or the less dependent the business is on Gulf resources. In such cases, the GCCF will adopt the experts' recommendations that the claimant prove that his/her "positive trend" of lost wages or profit during the immediate period preceding the Oil Spill was interrupted by the Deepwater Horizon incident. **Simply contrasting pre- and post-Oil Spill wages/income may not be sufficient. Claimants in this category will receive compensation by establishing loss and by the use of a financial test that analyzes relative financial performance in the immediate pre-Oil Spill and post-Oil Spill periods.** Attachment C describes the Financial Test the GCCF will use to establish whether there was damage due to the Oil Spill and the required documentation.

   c. All Other Claimants: The GCCF has received claims from claimants residing outside of the Gulf states, claims from businesses located many miles from the Oil Spill, and claims from businesses that do not appear directly dependent on Gulf resources such as dentists, veterinarians, and chiropractors. Many of these claims comprise business activities that are more dependent on general economic conditions than on tourism or seafood harvesting on the Gulf Coast. In these cases (numbering in the thousands), the most exacting type of proof demonstrating an identifiable link between the asserted damage and the Oil Spill will be required. Claimants in this category may receive compensation by establishing loss, by passing the financial test that analyzes relative financial performance in the immediate pre-Oil Spill and post-Oil Spill periods, and by providing evidence that establishes the link between losses and the Oil Spill. For example, the claimant might provide documentation of cancelled orders for goods or services sold to a Gulf business; consistent sales in the past two years or more to a Gulf business that failed to recur due to the Oil Spill; bad debt written off and associated with failure to pay by a Gulf business; failure of a contractual arrangement involving a Gulf business that results in demonstrable lost sales or income; higher expenses or cost of goods due to having to obtain them from another vendor other than the traditional Gulf business; a specific termination of employment or reduction in wages that an employer confirms was as a result of the Oil Spill, etc. Examples of the type of evidence that may link a claimant's loss to the Oil Spill are described in Attachment A. **Providing general financial information about losses sustained in 2010 after the Oil Spill will not be sufficient documentation for claimants in this category. Instead, proof will be required specifically linking the sustained loss to the Oil Spill.**

Claimants are reminded that, in the absence of necessary documentation proving their claim for a Final Payment Claim or an Interim Payment Claim, the "Quick Payment" option is available to any claimant who has already received an Emergency Advance Payment without the necessity of submitting any further documentation to the GCCF. Quick Payments of $5,000 will be made to individuals and $25,000 to businesses. **Quick Payments require a full release. Before accepting any settlement or signing a release of legal rights, claimants have a right to consult with an attorney of their own choosing. Free legal assistance is available for claimants who cannot afford an attorney.**

V. GREATER TRANSPARENCY AND CONSISTENCY

In an effort to promote greater transparency and consistency in the GCCF claims process, the GCCF is initiating a series of measures designed to provide claimants with greater access to information about their individual claims, including the status of the claim and the reasons for determinations made by the GCCF (claim acceptances or denials; calculation of compensation and the reasons related thereto, etc.). (See Attachment E for Sample Payment Letters and Evaluation Calculations.) In conjunction with the beginning of the Final Payment and Interim Payment process, the GCCF reminds all claimants of the following:

1. Additional local personnel have been retained by the GCCF and are now in place in the claims site offices throughout the Gulf region to assist claimants in securing more information about the status of their claims and the underlying reasons for GCCF claim decisions. These local personnel are residents of the region, who are familiar with the nature of Gulf Coast businesses and occupations. They are present in the Gulf to assist claimants in the processing of their GCCF claims. All staff members at the claims site offices are subcontractors of the GCCF; BP provides the funding for the expenses of the administration of the GCCF, including compensation for GCCF subcontractors.

2. Claimants are also invited to seek the assistance of local accountants and accounting firms in the preparation and processing of their individual claims or for an evaluation of the GCCF's Interim or Final Payment Offer. These accounting firms are <u>not</u> subcontractors of the GCCF, are not retained by the GCCF and are not working for the GCCF; they are available to assist claimants in assessing their business losses. Reasonable costs associated with the work of these accounting firms can be added to the overall damage claim submitted by the claimant and will be paid by the GCCF as part of the compensation provided any claimant who shows a loss due to the Oil Spill.

3. In appropriate cases, the GCCF will resolve a group of claims submitted by a particular attorney or law firm, accounting firm, or specific localized region of the Gulf, by sending GCCF accountants and GCCF support staff to meet with the attorney, accounting firm, or claimants in a specific localized region in an effort to resolve claims quickly and efficiently at the local level.

4. For all claims other than those for physical injury, if a claimant disagrees with the GCCF's decision on the claim (either because it was denied or the claimant deems the compensation inadequate), or if the GCCF has not acted on the claim within 90 days of the date the claim was presented to BP or to the GCCF, the claimant may submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and determining claims; as an alternative, the claimant may file a claim in court, including the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL No. 2179.* The multidistrict litigation is a consolidated grouping of federal law suits arising out of the Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov.

5. As to all claims, including those for physical injury, under the GCCF Protocol governing Final Claims, the claimant may appeal a Final Claim determination of the GCCF if a total monetary award (including any Emergency, Interim or Final Payment made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals (not selected by the GCCF) who will make an independent determination of the claim's value. BP will have the right to appeal to this panel of three neutrals where the claimant receives compensation in excess of $500,000.

THE GCCF WILL CONTINUE TO MONITOR AND REVISE THESE FINAL RULES GOVERNING PAYMENT OPTIONS, ELIGIBILITY AND SUBSTANTIATION CRITERIA, AND FINAL PAYMENT METHODOLOGY. THE GCCF WELCOMES ONGOING INPUT FROM CLAIMANTS AND OTHER INTERESTED PARTIES AS IT MOVES FORWARD WITH FINAL PAYMENTS, INTERIM PAYMENTS AND QUICK PAYMENTS.

ATTACHMENT A

ESTABLISHING EVIDENCE OF A CONNECTION TO THE SPILL

The GCCF will review each claim case by case to determine whether the claimant has established that a financial loss occurred as a result of the Oil Spill. The following guidance has been developed to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation.

Assertion	Description	Examples of Evidence
Losses due to the effects of the spill on the Gulf seafood supply chain	The use of and/or reliance on Gulf seafood must be established. Documentation to support this assertion may include evidence of sourcing seafood from the Gulf and/or dependence on commercial fishing activities. Example: a multi-purpose trucking company with cancelled contracts for hauling Gulf seafood. Appropriate documentation to support this assertion would include the original agreement and a letter from the customer/supplier explaining that the contract was cancelled as a result of the spill.	• List of customers/suppliers within Gulf region • Evidence of cancelled orders/agreements/contracts as a result of the oil spill • Evidence of modified orders/agreement/contracts as a result of the oil spill • Historical evidence of consistently placed orders • Third party affidavits/letters • Third party invoices/receipts of Gulf seafood product • Evidence of the traditional location of the affected business activity
Losses due to the effects of the spill on the Gulf's tourism sector	A connection to the tourism industry in the Gulf region must be established. Documentation to support this assertion may include evidence of a business-to-business relationship or a primary customer base of tourists within the region.	• List of customers/suppliers within Gulf region • Evidence of cancelled orders/agreements/contracts as a result of the oil spill • Evidence of modified orders/agreement/contracts as a result of the oil spill • Historical evidence of consistently placed orders • Third party affidavits/letters • Third party invoices/receipts

	Example: a regional distributor of ice cream with a loss of sales to beachfront hotels and restaurants. Appropriate documentation to support this assertion would include records reflecting a post-spill reduction in purchases by identified tourism-dependent customers and letters from the purchasers explaining that the reduction in orders was a result of the spill.	• Evidence of the traditional location of the affected business activity • Records of sales reflecting the percentage of sales to out-of-state/out-of-town purchasers
Losses due to business interruption as a direct result of the oil spill	An interruption to a business would include a partial or complete inability to engage in business activities. Example: a commercial shipping business that experienced a partial business interruption when the waters its carriers normally travel were temporarily closed to traffic due to the oil spill. Appropriate documentation to support this assertion would include evidence of prior navigation routes passing through closed areas and contemporaneous communications between the claimant and its customers reporting on the resulting delays.	• List of customers/suppliers within Gulf region • Evidence of cancelled orders/agreements/contracts as a result of the oil spill • Evidence of modified orders/agreement/contracts as a result of the oil spill • Historical evidence of consistently placed orders • Third party affidavits/letters • Third party invoices/receipts • Evidence of the traditional location of the affected business activity

ATTACHMENT B

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Response to Comments on the Derivation and Calculation of Future Damages

Future damages are calculated when the claimant wishes to file for a *Final Claim*. The GCCF provides claimants with two alternative final payment options, the *Quick Payment Final Claim* and the *Final Claim*. It also provides claimants with the ability to receive *Interim* payments. The Final Claim option provides for a payment that is the sum of the claimant's losses incurred in 2010 plus a payment for claimant's anticipated future damages. This option requires the documentation of losses. The calculation of future damages is equal to 2010 losses multiplied by the so called *Future Recovery Factor*.

Several comments have been received on the derivation and calculation of the Future Recovery Factor in the Final Claim option. The comments focus on two issues. One issue is the order of magnitude of the Future Recovery Factor. The comments question whether the Factor is high enough – does it undervalue the losses facing claimants in the future? A second concern is that the Factor applies only to 2010 losses rather than a full year of losses. Since, for all practical purposes the financial affects of the oil spill did not begin until May, losses in 2010 are for only eight months.

Derivation of the Future Recovery Factor

The GCCF worked closely with outside experts to estimate the impact of the oil spill on the Gulf economy. It was determined that the oil spill has two effects: (1) an effect on tourism, and (2) an effect on harvesters and related sectors from the closing of waters and potential damage to stocks of fish, shrimp, crabs, oysters and other species.

The derivation of the Future Recovery Factor is based on the analysis of the economic recovery experience of individuals and businesses subjected to other unanticipated and catastrophic events. Experts have studied many of these events from the past and recorded estimated rates of economic recovery.

Effect on Tourism

It is expected that the greatest financial damage caused by the oil spill results from its effect on tourism. The Gulf economy is heavily dependent on tourism and revenue from tourism potentially affects a broad swath of the economy. It is clear that the oil spill significantly reduced tourism in 2010 reducing the income of individuals and businesses dependent on tourism. In addition, the effect on tourism will likely continue into the future. Indeed, the experience observed from other events affecting tourism suggests that these losses will continue (though at a diminishing level) for two to three years from the time of the oil spill.

There are two key issues: (1) the length of time until tourism fully recovers and (2) the rate of the recovery. There is an important distinction between these two issues. The first issue is relatively straightforward – how many months will it take to get back to the number of tourists and the dollars they spend that would have occurred without the oil spill. The second is a bit more complicated. It is concerned with the speed of the recovery. If it takes 30 months to full recovery, what percent of the recovery is achieved in the first 15 months? The speed of the recovery is equally important to the estimate of future damages as the time to full recovery.

The GCCF staff and its experts reviewed all of the relevant research conducted on the effects of various events on tourism. The research included the analysis of a broad range of events including other oil spills, hurricanes, terrorism, health issues and other natural disasters. This review included an analysis of the Gulf oil spill prepared by Oxford Economics on behalf of the US Travel Association entitled "Potential Impact of the Gulf Oil Spill on Tourism".

The conclusions reached from this review and analyses are as follows:

- We assume that it would take tourism 30 months to achieve full recovery (the upper end of the Oxford Economics analysis). While for most events, full recovery was achieved within twelve months from the event, some of the studies and Oxford Economics suggest that full recovery would be reached in 15 to 36 months.
- We assume that the recovery would occur at a nearly proportional rate – 54% recovery at the end of the first year after the oil spill, 75% recovery at the end of the second year after the oil spill and reaching full recovery at 30 months after the oil spill. This recovery rate is heavily dependent on the review of the academic research and the analysis conducted by Oxford Economics. It is also influenced by our analysis of various economic indicators related to tourism. These include hotel revenues, travel expenditures, tourist visits, sales tax revenues for tourism related sectors, gaming revenues and other indicators. Taken together they suggest a recovery beginning by the fall of 2010.
- The 30 month full recovery period and the assumed recovery rate yields a Future Recovery Factor of 1.0.

Effect on Harvesters

The effect on harvesters was presented in the study prepared for the GCCF by John W. Tunnell Jr. of the Harte Research Institute for Gulf of Mexico Studies, Texas A&M University, Corpus Christi, Texas entitled "An expert opinion of when the Gulf of Mexico will return to pre-spill harvest status following the BP Deepwater Horizon MC 252 oil spill". Dr. Tunnell concludes that while there are unknowns and some risk, it appears that the ecosystem is recovering very quickly and waters are nearly completely reopened to harvesting. These indicators reflect an assessment of the pace of physical recovery of the Gulf's marine resources. The pace of economic recovery of the Gulf's marine resources may not be identical. Out of an abundance of caution, the GCCF has adopted the same assumptions concerning harvester sector recovery as it has adopted for the tourism sector. The single exception with potentially even longer term issues are oysters, since it is likely that oysters were killed in some areas and it may be that in some cases the oyster bed foundations were damaged. The Future Recovery Factor as it applies to oysters is based on a different calculation, described elsewhere.

Application of the Future Recovery Factor

The remaining issue was how to apply these conclusions to the individual circumstances of each claimant. First, it is assumed that every claimant will experience the same recovery rate as the Gulf economy in general. While we understand that claimants may actually recover from their 2010 losses at different rates, it is not practical to account for such differences. It is not possible to distinguish the potential disparate effect of the oil spill on claimants versus individual preferences and characteristics that are unrelated to the oil spill.

Second, 2010 losses were selected as the base for calculation. We understand that this is only an eight month period, but it is assumed that this period constitutes the most significant losses. In addition, the Future Recovery Factor was constructed to account for the fact that only eight months are in the base period. Indeed, the total amount offered to the claimant using the eight month base period is the same as the offer if the base period was twelve months. If, in the case of an individual claimant, this is not true, then (as described elsewhere) interim payments are always available. Otherwise, relying on a full year would mean that no claimants could file for a Final Payment before the end of April 2011.

ATTACHMENT C

FINANCIAL TEST

The financial test is to establish whether there was damage due to the Oil Spill.

- First, 2010 is divided into two parts – pre-Oil Spill and post-Oil Spill.
  - The pre-Oil Spill period is January through April
  - The post-Oil Spill period is May through December of that year

- Second, the January through April financial performance in 2010 is compared to the average financial performance in the January through April period from prior years (for example January through April for 2008/2009) – pre-Oil Spill Financial Performance

- Third, the May through December end of year financial performance in 2010 is compared to the average financial performance in May through December from prior years (for example May through December for 2008/2009) – post-Oil Spill Financial Performance.

To qualify for compensation, the financial performance test must show:

- #1: A decline in revenue from the average revenue earned May through December in 2008/2009. In effect, the business must show there is a decline in post-Oil Spill financial performance relative to earlier years.

- #2: The percent decline in 2010 post-Oil Spill revenue from #1 above must exceed the percent decline in 2010 pre-Oil Spill revenue.

ATTACHMENT D

DOCUMENTATION REQUIREMENTS

GULF COAST CLAIMS FACILITY DOCUMENT REQUIREMENTS

You must provide the documentation described below for each type of injury or damage you claim to have suffered as a result of the Deepwater Horizon Incident on April 20, 2010 and resulting oil discharges (the "Spill"). These requirements apply to Interim Payment Claims and to Full Review Final Payment Claims.

The requirements below are the **minimum requirements** for processing your Claim. **In certain cases, the GCCF may request additional documentation from claimants.** Providing thorough documentation is the best way to ensure your claim is processed quickly. If you have additional documents or materials that would be helpful in showing the GCCF how the Spill resulted in a loss to you, or the amount of that loss, you should provide them. **All documents you submit to establish your past losses or estimate your future losses will be reviewed and considered by the GCCF.**

Interim Payment Claims will be evaluated solely on the documents submitted and missing records will lead to denial of your Interim Payment Claim or a smaller payment. If your Interim Payment Claim is denied or paid a smaller amount because of missing documentation you will not be able to file another Interim Payment Claim until the following calendar quarter. The GCCF will send deficiency notices asking for missing documents on Full Review Final Payment Claims when necessary, but inadequate documentation will delay the evaluation and may reduce the amount of an offer for Final Payment.

If you submit your Claim Form online, you must submit all supporting documentation within five (5) days of your online filing. If you submit your Claim Form by mail, email, overnight delivery, fax or in person, you must submit all supporting documentation with your Claim Form. Claim applications and supporting documentation that are submitted in person are not retained at the GCCF Claims Site Offices. These materials are sent to the GCCF processing center in Dublin, Ohio, or are scanned and sent to the processing center via the met.

When submitting documents, be sure to include information that allows us to identify you such as your Claimant Identification Number, Social Security Number, or other Taxpayer Identification Number, as applicable.

I. Requirements for Documenting Individual Lost Earnings Claims

Any person claiming lost earnings as an employee or wage earner must submit the documents described below. If you are self-employed, an owner of rental property, or operate a business as a sole proprietor, and you pay the expenses of the operation and report business income on a Schedule C or other business tax form, then use the documents list for Business Lost Profits claims in Section II rather than this list.

1. **Documents that establish your earnings history from January 1, 2008, to the present**

   (a) Provide federal income tax returns for 2008 and all subsequent years up to your most recently filed return. Include all W-2 forms, 1099 forms, and other attachments or schedules to each return. If any of your prior year federal income tax returns are not available, provide a statement explaining why.

   (b) For any prior year for which you cannot provide a federal tax return, and for the current year through the date you are claiming a loss, you must establish your earnings history for the entire period with at least one of the following sources:

      (i) State tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

      (ii) Paycheck stubs or other payroll records from all employment demonstrating all earnings from 1/1/08 up to the present.

      (iii) A letter or other records from an employer that describe when you were working and your rate of pay and total earnings.

Documents that establish the effects of the Spill on your earnings

(a) You must demonstrate how the Spill affected your ability to earn the amounts you expected, such as with a letter from an authorized representative of your employer that describes a lay-off, reduction in hours and/or reduction in your rate of pay resulting from the Spill. If you were not working and had no income for a period of time after the Spill, your documentation must establish when that period began and, if it has ended, when.

(b) If you received any replacement income, such as payments from an income protection insurance policy or from a company severance plan, you must submit documents that establish the amount of the payments and when you received them.

(c) If you were out of work for any period after the Spill, you must establish your efforts to find work or the reasons you made no efforts to find work. You can demonstrate your efforts to find work by documenting that you were receiving unemployment benefits, or by submitting copies of job applications, rejection letters or notices demonstrating that you were not hired, or by providing a list of the dates of attempts to find work. If you submit such a list, include the employer contacted, the person contacted, and the results of the effort.

3. **For Full Review Final Payment Claims — Documents supporting future damages**

Claimants who submit a Full Review Final Payment Claim Form may submit documents that support any amount claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

II. Requirements for Documenting <u>Business</u> Lost Profits Claims

Any business claiming lost profits caused by the Spill must submit the documents described below. If you are self-employed, an owner of rental property, or operate a business as a sole proprietor, and you pay the expenses of the operation and report business income on a Schedule C or other business tax form, use this document list rather than the list in Section I.

Documents that establish revenue and income from January 1, 2008, to the present

(a) Provide federal income tax returns for 2008 and all subsequent years up to your most recently filed return. Include all W-2 forms, 1099 forms, and other attachments or schedules to each return. If any of your prior-year federal income tax returns are not available, provide a statement explaining why.

(b) For any prior year for which you cannot provide a federal tax return, and for the current year through the date you are claiming a loss, you still must establish your revenue and income history for the entire period with at least one of the following sources:
   (i) Monthly and annual Profit and Loss statements.
   (ii) Monthly sales and use tax returns.
   (iii) For seafood harvesting businesses, a report, obtained from the applicable governmental agency, of the claimant's landings since January 1, 2008.
   (iv) For new or start-up businesses, all available financial statements and business plans.

(c) In addition to federal tax returns, any business claimant seeking more than $200,000 must submit monthly and annual profit and loss statements from 2008 to the present.

2. **Documents that establish the effects of the Spill on the Business**

You must demonstrate how the Spill affected the business's revenue and income, such as with a letter from an authorized representative, customers and/or vendors describing the effects, or with other business records such as customer lists and invoices. For claims based on business cancellations as a result of the Spill, such as from a canceled rental agreement, contract or tour reservation, the claimant must submit copies of documents that demonstrate any cancellations, and documentation of any refunds of deposits or escrows that resulted from the cancellation. A claimant asserting no revenues or income for any period after the Spill, or a total failure of the business as a result of the Spill, must submit documents, such as profit and loss statements or other financial records demonstrating that the claimant was closed and/or had no revenue.

3. Documents that establish ownership or authority to act

Business claimants must establish that the representative who signs a Claim Form is authorized to act on behalf of the business claimant. Examples of documents that establish authorization include operating agreements, corporate bylaws or board resolutions, shareholder agreements, partnership agreements, or certificates of incumbency. If the claim is for loss of rental income, the claimant must submit copies of the deeds to the rental property owned by the claimant. If the claimant is a business entity with officers (or individuals with similar authority), the claimant must submit a list of the name and title of each officer.

4. Documents supporting increased costs

If the claimant is claiming that it suffered a loss as a result of increased costs of operating or additional expenses incurred as a result of the Spill, the claimant must submit copies of documents that support such increased costs.

5. Fishing Licenses

If the claimant asserts losses from any commercial fishing or harvesting operation, the claimant must also submit copies of any valid fishing license from any state or federal entity held by the claimant from 2008 until the present.

6. Documents that establish how rental property is managed

Claims for lost rental property income by property owners must document whether the rental property is managed by the claimant or by a third party, such as a management agreement or invoices from a property management company.

7. Insurance for Lost Income

Claimants must document any amounts received or anticipated from any insurance policy or program for lost income or interruption in business operations as a result of the Spill, as well as the dates that the claimant received such payments and the date that such payments are scheduled to cease.

8. Mitigation

Claimants must submit documentation of efforts made to reduce or otherwise mitigate losses during any period since the Spill.

9. For Full Review Final Payment Claims—Documents supporting future damages (if any)

Claimants who submit a Full Review Final Payment Claim Form may submit documents that support amounts claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

III. Requirements for Documenting Removal and Clean Up Costs Claims

Any person claiming removal and clean up costs as a result of the Spill must submit the documents described below.

1. Documents describing the Removal and Clean Up Action

2. Documents establishing when and where the Removal and Clean Up Action occurred

3. The Federal On-Scene Coordinator and the National Contingency Plan

Claimants must establish that the Removal and Clean Up action was approved by the Federal On-Scene Coordinator or was consistent with the National Contingency Plan.

4. Documents establishing why the action was taken

Claimants must demonstrate that the action was undertaken because of the Spill, such as by including maps or pictures of the contaminated area.

5.	**Documents establishing cost and payment** Claimants must demonstrate the cost of the action, and that payments were actually made, such as by providing copies of receipts, invoices or bills, or similar records supporting the costs incurred to perform the action, and bank statements, canceled checks, credit card statements, or other documents demonstrating payment of the cost.
6.	**Reasonableness of costs** Claimants must explain how claimed amounts for incurred costs were determined by providing any cost comparisons, alternative bids or pricing, or other documents demonstrating that the costs were reasonable.
7.	**Payments from insurance or other sources** Claimants must document payments received to perform the action from private insurance or other entities relating to any of the matters that form the basis of the claim.
8.	**For Full Review Final Payment Claims—Documents supporting future damages (if any)** Claimants who submit a Full Review Final Payment Claim Form may submit documents that support amounts claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

IV. Requirements for Documenting Real and Personal Property Claims

Any person claiming physical damage to real or personal property caused by the Spill must submit the documents described below.

1.	**Proof of ownership interest** Claimants must document their ownership or leasehold interest in the property claimed to be damaged, such as by providing a copy of a title, deed, or lease to property in the claimant's name. If the claim is for damage to a boat, submitted documents must establish the vessel or hull's Identification Number.
2.	**Proof of damage** Claimants must establish that property was physically damaged or destroyed by the Spill, such as by providing copies of invoices for repairs, insurance claims, or photographs.
3.	**Documents establishing loss of value** Property claims based on a loss of value of physically damaged property must establish realized loss, such as by providing copies of a purchase or sales contract for the property prior to the Spill and a settlement or closing document relating to the sale or other disposition of the property after the Spill.
4.	**Documents of repair or replacement costs** Property damage claims based on the cost to repair or replace the damaged property must establish the amount of those costs, such as by providing copies of bills, invoices or estimates.
5.	**Payments from Insurance** Claimants must state and document the amount of payments from any insurance policy or program for property that was damaged or destroyed by the Spill, as well as the dates that the claimant received such payments.
6.	**Property Damage during Vessels of Opportunity work** Claimants must indicate if the property damage occurred while working for the Vessels of Opportunity program.

For Full Review Final Payment Claims—Documents supporting future damages (if any)

Claimants who submit a Full Review Final Payment Claim Form may submit documents that support amounts claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

V. Requirements for Documenting Loss of Subsistence Use of Natural Resources Claims

Any person claiming loss of subsistence use of natural resources as a result of the Spill must submit the documents described below.

1. **Documents identifying the Subsistence Use of Natural Resources**
   Claimants must provide photographs, affidavits, witness statements, or other documents identifying the affected natural resource used by the claimant before the Spill and proving that the claimant used and relied upon that resource for the claimant's subsistence. Subsistence is defined as necessary to support life.

2. **Documentation of replacement costs**
   Claimants must provide copies of receipts or other verifications of expenditures to replace the natural resources previously relied upon for subsistence.

3. **For Full Review Final Payment Claims — Documents supporting future damages (if any)**
   Claimants who submit a Full Review Final Payment Claim Form may submit documents that support amounts claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

VI. Requirements for Documenting Physical Injury or Death Claims

Any person claiming damages from physical injury or death as a result of the Spill must submit the documents described below.

1. **Documented diagnosis**
   Claimants must provide documents from a medical practitioner providing a diagnosis of the injury/death, such as hospital records or medical records.

2. **Documents establishing the cause of the injury or death**
   Claimants must provide documents from the treating medical practitioner providing a description of the cause of the injury/death, such as hospital records, medical records, or affidavits.

3. **Documents establishing where the injury or death occurred**
   Claimants must provide documents that demonstrate the geographic location where the injury/death occurred, such as copies of employer records, hospital records or medical records.

4. **Proof of medical expenses**
   Claimants must provide documents establishing any medical expenses incurred as a result of the injury/death, such as copies of pharmacy receipts, hospital bills, or bills from a medical practitioner.

5. **Proof of disability**
   If disability is claimed, proof of the nature and degree of such disability, such as copies of hospital records, or other medical records from treatment of the claimant.

Physical injury during Vessels of Opportunity work

If the injury occurred while working for the Vessels of Opportunity program or a beach clean-up program, proof of employment such as copies of pay stubs and any incident reports related to the injury.

7. **Proof required for death claims**

If death is claimed to have been caused by the Spill, copies of a death certificate and, where available, an autopsy report. If the death occurred while in a hospital or other care facility, copies of all records relating to that stay in the hospital or facility.

8. **Documentation of payments from insurance or any other source**

Claimants must state and document the amount of any compensation, reimbursements or other payments received for the injuries and/or for medical expenses resulting from the injury from any source such as private health insurance, Medicare, Medicaid, worker's compensation insurance, or any party.

9. **For Full Review Final Payment Claims—Documents supporting future damages (if any)**

Claimants who submit a Full Review Final Payment Claim Form may submit documents that support amounts claimed as future damages as a result of the Spill, including documents demonstrating the manner in which such future damages have been calculated, the period of time for which they are claimed, and any expert reports or other analyses on which the calculation is based.

VII. Requirements for Documenting Representative Claimants

If you are filing a claim on behalf of a person who is deceased, legally incompetent, or legally a minor under the laws of the state or jurisdiction where the minor lives, you also must submit the following documents. To obtain any of the forms required by the GCCF mentioned below, go to www.gulfcoastclaimsfacility.com, call toll-free at 1-800-916-4893, or visit a GCCF Site Office.

1. **Representative of a deceased Claimant**

Provide a copy of a court order or other document issued by an official showing appointment as the representative of the estate of a deceased claimant. If no such document can be obtained, the claimant must submit an Affidavit of Heirship using the form required by the GCCF.

2. **Representative of a legally incompetent Claimant**

Provide a copy of a court order or other document issued by an official showing appointment as the guardian or other authorized representative of the incompetent claimant. If no such document can be obtained, the claimant must submit an Affidavit of Guardianship using the form required by the GCCF.

3. **Representative of a minor Claimant**

Provide a copy of a court order or other document issued by an official showing appointment as the guardian or other authorized representative of the minor claimant. If no such document can be obtained, the claimant must submit an Affidavit of Parentage or Custodial Capacity using the form required by the GCCF.

ATTACHMENT E

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

FORM BUSINESS LETTER

[Date]

[Claimant/Attorney Name]
[Claimant/Attorney Address 1]
[Address 2]
[City, State Zip Code]

RE: **Determination Letter on Interim Payment/Final Payment Claim**
[Claimant Name]
[Claimant ID:]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Determination Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov.

I. <u>The Determination of Your Claim and Calculation of Losses.</u>

You qualify for compensation from the GCCF. **Attachment A** to this Letter explains the amount, if any, that the GCCF is paying to you now for an Interim Payment as well as an offer for a Final Payment (the "Final Payment Offer"), which is the additional amount you can be paid now if you decide to accept the Final Payment Offer and sign a Release and Covenant Not to Sue (the "Release"). The Release waives and releases any claims that you have or may have in the future against BP and all other potentially responsible parties with regard to the Oil Spill, and prevents you from submitting any claim seeking payment from the NPFC or a court. **Attachment B** to this Letter shows you the periods of your documented losses based upon the records you submitted and also shows you the periods where documents were missing (which means that the GCCF could not award you losses for those periods).

II. <u>Your Interim Payment.</u>

If **Attachment A** shows that you are entitled to an Interim Payment, the GCCF will follow your payment instructions: (a) if you indicated in your Claim Form that you wished to be paid by wire transfer, the GCCF will wire your payment into your account as you directed; or (b) if you indicated in your Claim Form that you wished to be paid by check, the GCCF has mailed you a check with a hardcopy of this Letter. This Interim Payment is for your past lost profits for the period after April 20, 2010, and up to the time of the last period for which you submitted records showing your revenues or lost profits, as shown in **Attachment B, Section A.** <u>The GCCF has made this Interim Payment to you without requiring you to release or give up any claims or to surrender any litigation rights</u>. You may submit additional Interim Payment Claim Forms along with the Required Documentation to show those damages caused by the Oil Spill, once each calendar quarter, until August 22, 2013. The GCCF will review your claim, issue you a new Determination Letter and send you payment of any additional past lost profits caused by the Oil Spill as shown in your documents. Your new Determination Letter also will provide a new Final Payment Offer that you will have 90 days to accept. That new Final Payment Offer could be higher, lower, or stay the same as the Final Payment Offer in this Letter, depending upon what your documents show and any new information available to the GCCF at the time about the impact of the Oil Spill on the Gulf region.

III. <u>Your Final Payment.</u>

If you want to be paid the amount shown in your Final Payment Offer in **Attachment A** and fully resolve your entire claim now, you can accept your Final Payment Offer. Your Final Payment Offer includes payment for all future damages to you as a result of the Oil Spill, determined according to the Gulf Coast Claims Facility's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology. Your Final Payment Offer is valid for 90 days after the date of this Letter. The last page of this Letter contains an Election Form with a box for you to use to accept the Final Payment Offer and a space for your signature. To accept your Final Payment Offer, check the box on the Election Form indicating that you accept your Final Payment Offer, sign it and return it to the GCCF no later than 90 days after the date of this Letter. We then will send you a Release for you to sign and return to be paid the Final Payment Amount. The GCCF will mail or wire the Final Payment Amount to you as you indicated on your Claim Form within 14 days after receipt of a complete and properly signed Release. You must submit your ***original*** signature on the Release to the GCCF. The GCCF will not accept faxes, scanned images or photocopies of your signed Release.

You may appeal a Final Payment Offer if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals who will make an independent determination of the claim's value. BP will have the right to appeal to the panel of three neutrals if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is $500,000 or more. For further information on the appeal process, visit the GCCF website at <u>www.gulfcoastclaimsfacility.com</u>.

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

If you are represented by a lawyer, you should discuss your rights with your lawyer before signing and returning the Release. If you would like to consult with an attorney but cannot afford one, free legal help is available for the GCCF Interim or Final Claims Process, through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. Information about this free assistance is available on the GCCF website, www.gulfcoastclaimsfacility.com.

If you do not accept your Final Payment Offer, then you may choose to seek additional Interim Payments from the GCCF or request re-review of your Final Payment Offer, as described in this Letter.

IV. Request for Re-Review of Your Final Offer Amount.

If **Attachment B, Section B** identifies any missing documentation needed to evaluate your claim fully, you may submit those documents and the GCCF will re-review your claim and issue you another Determination Letter with a new Final Payment Offer. Depending on what your additional documents show, your new Final Payment Offer could be higher, lower or stay the same as the Final Payment Offer in this Letter. If your documents show additional lost profits caused by the Oil Spill, the GCCF will include those lost profits in your new Final Payment Offer and will adjust the future damages portion of your Final Payment Offer accordingly. If you want to submit additional documents to the GCCF now for a re-review, send them to the GCCF within 30 days after the date of this Letter. The GCCF will review them and send you a new Final Payment Offer within 30 days after it receives your records.

V. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Determination Letter, and the calculations used to derive the Interim Payment and/or Final Payment amounts. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: XXXXXXXXX at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

ATTACHMENT A: EVALUATION OF CLAIM		
A. Annual Pre-Spill Revenues		
2008	2009	2010 Projected Revenues
$	$	$
Methodology used to calculate 2010 Projected Revenues		

B. Calculation of Past Lost Profits		
1.	**2010 Projected Revenues** (projected for the periods within May-Dec. 2010 based upon documented financial records, as shown in Attachment B Section A)	$
2.	**Less: 2010 Actual Revenues** (for May-Dec. 2010 from submitted financial records, as shown in Attachment B, Section A)	($)
3.	**2010 Lost Revenues** (Row 1 minus Row 2)	$
4.	**Loss of Income % (LOI %)** (the LOI percentage adjusts the calculated Lost Revenues to reflect saved or discontinued expenses)	%
5.	**Resulting 2010 Lost Profits** (Row 3 multiplied by Row 4 to determine the Lost Profits from the Lost Revenues)	$

C. Interim Payment		
1.	**2010 Lost Profits** (from Row 5 in Section B above)	$
2.	***Less Offsets:***	
	Payments by BP	($)
	GCCF Emergency Payments	($)
	GCCF Interim Payments	($)
	Other Offsets	($)
3.	**Calculated Interim Payment**	$
4.	**Interim Payment Paid with this Letter** (A $1,000 minimum payment applies to this Interim Payment only.)	$

D. Final Payment Offer	
Final Payment Offer: 2010 Lost Profits of $[ ] multiplied by a Recovery Factor of [two/four] times losses = $ [ ], less the Offsets shown in Section C above and all Interim Payments. If your calculated Final Payment Offer is below $25,000, your Final Payment Offer is the $25,000 Quick Payment Amount. If you wish to accept this Final Payment Offer, check the box in Section C of the Election Form on the last page of this letter and sign and return the Election Form.	$

ATTACHMENT B: EXPLANATION OF DOCUMENTED LOST PROFITS

A. Documented Lost Profits Periods

You submitted documents showing your revenue and lost profits for the periods shown below. The GCCF based its calculation of your Interim Payment Amount, if any, and the Calculated Final Payment Offer upon this submitted documentation.

	Measurement Period	Projected Monthly Revenues	Actual Post-Spill Revenues	Net Loss (Projected Monthly minus Actual Post-Spill Revenues)
1.	May, 2010	$	$	$
2.	June, 2010	$	$	$
3.	July, 2010	$	$	$
4.	August, 2010	$	$	$
5.	September, 2010	$	$	$
6.	October, 2010	$	$	$
7.	November, 2010	$	$	$
8.	December, 2010	$	$	$
TOTAL DOCUMENTED PAST LOST PROFITS SINCE THE OIL SPILL		$	$	$

B. Missing Documents

You did not submit documents showing your revenue and lost profits for the Periods Missing Documents identified below. Nor did you provide any proof that that you did not receive any revenue during those periods. The GCCF can re-review your claim if you submit such documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show revenue for these periods. You may submit these records to document the Periods Missing Documents identified below:

Business Claimants:

(d) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return, if you have filed a return for the period.

(e) Monthly and annual Profit and Loss statements.

(f) Monthly sales and use tax returns.

(g) For seafood harvesting businesses, a report, obtained from the applicable governmental agency, of the Claimant's landings since January 1, 2008.

For new or start-up businesses, all available financial statements and business plans.

	Periods Missing Documents
1.	

GCCF 1012	**ELECTION FORM FOR DETERMINATION LETTER ON LOST PROFITS CLAIM** **Date of Notice:** **Deadline to Submit Additional Documentation for Re-Review:** **Date Final Payment Offer Expires:**

A. CLAIMANT INFORMATION

		Claimant Number			
Claimant Name			City	State	Zip
Address	Street			**Zip Code of Loss**	
Claimant Type (Individual or Business)		**Business Type**			

B. ATTORNEY REPRESENTATION INFORMATION

☐	The GCCF has no information that this Claimant is represented by an attorney.
☐	The GCCF has been informed that this Claimant is represented by the following attorney:

Attorney Name		**Law Firm**			
Address	Street	City		State	Zip

C. ELECTION TO ACCEPT FINAL PAYMENT OFFER

☐	I elect to be paid the Final Payment Offer described in my Determination Letter. The GCCF will send you a Release and Covenant Not to Sue that you must sign and return to be paid.

SIGNATURE

Signature of Business Owner or Authorized Business Representative		**Date:**	/ / (Month/Day/Year)
Name of Person Signing (Print or Type)			

You can send the GCCF documents for a re-review of your claim or complete and send this Election Form to elect to be paid this Final Payment Offer using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to NoticesandOffers@gccf-claims.com
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772

GCCF 1012	**Election Form for Determination Letter on Lost Profits Claim:** **Date of Notice:** **Deadline to Submit Additional Documentation for Re-Review:** **Date Final Payment Offer Expires:**

5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit www.gulfcoastclaimsfacility.com to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
6.	**Online Election of Final Payment Offer:** (Completed no later than midnight your time for your deadline to elect)	You can accept your Final Payment Offer electronically by visiting the GCCF website at www.gulfcoastclaimsfacility.com and accessing your claim status by clicking on the "Check Claim Status" tab. This is only for accepting the Final Payment Offer and not for sending additional documents for re-review of your claim.

GCCF Gulf Coast Claims Facility

www.GulfCoastClaimsFacility.com

FORM INDIVIDUAL LETTER

[Date]

[Claimant/Attorney Name]
[Claimant/Attorney Address 1]
[Address 2]
[City, State Zip Code]

RE: Determination Letter on Interim Payment/Final Payment Claim
[Claimant Name]
[Claimant ID:]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Determination Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov.

VI. <u>The Determination of Your Claim and Calculation of Losses.</u>

You qualify for compensation from the GCCF. **Attachment A** to this Letter explains the amount, if any, that the GCCF is paying to you now for an Interim Payment as well as an offer for a Final Payment (the "Final Payment Offer"), which is the additional amount you can be paid now if you decide to accept the Final Payment Offer and sign a Release and Covenant Not to Sue (the "Release"). The Release waives and releases any claims that you have or may have in the future against BP and all other potentially responsible parties with regard to the Oil Spill, and prevents you from submitting any claim seeking payment from the NPFC or a court. **Attachment B** to this Letter shows you the periods of your documented losses based upon the records you submitted and also shows you the periods where documents were missing (which means that the GCCF could not award you losses for those periods).

VII. Your Interim Payment.

If **Attachment A** shows that you are entitled to an Interim Payment, the GCCF will follow your payment instructions: (a) if you indicated in your Claim Form that you wished to be paid by wire transfer, the GCCF will wire your payment into your account as you directed; or (b) if you indicated in your Claim Form that you wished to be paid by check, the GCCF has mailed you a check with a hardcopy of this Letter. This Interim Payment is for your past losses for the period after April 20, 2010, and up to the time of the last period for which you submitted records showing your income or losses, as shown in **Attachment B, Section A.** The GCCF has made this Interim Payment to you without requiring you to release or give up any claims or to surrender any litigation rights. You may submit additional Interim Payment Claim Forms along with the Required Documentation to show those damages caused by the Oil Spill, once each calendar quarter, until August 22, 2013. The GCCF will review your claim, issue you a new Determination Letter and send you payment of any additional past losses caused by the Oil Spill as shown in your documents. Your new Determination Letter also will provide a new Final Payment Offer that you will have 90 days to accept. That new Final Payment Offer could be higher, lower, or stay the same as the Final Payment Offer in this Letter, depending upon what your documents show and any new information available to the GCCF at the time about the impact of the Oil Spill on the Gulf region.

VIII. Your Final Payment.

If you want to be paid the amount shown in your Final Payment Offer in **Attachment A** and fully resolve your entire claim now, you can accept your Final Payment Offer. Your Final Payment Offer includes payment for all future damages to you as a result of the Oil Spill, determined according to the Gulf Coast Claims Facility's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology. Your Final Payment Offer is valid for 90 days after the date of this Letter. The last page of this Letter contains an Election Form with a box for you to use to accept the Final Payment Offer and a space for your signature. To accept your Final Payment Offer, check the box on the Election Form indicating that you accept your Final Payment Offer, sign it and return it to the GCCF no later than 90 days after the date of this Letter. We then will send you a Release for you to sign and return to be paid the Final Payment Amount. The GCCF will mail or wire the Final Payment Amount to you as you indicated on your Claim Form within 14 days after receipt of a complete and properly signed Release. You must submit your ***original*** signature on the Release to the GCCF. The GCCF will not accept faxes, scanned images or photocopies of your signed Release.

You may appeal a Final Payment Offer if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals who will make an independent determination of the claim's value. BP will have the right to appeal to the panel of three neutrals if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is $500,000 or more. For further information on the appeal process, visit the GCCF website at www.gulfcoastclaimsfacility.com.

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

If you are represented by a lawyer, you should discuss your rights with your lawyer before signing and returning the Release. If you would like to consult with an attorney but cannot afford one, free legal help is available for the GCCF Interim or Final Claims Process, through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. Information about this free assistance is available on the GCCF website, www.gulfcoastclaimsfacility.com.

If you do not accept the Final Payment Offer, then you may choose to seek additional Interim Payments from the GCCF or request re-review of your Final Payment Offer, as described in this Letter.

IX. Request for Re-Review of Your Final Offer Amount.

If **Attachment B, Section B** identifies any missing documentation needed to evaluate your claim fully, you may submit those documents and the GCCF will re-review your claim and issue you another Determination Letter with a new Final Payment Offer. Depending on what your additional documents show, your new Final Payment Offer could be higher, lower or stay the same as the Final Payment Offer in this Letter. If your documents show additional losses caused by the Oil Spill, the GCCF will include those losses in your new Final Payment Offer and will adjust the future damages portion of your Final Payment Offer accordingly. If you want to submit additional documents to the GCCF now for a re-review, send them to the GCCF within 30 days after the date of this Letter. The GCCF will review them and send you a new Final Payment Offer within 30 days after it receives your records.

X. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Determination Letter, and the calculations used to derive the Interim Payment and/or Final Payment amounts. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: XXXXXXXXX at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

ATTACHMENT A: EVALUATION OF CLAIM

A. Annual Pre-Spill Earnings		
2008	2009	Higher of 2008/2009
$	$	$

	B. Calculation of Past Lost Earnings	
1.	**2010 Projected Earnings** (projected for May-Dec. 2010 from the higher annual amount in Section A above)	$
2.	**2010 Projected Earnings** (projected for the periods in May-Dec. 2010 based upon documented financial records, as shown in Attachment B Section A)	$
3.	**Less: 2010 Actual Earnings** (for May-Dec. 2010 from submitted records as shown in Attachment B Section B)	($)
4.	**2010 Lost Earnings** (Row 2 minus Row 3)	$
	C. Interim Payment	
1.	**2010 Lost Earnings** (from Row 4 in Section B above)	$
2.	***Less Offsets:***	
	Payments by BP	($)
	GCCF Emergency Payments	($)
	GCCF Interim Payments	($)
	Other Offsets	($)
3.	**Calculated Interim Payment**	$
4.	**Interim Payment Paid with this Letter** (A $1,000 minimum payment applies to this Interim Payment only.)	$
5.	**Accounting Preparation Expenses and/or Job Seeking Expenses Also Paid With This Letter**	$
6.	**Total Payment Sent With This Letter**	$

D. Final Payment Offer	
Final Payment Offer: 2010 Lost Earnings of $[ ] multiplied by a Recovery Factor of [two/four] times losses = $ [ ], less the Offsets shown in Section C above and all Interim Payments. If your calculated Final Payment Offer is below $5,000, your Final Payment Offer is the $5,000 Quick Payment Amount. If you wish to accept this Final Payment Offer, check the box in Section C of the Election Form on the last page of this letter and sign and return the Election Form.	$

ATTACHMENT B: EXPLANATION OF DOCUMENTED LOST EARNINGS AND INCOME

A. Periods With Submitted Financial Records

You submitted documents showing your income and losses for the periods shown below. The GCCF based its calculation of your Interim Payment Amount, if any, and the Calculated Final Payment Offer upon this submitted documentation for those periods.

	2010 Month	Periods With Documents	Source of Earnings/Income
1.			
2.			

B. Periods for which Financial Records are Missing

You did not submit documents showing your income and losses for the Periods Missing Documents identified below. Nor did you provide any proof that that you did not receive any income during those periods. The GCCF can re-review your claim if you want to seek payment for any losses during those periods and if you submit the documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show income for these periods. You may submit these records to document the Periods Missing Documents identified below:

Individual Claimants:

(c) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(d) State tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(e) Paycheck stubs or other payroll records from all employment demonstrating earnings.

(f) A letter or other records from an employer that describes when you were working and your rate of pay and total earnings, or why you were not working.

	Periods Missing Documents
1.	
2.	

GCCF 1012	**Election Form for Determination Letter on Lost Earnings and Income Claim** **Date of Notice: 2/11/11** **Deadline to Submit Additional Documentation for Re-Review: 3/12/11** **Date Final Payment Offer Expires: 5/11/11**

D. Claimant Information

Claimant Name		**Claimant Number**			
Address	Street	City		State	Zip
Claimant Type (Individual or Business)		**Business Type**		**Zip Code of Loss**	

E. Attorney Representation Information

☐	The GCCF has no information that this Claimant is represented by an attorney.
☐	The GCCF has been informed that this Claimant is represented by the following attorney:

Attorney Name		**Law Firm**		
Address	Street	City	State	Zip

F. Election to Accept Final Payment Offer

☐	I elect to be paid the Final Payment Offer described in my Determination Letter. The GCCF will send you a Release and Covenant Not to Sue that you must sign and return to be paid.

Signature

Claimant Signature		**Date**	/ / (Month/Day/Year)
Name of Person Signing (Print or Type)			

You can send the GCCF documents for a re-review of your claim or complete and send this Election Form to elect to be paid this Final Payment Offer using any of the following ways:

7.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to NoticesandOffers@gccf-claims.com
8.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
9.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
10.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772

GCCF 1012	**ELECTION FORM FOR DETERMINATION LETTER ON LOST EARNINGS AND INCOME CLAIM** **Date of Notice: 2/11/11** **Deadline to Submit Additional Documentation for Re-Review: 3/12/11** **Date Final Payment Offer Expires: 5/11/11**

11.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit www.gulfcoastclaimsfacility.com to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
12.	**Online Election of Final Payment Offer:** (Completed no later than midnight your time for your deadline to elect)	You can accept your Final Payment Offer electronically by visiting the GCCF website at www.gulfcoastclaimsfacility.com and accessing your claim status by clicking on the "Check Claim Status" tab. This is only for accepting the Final Payment Offer and not for sending additional documents for re-review of your claim.

EXHIBIT S

Exhibit S

January 3, 2012

[redacted]

RE: Determination Letter on Interim Payment/Final Payment Claim
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

You have filed one or more Claim Forms with the GCCF. This Determination Letter ("Letter") is an official notification from the GCCF. This Letter addresses all the Claim Forms and documents that you have filed concerning the claims described below. If you filed more than one Claim Form or claims for businesses or activities on which you pay taxes using the same taxpayer identification number (Social Security Number or Employer Identification Number), then we have combined all the claims for that taxpayer identification number into one claim.

The GCCF has reviewed the Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 (MDL No. 2179)*. The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims**. Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**.

I. The Determination of Your Claim and Calculation of Losses.

You qualify for compensation from the GCCF. **Attachment A** to this Letter explains the amount that we are offering you as a Final Payment (the "Final Payment Offer"), which is the amount you can be paid now if you decide to accept the Final Payment Offer and sign a Release and Covenant Not to Sue (the "Release"). The Release waives and releases any claims that you have or may have in the future against BP and all other potentially responsible parties with regard to the Oil Spill, and prevents you from submitting any claim seeking payment from the NPFC or a court. **Attachments B and C** to this Letter show you the periods of your documented losses based upon the records you submitted. **Attachment D** shows you the periods where documents were missing (which means that we could not award you losses for those periods).

II. Your Final Payment.

If you want to be paid the amount shown in your Final Payment Offer in **Attachment A** and fully resolve your entire claim now, you can accept your Final Payment Offer. Your Final Payment Offer includes payment for all future damages to you as a result of the Oil Spill, determined according to the Gulf Coast Claims Facility's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology. Your Final Payment Offer is valid for 30 days after the date of this Letter[1]. This Letter contains a Final Payment Election Form with a box for you to use to accept the Final Payment Offer and a space for your signature. To accept your Final Payment Offer, check the box on the Final Payment Election Form indicating that you accept your Final Payment Offer, sign it and return it to us no later than 30 days after the date of this Letter. We then will send you a Release for you to sign and return to be paid the Final Payment Amount. We will send the Final Payment Amount to you within 14 days after receipt of a complete and properly signed Release. You must submit your ***original*** signature on the Release to us. We will not accept faxes, scanned images or photocopies of your signed Release.

You may appeal a Final Payment Offer if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is in excess of $250,000. The appeal will be reviewed by a panel of three neutrals who will make an independent determination of the claim's value. BP will have the right to appeal to the panel of three neutrals if your total monetary award (including any Emergency, Interim or Final Payments made by BP or the GCCF) is $500,000 or more.

All claimants are entitled to request a Re-Review of a Final Claim as described below in this Letter. The GCCF has determined that when a claimant has filed a request for Re-Review of a Final Claim, the fourteen (14) day deadline for filing an appeal will run from the date of notification of the GCCF's determination of the Re-Review. If a claimant does not file a request for a Re-Review of a Final Claim, the fourteen (14) day deadline for filing an appeal will run from the date of notification of the GCCF's Final Determination.

PLEASE NOTE: If your total Final Payment Offer is in excess of $500,000, payment of your Final Amount will not be made until the expiration of the 14-day period for the right of an appeal of your claim by BP. The expiration of the right of an appeal is 14 days from the date of this Letter. For more information on the appeal process, visit the GCCF website at **www.gulfcoastclaimsfacility.com**.

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

If you are represented by a lawyer, you should discuss your rights with your lawyer before signing and returning the Release. If you would like to consult with an attorney but cannot afford one, free legal help is available for the GCCF Interim or Final Claims Process, through a network of nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas. Information about this free assistance is available on the GCCF website, **www.gulfcoastclaimsfacility.com**

If you do not accept the Final Payment Offer, then you may request a Re-Review of your Final Payment Offer or choose to seek additional Interim Payments from the GCCF, as described in this Letter.

III. Lien Withholdings.

Your Final Payment Offer are subject to withholdings for any outstanding liens received by the GCCF prior to making such payments. If we have received a lien as to your claim, this Letter has an **Attachment E** that provides details on the lien and how it affects your Final Payment Offer.

[1] The GCCF may amend or withdraw this Final Payment Offer if the GCCF determines that the Final Payment Offer was the result of mistake or fraud.

IV. Request for Re-review of Your Payment Calculations.

You may request a Re-Review of your claim if you believe that a miscalculation occurred or if you wish to submit some or all of the missing documentation identified on **Attachment D**. To request a Re-Review, you must complete the Re-Review Election Form enclosed with this Letter and either mail it to us or submit it through the GCCF website, no later than 30 days after the date of this Letter. You must identify in the Re-Review Election Form the reason(s) for your request and identify the documents that form the basis of your request for a Re-Review. Only documents for the missing loss periods identified in **Attachment D** of this Letter will be re-reviewed. If you wish to submit documents for review that provide information outside the missing loss periods identified in **Attachment D** of this Letter, you must submit a new Interim Payment Claim Form. In accordance with the GCCF's Final Rules dated February 18, 2011, Interim Payment claims may be filed once each calendar quarter.

Within 30 days of receipt of your request for Re-Review of your claim, the GCCF will issue you a new Determination Letter based upon the Re-Review. Your payment calculation and Final Offer could change or may be the same as those in this Letter. If you submit any new documents within the missing loss periods identified in **Attachment D** showing additional losses caused by the Oil Spill, we will include those losses in your new Determination Letter.

V. Submit Future Claim(s) for an Interim Payment.

If you decide not to accept your Final Payment Offer, you may submit future Interim Payment Claim Forms along with the Required Documentation to show damages caused to you by the Oil Spill. You may submit only one Interim Payment Claim Form during each calendar quarter (the calendar quarters are Jan-Mar; April-June; July-September; and Oct-Dec). You must submit a new Interim Payment Claim Form to seek payment for any period beyond that covered by this Determination Letter. **The GCCF will review only one claim for you for each quarter and will evaluate all of the supporting documentation that you have submitted through the date of that review.** If you file another quarterly Interim Payment Claim, the GCCF will review your claim and evaluate all newly submitted supporting documentation since the review of your previous Interim Payment Claim and, if you prove additional losses caused by the Oil Spill, the GCCF will issue you a new Determination Letter and send you payment for those additional past losses. Your new Determination Letter will provide a Final Payment Offer that you will have 30 days to accept. All Final Payment Offers will be reduced by Interim Payments and any other offsets.

VI. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you may call the GCCF Claims Review Specialist identified below who can answer questions about your claim or this Letter. For TTY assistance call 1-866-682-1758. If you are represented by an attorney, we will communicate directly with your attorney. If you have authorized a claims preparation firm to receive information on your claim, the GCCF is mailing a copy of this Letter to that firm.

Your GCCF Claims Review Specialist is: Sarah 58350 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims AdministratorGulf
Coast Claims Facility

ATTACHMENT A: EVALUATION OF CLAIM			
A. ANNUAL PRE-SPILL EARNINGS			
2008	**2009**	**Jan-April 2010 Income Projected for the Year**	**Highest of 2008/2009/2010**
$0.00	$16,760.96	$16,375.76	$16,760.96

Seasonality: The GCCF uses monthly seasonality percentages to apportion the amount earned by hourly seasonal workers such as fishermen or tourist-related employees during the calendar year.[1]

2010 Projected Earnings: This is derived by taking the highest Annual Pre-Spill Earnings from 2008, 2009 or 2010 and apportioning that amount using the seasonality rules described above to the months with submitted documents.

2011 Projected Earnings: This is derived by taking the highest Annual Pre-Spill Earnings from 2008, 2009 or 2010 and apportioning that amount using the seasonality rules described above to the months with submitted documents.

B. CALCULATION OF PAST LOST EARNINGS		
1.	**2010 Lost Earnings** (See Attachment C)	$5,181.78
2.	**2011 Lost Earnings (1/1/11 through 6/30/11)** (See Attachment C)	($2,286.49)
3.	**2011 Lost Earnings (After 6/30/11)** (See Attachment B)	$0.00

C. FINAL PAYMENT OFFER		
1.	**2010 Lost Earnings (From Row 1 in Section B) Multiplied by a Future Recovery Factor of 2**	$10,363.56
2.	**Total Post-Spill Lost Earnings (Sum of all rows in Section B)**	$2,895.29
3.	**Final Payment Amount (Higher amount from Row 1 or Row 2)**	$10,363.56
4.	**Less Offsets:** (The deductions for previous payments from BP or a Real Estate Fund shown below are based on the most recent data the GCCF has received from those organizations. If the amount of the deduction below has changed from that shown in a previous Determination Letter sent to you, then the data we received has changed since that previous letter. If you feel that the deducted amount is wrong, contact us to explain the discrepancy.)	
	Payments by BP	$0.00
	Real Estate Fund Payment	$0.00
	GCCF Emergency Payments	$0.00
	GCCF Interim Payments	$0.00
	Unemployment Compensation	$0.00
5.	**Calculated Final Payment Amount**	**$10,363.56**
6.	**Final Payment Offer:** If your calculated Final Payment Offer is below $5,000, your Final Payment Offer is the $5,000 Quick Payment Amount. (If your Final Payment Offer is subject to an outstanding lien, **Attachment E** provides details on the lien.) The GCCF calculates all of your losses based upon the financial records you have submitted. If the calculation of this claim or a later claim results in a determination of 2010 losses lower than that shown in a previous Determination Letter sent to you, your Final Payment Offer (before offsets for prior payments) will remain the same as the Final Payment Offer previously made to you. Remember, however, that this policy may change if, based upon a renewed evaluation of available data regarding the recovery of the Gulf, the GCCF makes an adjustment to the Future Recovery Factor. If you wish to accept this Final Payment Offer, check the box in Section C of the Final Payment Election Form included with this Letter and sign and return the Final Payment Election Form to the GCCF.	**$10,363.56**

[1] Jan. (2.47%); Feb. (3.88%); Mar. (6.05%); Apr. (7.17%); May (9.40%); June (19.97%); July (23.94%); Aug. (12.71%); Sept. (5.97%); Oct. (4.63%); Nov. (2.18%); and Dec. (1.63%). Salaried workers are apportioned at 8.33% per month.

ATTACHMENT B:
DETAIL ON FINANCIAL CALCULATIONS FOR LOST EARNINGS AFTER 6/30/11

You submitted documents showing your 2011 earnings for the measurement period shown below. For any period after 6/30/11, the calculation of your Lost Earnings is limited to your Projected Monthly Earnings minus the higher of (a) your Actual 2010 Earnings plus 5% for the aggregate period as adjusted for seasonality or (b) your Actual 2011 Earnings for the aggregate period, as shown here:

Measurement Period	Projected Monthly Earnings	Seasonally Adjusted Actual 2010 Earnings + 5%	Actual 2011 Earnings	2011 Lost Earnings After 6/30/11 (Projected Monthly Earnings Minus Higher of Actual 2010 Earnings + 5% or Actual 2011 Earnings)
None				$0.00

This is your Determination Letter for the 2nd Quarter of 2011 filing. The GCCF reviewed all documentation you submitted through the measurement period shown above on the Lost Earnings claim that led to this Determination Letter. We will review in the next quarter any supporting documentation for a later period that you may have submitted with the submission of your next Interim Payment/Final Payment Claim Form.

ATTACHMENT C:
DETAIL ON FINANCIAL CALCULATIONS FOR LOST EARNINGS FOR 2010 AND JANUARY - JUNE, 2011

You submitted documents showing your Post-Spill earnings for the periods shown below. The GCCF based its calculation of any Interim Payment Amount and the Calculated Final Payment Offer upon this submitted documentation for loss periods in Attachments B and C.

Measurement Period		Projected Monthly Earnings	Actual Post-Spill Earnings	Lost Earnings (Projected Monthly Earnings Minus Actual Post - Spill Earnings)
1.	05/01/2010-05/05/2010; 05/06/2010-05/19/2010; 05/20/2010-05/31/2010	$1,575.53	$1,019.60	$555.93
2.	06/01/2010-06/02/2010; 06/03/2010-06/16/2010; 06/17/2010-06/30/2010	$3,347.16	$1,156.26	$2,190.90
3.	07/01/2010-07/14/2010; 07/15/2010-07/28/2010; 07/29/2010-07/31/2010	$4,012.57	$1,178.08	$2,834.49
4.	08/01/2010-08/11/2010; 08/12/2010-08/25/2010; 08/26/2010-08/31/2010	$2,130.32	$1,029.72	$1,100.60
5.	09/01/2010-09/08/2010; 09/09/2010-09/22/2010; 09/23/2010-09/30/2010	$1,000.63	$914.45	$86.18
6.	10/01/2010-10/06/2010; 10/07/2010-10/20/2010; 10/21/2010-10/31/2010	$776.03	$952.42	($176.39)
7.	11/01/2010-11/03/2010; 11/04/2010-11/17/2010; 11/18/2010-11/30/2010	$365.39	$980.33	($614.94)

8.	12/01/2010-12/01/2010; 12/02/2010-12/15/2010; 12/16/2010-12/29/2010; 12/30/2010-12/31/2010	$273.20	$1,068.19	($794.99)
Totals		**$13,480.83**	**$8,299.05**	**$5,181.78**
9.	01/01/2011-01/12/2011; 01/01/2011-01/31/2011; 01/13/2011-01/26/2011; 01/27/2011-01/31/2011	$415.67	$1,990.40	($1,574.73)
10.	02/01/2011-02/09/2011	$209.03	$920.79	($711.76)
Totals		**$624.70**	**$2,911.19**	**($2,286.49)**

ATTACHMENT D: PERIODS FOR WHICH FINANCIAL DOCUMENTS ARE MISSING

You did not submit documents showing your income and losses for the periods identified below. Nor did you provide any proof that that you did not receive any income during those periods. The GCCF can re-review your claim if you submit such documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show income for these periods. You may submit these records to document the periods with missing documents identified below:

Individual Claimants:

(a) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.
(b) State tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.
(c) Paycheck stubs or other payroll records from all employment demonstrating earnings.
(d) A letter or other records from an employer that describes when you were working and your rate of pay and total earnings, or why you were not working..

	Periods Missing Documents
1.	February, 2011 (the 19 days not shown in Section A above)

GCCF 1012	**FINAL PAYMENT ELECTION FORM** **Date of Notice: January 3, 2012** **Deadline to Submit Re-Review Election Form: February 3, 2012** **Date Final Payment Offer Expires: February 3, 2012**

A. CLAIMANT INFORMATION

Claimant Name	[redacted]		**Claimant Number**	[redacted]	
Address	Street [redacted]		City [redacted]	State [redacted]	Zip [redacted]
Claimant Type (Individual or Business)	Individual	**Business Type**	[redacted]	**Zip Code of Loss**	[redacted]

B. ATTORNEY REPRESENTATION INFORMATION

☒	The GCCF has no information that this Claimant is represented by an attorney.
☐	The GCCF has been informed that this Claimant is represented by the following attorney:

Attorney Name		**Law Firm**		
Address	Street	City	State	Zip

C. ELECTION TO ACCEPT FINAL PAYMENT OFFER

☐	I elect to be paid the Final Payment Offer described in my Determination Letter and acknowledge that it is subject to any outstanding lien identified in **Attachment E** to the Letter (if the Letter has an Attachment E) and any other lien of which the GCCF receives notice before payment of the Final Payment Offer. The GCCF will send you a Release and Covenant Not to Sue that you must sign and return to be paid.

SIGNATURE

Claimant Signature		**Date**	___/___/_____ (Month/Day/Year)
Name of Person Signing (Print or Type)			

You can complete and send this Final Payment Election Form to elect to be paid this Final Payment Offer using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to **NoticesandOffers@gccf-claims.com**
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit **www.gulfcoastclaimsfacility.com** to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
6.	**Online Election of Final Payment Offer:** (Completed no later than midnight your time for your deadline to elect)	You can accept your Final Payment Offer electronically by visiting the GCCF website at **www.gulfcoastclaimsfacility.com** and accessing your claim status by clicking on the "Check Claim Status" tab.

GCCF 1119	**RE-REVIEW ELECTION FORM** **Date of Determination Letter: January 3, 2012** **Deadline to Submit Re-Review Election Form: February 3, 2012**

A. CLAIMANT INFORMATION

Claimant Name	[redacted]		**Claimant Number**	[redacted]	
Address	Street [redacted]		City [redacted]	State [redacted]	Zip [redacted]
Claimant Type (Individual or Business)	Individual	**Business Type**	[redacted]	**Zip Code of Loss**	[redacted]

B. ELECTION FOR REEVALUATION OF CLAIM

❑ I request a Re-Review of my Determination Letter and understand that my payment calculations could potentially change or remain the same. I understand that the GCCF will consider only new documentation that falls within the missing loss periods identified in **Attachment D** of my most recent Determination Letter. If I want the GCCF to consider new documentation after the missing loss periods identified in **Attachment D** of my most recent Determination Letter, I will submit a new Interim Payment Claim Form. In accordance with the GCCF's Final Rules dated February 18, 2011, Interim Payment claims may be filed once each calendar quarter.

C. STATEMENT OF ISSUES FOR RE-REVIEW

You must complete Sections C.1 and C.2 below to identify the reason(s) for your Re-Review request and any new documentation submitted to support your claim. Describe in detail each aspect of the Determination Letter with which you disagree and want reevaluated. You may attach additional sheets, if necessary.

C.1 Select the reason(s) for your Re-Review request and explain why you disagree with the Determination Letter. If you select "Other" then identify the particular issue with which you disagree:

- ❑ Actual Pre-Spill Earnings/Revenues
- ❑ Actual Post-Spill Earnings/Revenues
- ❑ Projected Earnings/Revenues Methodology
- ❑ LOI Percentage
- ❑ Missing Component of the Business
- ❑ Switch from Individual to Business
- ❑ Bonus or Overtime Pay
- ❑ Incorrect Employer or Industry
- ❑ Prior Payment Deductions/Offsets
- ❑ Accountant Preparation/Job-Seeking Expenses
- ❑ Other

Explanation:

C.2 Identify any new or previously submitted documents that support the Re-Review request. You must ensure that any *new* documents are submitted to the GCCF with this Re-Review Election Form.

D. SIGNATURE

Claimant Signature	____________	**Date**	___/___/______ (Month/Day/Year)
Name of Person Signing (Print or Type)			

GCCF 1119	**RE-REVIEW ELECTION FORM** **Date of Determination Letter: January 3, 2012** **Deadline to Submit Re-Review Election Form: February 3, 2012**

E. WHERE TO SUBMIT THIS FORM:

You can submit this completed Re-Review Election Form using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to **NoticesandOffers@gccf-claims.com**
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit **www.gulfcoastclaimsfacility.com** to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.
6.	**Online Election of Re-Review Request:** (Done no later than midnight your time for your deadline to elect)	You can submit this Re-Review Election Form electronically by visiting the GCCF website at **www.gulfcoastclaimsfacility.com** and accessing your claim status by clicking on the "Check Claim Status" tab.

EXHIBIT T

Exhibit T

July 26, 2011

[redacted]

RE: **Determination Letter on Final Payment Claim**
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Determination Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Final Payment Claim Form that you submitted. This Letter informs you of the outcome of that review and describes your options now. If you disagree with the GCCF's decision on your Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the , NPFC MS 7100, U.S. Coast Guard, , (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims**. Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**.

I. The Determination of Your Claim and Calculation of Losses.

You qualify for compensation from the GCCF, but the documents you have submitted do not establish that you had any lost earnings caused by the Oil Spill. **Attachment A** to this Letter explains the calculations based on your documents and shows that you will not receive a Final Payment Offer from the GCCF at this time. **Attachment B** to this Letter shows you the periods of your documented losses based upon the records you submitted and also shows you the periods where documents were missing (which means that the GCCF could not award you losses for those periods).

II. Request for Re-Review of Your Final Offer Amount.

If **Attachment B, Section B** identifies any missing documentation needed to evaluate your claim fully, you may submit those documents and the GCCF will re-review your claim and issue you another Determination Letter with a new Final Payment Offer. Depending on what your additional documents show, your new Final Payment Offer could be higher or stay the same as the Final Payment Offer in this Letter. If your documents show additional losses caused by the Oil Spill, the GCCF will include those losses in your new Final Payment Offer and will adjust the future damages portion of your Final Payment Offer accordingly. If you want to submit additional documents to the GCCF now for a re-review, send them to the GCCF within 30 days after the date of this Letter. The GCCF will review them and send you a new Final Payment Offer within 30 days after it receives your records.

III. Submit Future Claim(s) for an Interim Payment.

You may submit an Interim Payment Claim Form along with the Required Documentation to show those damages caused by the Oil Spill, once each calendar quarter, until August 22, 2013. The GCCF will review your claim, issue you a new Determination Letter and send you payment of any additional past losses caused by the Oil Spill as shown in your documents. Your new Determination Letter may provide a new Final Payment Offer that you will have 90 days to accept. That new Final Payment Offer could be higher or stay the same as the Final Payment Offer in this Letter, depending upon what your documents show and any new information available to the GCCF at the time about the impact of the Oil Spill on the Gulf region.

IV. Where to Send Additional Documents.

You can send the GCCF documents for a re-review of your claim using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than midnight your time on your deadline to respond)	Email to **NoticesandOffers@gccf-claims.com**
2.	**By Mail:** (Postmarked no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than your deadline to respond)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017-4958
4.	**By Facsimile:** (Sent no later than your deadline to respond)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than your deadline to respond)	You can bring the materials to a GCCF Site Office no later than your deadline. Visit **www.gulfcoastclaimsfacility.com** to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.

V. What to Do if You Have Questions About This Letter.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Determination Letter, and the calculations used to derive the Final Payment Offer. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: Molly 59078 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

ATTACHMENT A: EVALUATION OF CLAIM		
A. ANNUAL PRE-SPILL EARNINGS		
2008	**2009**	**Average of 2008 and 2009**
$22,717.44	$23,685.33	$23,201.39

B. CALCULATION OF PAST LOST EARNINGS		
1.	**2010 Projected Earnings (projected for May-Dec. 2010 from the average annual amount in Section A above, and apportioning that amount by allocating to that period 66.67% of that amount)**	$15,467.60
2.	**2010 Projected Earnings (projected for the periods in May-Dec. 2010 with submitted financial records, as shown in Attachment B, Section A)**	$15,467.60
3.	**Less: 2010 Actual Earnings (for May-Dec. 2010 from submitted records as shown in Attachment B, Section A)**	$32,323.43
4.	**2010 Lost Earnings (Row 2 minus Row 3, if Row 3 is greater than Row 2, then no Lost Earnings were calculated based on the documents provided)**	$0.00

C. FINAL PAYMENT OFFER		
1.	**2010 Lost Earnings (from Row 4 in Section B above)**	$0.00
2.	**2010 Lost Earnings Multiplied by a Future Losses Factor to Determine the Final Payment Amount**	$0.00
3.	**Less Offsets:**	
	Payments by BP	$0.00
	GCCF Emergency Payments	$0.00
	GCCF Interim Payments	$0.00
	Real Estate Fund Payment	$0.00
4.	**Calculated Final Payment Amount**	**$0.00**

ATTACHMENT B: EXPLANATION OF DOCUMENTED LOST EARNINGS AND INCOME

A. DOCUMENTED LOST INCOME PERIODS

You submitted documents showing your income and losses for the periods shown below. The GCCF based its calculation of your Interim Payment Amount, if any, and the Calculated Final Payment Offer upon this submitted documentation.

	2010 Month	Periods With Documents	Source of Earnings/Income
1.	May	05/01/2010-05/31/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
2.	June	06/01/2010-06/30/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
3.	July	07/01/2010-07/31/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
4.	August	08/01/2010-08/31/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
5.	September	09/01/2010-09/16/2010; 09/01/2010-09/30/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
6.	October	10/01/2010-10/31/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
7.	November	11/01/2010-11/30/2010	Caesars Operation Co - Agent For Grand Casino Biloxi
8.	December	12/01/2010-12/31/2010	Caesars Operation Co - Agent For Grand Casino Biloxi

B. MISSING DOCUMENTS

You did not submit documents showing your income and losses for the Periods Missing Documents identified below. Nor did you provide any proof that that you did not receive any income during those periods. The GCCF can re-review your claim if you submit such documents. The GCCF Document Requirements that accompanied the Claim Form listed the required supporting documentation to show income for these periods. You may submit these records to document the Periods Missing Documents identified below:

Individual Claimants:

(a) Federal income tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(b) State tax returns, including all W-2 forms, 1099 forms, and other attachments or schedules to each return.

(c) Paycheck stubs or other payroll records from all employment demonstrating earnings.

(c) A letter or other records from an employer that describes when you were working and your rate of pay and total earnings, or why you were not working.

	Periods Missing Documents
1.	January, 2011
2.	February, 2011
3.	March, 2011

EXHIBIT U

Exhibit U

October 25, 2011

[redacted]

RE: Denial Letter on Interim Payment/Final Payment Claim
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

You have filed one or more Claim Forms with the GCCF. This Denial Letter ("Letter") is an official notification from the GCCF. If this letter does not address all claims that you have filed, to date, then the GCCF is still processing your other claims.

The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted, and your claim is denied for the following reason(s):

Lost Profits & Lost Earning Capacity - Individual	To receive an Interim Payment or a Final Payment, each claimant must demonstrate both actual financial loss and a connection between that loss and the Oil Spill. Under the Final Rules Governing Eligibility and Substantiation Criteria followed by the GCCF (available on the GCCF website, www.gulfcoastclaimsfacility.com), the GCCF reviews each claim to determine whether the claimant has established financial losses caused by the Oil Spill. Attachment A to the Final Rules Governing Eligibility and Substantiation Criteria provides guidance to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation. We have reviewed all the materials that you submitted and determined that you have not provided documents sufficient to establish that your financial loss occurred as a result of the Oil Spill.If you have documents that support your claim that your income losses were caused by the Oil Spill, you may submit them to the GCCF and we will review them. The documents must have been created at the time of the events described in them to be acceptable proof.

If you disagree with the GCCF's denial of your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims** . Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Denial Letter, and the reason your claim is denied. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney.

Your GCCF Claims Review Specialist is: Patrick 58116 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

EXHIBIT V

Exhibit V

March 09, 2011

[redacted]

RE: Deficiency Letter on Interim Payment/Final Payment Claim
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 ("Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Deficiency Letter ("Letter") is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted and determined that your file is missing information that is necessary to the review of your claim. The GCCF cannot take any further action on your claim until you provide the following:

Why We Need the Missing Information		What You Need to Submit
1.	We are unable to determine what kind of business your employer in 2009 did.	For all of your sources of employment in 2009, documents or information showing the type of business in which you worked or were engaged.

2.	We are unable to determine the location where you were working in 2009.	For all of your sources of employment in 2009, documents or information showing the location, including the Zip Code, where you worked or were doing business.
3.	We are unable to determine what kind of business your employer in 2008 did.	For all of your sources of employment in 2008, documents or information showing the type of business in which you worked or were engaged.
4.	We are unable to determine the location where you were working in 2008.	For all of your sources of employment in 2008, documents or information showing the location, including the Zip Code, where you worked or were doing business.
5.	We are unable to determine your total earnings in 2008 or 2009.	Documents that establish your earnings for the entire year of 2008 or 2009, such as 1) a federal income tax return for 2008 or 2009, including all W-2 forms, 1099 forms, and other attachments or schedules to the return; 2) paycheck stubs or other payroll records from all employment demonstrating all earnings from 1/1/08 to 12/31/08 or 1/1/09 to 12/31/09; or 3) a letter or other records from an employer that describe when you were working in 2008 or 2009 and your rate of pay and total earnings. If your federal income tax return for 2008 or 2009 was jointly filed, you must submit proof of your salary, separate from your spouse's, in 2008 or 2009, such as a W-2 form, a 1099 form, copies of your paycheck stubs or direct deposit slips, or a personnel file.
6.	We are unable to determine whether you were working at the time of the Spill on April 20, 2010.	Documents that establish your employment at the time of the Deepwater Horizon Incident on 4/20/10, such as 1) paycheck stubs or other payroll records from all employment on or around 4/20/10, or 2) a letter or other records from an employer that confirm your employment on or around 4/20/10. If you were not working on or around 4/20/10 because the nature of your employment is seasonal, you must provide a letter or other records from your employer that describe when you were scheduled to work in 2010.
7.	We are unable to determine your income after the Spill.	Documents sufficient to determine the total gross amount you earned as wages or salary from all employers from May 1, 2010, until the present, or proof, such as a letter from your employer, that you have earned no income during this time.

Submit these documents within 30 days after the date of this Letter. You can send the GCCF documents using any of the following ways:

1.	**By Emailed PDF Attachment:** (Emailed no later than 30 days after the date of this Letter)	Email to **info@gccf-claims.com**
2.	**By Mail:** (Postmarked no later than 30 days after the date of this Letter)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator P.O. Box 9658 Dublin, OH 43017-4958
3.	**By Overnight, Certified or Registered Mail:** (Placed with the delivery service no later than 30 days after the date of this Letter)	Gulf Coast Claims Facility Kenneth R. Feinberg, Administrator 5151 Blazer Pkwy., Suite A Dublin, OH 43017

4.	**By Facsimile:** (Sent no later than 30 days after the date of this Letter)	1-866-682-1772
5.	**Visit a GCCF Site Office:** (No later than 30 days after the date of this Letter)	You can bring the documents to a GCCF Site Office no later than 30 days after the date of this Letter. Visit the GCCF website at **www.gulfcoastclaimsfacility.com** to see a list of Site Offices, or call 1-800-916-4893 and ask for Site Office locations.

IMPORTANT NOTE: *Make sure that you write your Claimant Identification Number (shown above) and your Social Security Number or Taxpayer ID on each page of each document that you submit, so that the GCCF can properly attach your documents to your claim.* Otherwise, if the documents get separated, the GCCF cannot always determine to which claimant they belong.

Quick Payment Option.

If you are unable to or do not wish to provide the documentation required as described above and you have previously been paid an Emergency Advance Payment or an Interim Payment, you have the option of submitting a Quick Payment Final Claim Form without submitting additional documentation. If you apply for a Quick Payment Final Claim, you must be willing to accept a fixed Final Payment amount of $5,000 for Individual Claimants and $25,000 for Business Claimants and to sign a Release and Covenant Not to Sue. If you sign a release of liability, you will not be able to seek further compensation from the GCCF, the Coast Guard, or in court.

You may download the Quick Payment Claim Form and the Release and Covenant Not to Sue from the GCCF website or you may also go to a Claims Site Office and have the Quick Payment Claim Form and the Release and Covenant Not to Sue printed for you. Additionally, you may call the GCCF Toll Free Number 1-800-916-4893 or email **info@gccf-claims.com** to ask that the packet be sent to you.

If you have any questions about this Letter, you can either visit a GCCF Site Office or speak to a GCCF Claims Review Specialist shown below who can answer questions about your claim and this Letter. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call and reference it in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney, rather than with you.

Your GCCF Claims Review Specialist is: Michael 56322 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

EXHIBIT W

Exhibit W

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

GULF COAST CLAIMS FACILITY

Modification to Final Rules Governing Payment Options,

Eligibility and Substantiation Criteria, and Final Payment Methodology (dated February 18, 2011)

August 16, 2011

The GCCF believes that, although the economy continues to improve, some businesses will recover more slowly than others. The following modification to the GCCF's Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology (dated February 18, 2011) ("Final Rules"), is designed to provide a methodology for a fair and consistent approach to determine and calculate final and interim payments for individuals and businesses for 2011 losses sustained due to the Oil Spill. The GCCF Final Rules are amended as follows:

I. Final Payment Offers

The GCCF recognizes that recovery in the Gulf is well underway. However, the GCCF believes the future of the Gulf region remains sufficiently uncertain as to warrant the continuation of the Future Recovery Factor for actual documented 2010 losses as set forth in the GCCF's Final Rules.

- Final Payment Offers will continue to be calculated according to the rules previously set forth in the GCCF Final Rules as follows (except as noted below for claimants with 2011 losses with no documented 2010 losses, and in Section IV: Modification for Oyster Leaseholders):

> Each Claimant's Final Payment Offer Amount will be the larger of:
>
> 1) Two times each eligible claimant's 2010 Actual Documented Losses (except for claimants with 2010 losses in excess of $500,000); four times 2010 Actual Documented Losses for oyster harvesters and oyster processors, and for **Oyster Leaseholders only**, the addition of the Future Risk Multiple as noted below in Section IV: Modification for Oyster Leaseholders; or
> 2) The total actual documented losses through the date of the determination of the Final Claim.

- Final Payment Offers for claimants with **no documented 2010 losses** will be reviewed and calculated using 2011 losses that can be ascribed to the Oil Spill. These claimants must provide evidence specifically linking the claimed 2011 losses to the Oil Spill. The Final Payment Offer for such claimants will be calculated on a case by case basis.

Consistent with the Final Rules,[1] the Final Payment Offer will be reduced by compensation already received by the claimant in Emergency Advance Payments from BP, Emergency Advance Payments and Interim Payments received from the GCCF, payments received from Gulf state real estate funds and other offsets.

II. Interim Payment Claims

- Interim Claims for Businesses:

  For Interim Claims submitted by businesses for second quarter 2011 losses (and thereafter), the GCCF will require that all businesses demonstrate an actual revenue growth rate of at least 5% from 2010. Losses associated with revenue less than the 5% growth rate are presumed to be from non-Oil Spill related factors and will not be compensated. (For greater detail on the methodology for the calculation of 2011 losses, see Attachment A: "ARPC Methodology for Calculating Interim Payment for 2011 Losses Due to the Oil Spill," prepared by ARPC, an expert firm of economists retained by the GCCF.)

- Interim Claims for Individuals:

  - The GCCF will require that all employed individuals demonstrate an actual growth in earnings of at least 5% from 2010 earnings. However, for these individual claimants, this modification will not become effective until the submission of interim claims in the third quarter of 2011 (and thereafter), for losses sustained beginning July 1, 2011. (Losses for individual claims filed for first and second quarter 2011 will be paid according to the GCCF's current calculation methodology as set forth in the GCCF Final Rules.) Losses associated with earnings less than the 5% growth rate are presumed to be from non-Oil Spill related factors and will not be compensated.

  - For individuals who assert unemployment as a result of the Oil Spill, the GCCF will allow an eligible individual to continue to be paid through the GCCF interim payment process for a maximum of 78 weeks of compensation for unemployment caused by the Oil Spill as supported by documentation provided by the claimant. The GCCF will review such continuing claims and will determine additional documentation requirements for individuals who have exhausted the 78 week unemployment maximum.

[1] See Final Rules page 5-6, *Calculation of Awards for Interim and Final Payments*, http://www.gulfcoastclaimsfacility.com/FINAL_RULES.pdf.

- Claims for Businesses and Individuals who have not been found by the GCCF to be eligible for compensation: These claimants must first qualify for eligibility for payment as set forth in Section IV.3. (a) (b) and (c) of the GCCF Final Rules. If no 2010 losses can be demonstrated, all claimants must provide evidence specifically linking the claimed 2011 losses to the Oil Spill to be deemed eligible for compensation from the GCCF.

III. Modification to Financial Test (Attachment C to the GCCF Final Rules)

The financial test explained in Attachment C to the "GCCF Final Rules" is an eligibility analysis to determine whether damage due to the Oil Spill should be presumed. The financial test is used to indicate whether any decline in revenue in the pre-Oil Spill period, relative to revenues during the same period in prior years, is due to the Oil Spill or some other factor(s). To "pass" the financial test currently, there must be some deterioration from the first four months of 2010 (pre Oil Spill) as compared to the last eight months of 2010 (post Oil Spill).

In a number of cases, the high variability of historical revenues does not fit the parameters for which the test was initially designed. Some claimant businesses lack historical financial data needed to perform the financial trending test. In certain of these situations the financial performance test as described in the GCCF Final Rules may not be sufficient to determine financial eligibility. Such claims will be reviewed and considered carefully according to the specific circumstances of the claimant's financial history in order to determine whether or not the financial data provided by the claimant indicates any potential impact due to the Oil Spill.

IV. Modification for Oyster Leaseholders

This modification is designed to provide a methodology for a fair and equitable approach to compensate oyster leaseholders in the Gulf of Mexico who have been financially harmed by the closure of the oyster beds, fresh water diversions, and/or possible oil contamination as a result of the Oil Spill. This modification recognizes that there is significant uncertainty regarding possible ongoing damage to the oyster crop and oyster producing areas in the Gulf. This modification recognizes three different types of potential losses to oyster leaseholders as follows:

- Initial loss of earnings/revenue during the Oil Spill in 2010 due to:
  - state/federal closures, or
  - inventory reductions from fresh water incursions related to government actions to divert the Oil Spill that may have increased the mortality rate in that year;[2]
- Subsequent potential losses during the anticipated recovery period given the production cycle of oysters;[3] and/or
- The residual risk of long-term Oil Spill related damage to the oyster beds and their ability to support the reproduction cycle of future generations of oysters.

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[2] Other fresh water incursions took place as the Mississippi crested during the Oil Spill period and flooded the lower delta region. Dr. Earl Melancon of Nicholls State University indicated that this action, coupled with the remedial action by the state of Louisiana, caught the oyster beds in a "vice."

[3] See *"ARPC Response to Comments on the Derivation and Calculation of Future Damages"* on GCCF web site as follows – http://www.gulfcoastclaimsfacility.com/FINAL_RULES_B.pdf.

Under the current procedures, the Final Payment Offer calculation begins with the determination of 2010 Losses for all harvesters. The GCCF's current calculation methodology for determination of the Final Payment Offer for claimants directly involved in the oyster industry, e.g. leaseholders, harvesters (captains and crew) and processors, is four times 2010 Lost Profits/Earnings. Their compensation continues to be determined in the same manner as described in the GCCF's Final Rules. The modification discussed below will be applied to oyster leaseholders only as described below.

This modified methodology continues to compensate for 2010 Loss and subsequent losses during the anticipated recovery period in exactly the same way. However, for oyster leaseholders only, the Final Payment Offer will, in addition, include a special Allowance for Future Risk that will be added to compensate for the risk of as yet undetected and possibly ongoing damage to oyster-producing areas in the Gulf and the possibility of significant delay before affected oyster beds are repaired. For leaseholders in Louisiana, Mississippi, Alabama and parts of the Florida Panhandle, the Allowance for Future Risk will be a multiple (the "Future Risk Multiple") of net income in a comparison year ("Comparison Year Net Income") added to the claimant's Final Payment Offer. **The Future Risk Multiple will apply to the leasehold component of the business only. To be eligible for the Future Risk Multiple, Oyster Leaseholders will be asked to file a GCCF Property Damage Claim in addition to their Lost Earnings/Profits Claim.** Comparison Year Net Income is generally based on either the average of 2008-2009 or the claimant's 2009 income, whichever is higher.[4] Businesses that are directly involved in the oyster industry e.g., harvesters (captains and crew) and production and processing businesses are not eligible for the Allowance for Future Risk. Only leaseholders are eligible for this special Allowance for Future Risk.

Future Risk Multiple

The GCCF has defined three distinct damage categories and has assigned a Future Risk Multiple to each depending upon the physical location of the oyster beds. The Allowance for Future Risk is equal to the product of the Comparison Year Net Income and a Future Risk Multiple based on the geographic location of the oyster beds.

- Based on a review of the lease locations within harvest areas ("Quads") in Louisiana (Map 1)[5], data on fresh water diversions (Map 2)[6] and oil infiltration (Map 3)[7], the GCCF has defined three distinct damage categories and assigned a Future Risk Multiple to each (See Attachment B for Maps 1-4.)

[4] If an oyster harvester indicates that his/her historic catch during these periods is not representative of a "normal" period, the GCCF will consider reasonable evidence of a more appropriate period.
[5] Louisiana Department of Wildlife and Fisheries – Oyster Lease Survey Section.
[6] Louisiana Department of Wildlife and Fisheries, March 2005. Flow Rates retrieved from Office of Coastal Protection and Restoration, LA; http://coastal.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=1216&catID=1.
[7] "Deep Water Horizon, One year Later", The Economist: http://www.economist.com/node/18587367.
Data for Map 3 was sourced from the Office of Response and Restoration - Deepwater Horizon Trajectory Map Archive Near shore Surface Oil Forecasts.
http://response.restoration.noaa.gov/topic_subtopic_entry.php?RECORD_KEY%28entry_subtopic_topic%29=entry_id,su

High:	(Multiple = 7 times Comparison Year Net Income)
Medium:	(Multiple = 3.5 times Comparison Year Net Income)
Low:	(Multiple = 2 times Comparison Year Net Income)
	(Multiple = 1 times Comparison Year Net Income for **Florida (only leases in Apalachicola Bay & points west)**

These scores are the Future Risk Multiples to be used in the Allowance for the Future Risk formula and added to the claimant's Final Payment Offer.

(Note: the Comparison Year Net Income only applies to the net income related to the leasehold component of the claim.)

- Leaseholders in **Louisiana** will be assigned a Future Risk Multiple for each distinct lease area, called "Quads" by the Louisiana Department of Wildlife and Fisheries.[8] The Multiple will be based on the highest rated Quad for the specific lease. Map 4[9] shows the Quad boundaries and their Future Risk Multiples. (Oyster leaseholders whose acreage has not been productive for five years will not be compensated for future losses.) The maximum Future Risk Multiple for fresh water and oil damage to a lease in Louisiana is a multiple of 7 times the Comparison Year Net Income. The minimum is a multiple of 2 times the Comparison Year Net Income for Quads where only a small amount of oil contamination has been noted.

- Leaseholders in **Mississippi** and **Alabama** will be assigned a Future Risk Multiple of 3.5 times the Comparison Year Net Income. This reflects the fact that most of the shorelines of Mississippi and Alabama experienced a significant degree of oil contamination similar to that experienced in the most affected shorelines of Louisiana. However, fresh water incursion was not significant in these states.

- Certain leaseholder claims in **Florida (only leases in Apalachicola Bay and points west)** will be assigned a Future Risk Multiple of 1.0 times the Comparison Year Net Income. This reflects the fact that most of these shorelines experienced some oil contamination, though less than that experienced in Mississippi and Alabama. Fresh water incursion was not significant in these areas.

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[8] The Louisiana Department of Wildlife and Fisheries' public website posts the locations of each Quad as well as a database of the leases held by private leaseholders. Each private lease is assigned by the State to a Quad. GCCF will rely on this list to designate the leases for an individual claimant. http://oysterlease.wlf.la.gov/oysterlease1/framesetup.asp.

[9] Louisiana Department of Wildlife and Fisheries – Oyster Lease Survey Section for "Quads".

Oyster Leaseholders in Florida east of Apalachicola Bay and all oyster leaseholder claims in Texas are <u>not eligible to</u> receive an Allowance for Future Risk. [10] **Oyster beds in these areas did not experience significant fresh water or oil incursion.**

An adjustment (reflecting the percentage reduction in production) will be made to the Future Risk Multiple in the event that a leaseholder has harvested oysters in 2011 or thereafter from a lease for which future losses are claimed. [11]

[10] In 2002, there were 43 oyster leases in Texas, all of which were in Galveston Bay. Oysters from leased beds accounted for approximately one-third of Texas oyster landings. There are very few leased oyster beds in Florida and most of them are in the Apalachicola Bay area.

[11] For Quads rated a 7, the adjusted Future Risk Multiple will be a minimum of 3.5; for Mississippi and Alabama leases and Quads rated 3.5, the adjusted Future Risk Multiple will be a minimum of 1.75; for Quads rated 2.0, the adjusted Future Risk Multiple will be a minimum of 1.0 and for the western Florida Panhandle rated 1.0, the adjusted Future Risk Multiple will be a minimum of 0.5.

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Attachment A

ARPC Methodology for Calculating Interim Payments for 2011 Losses Due to the Oil Spill

August 16, 2011

I. Requirement that claimants demonstrate a revenue and/or earnings growth rate of at least 5% from 2010.

This suggested methodology is intended to allow the GCCF to more accurately measure the effect of the Oil Spill and other factors on the gross revenues for businesses and gross earnings for individuals. For 2010 losses, the GCCF relied on a combination of geographic proximity, financial tests and direct evidence to determine whether a claimant was affected by the Oil Spill. If the claimant satisfied the requirements, it was presumed that the losses were generally attributable to the Oil Spill and the claimant was eligible to be compensated for such losses. These tests, while they continue to be a necessary condition for eligibility, are not sufficient to ensure that the claimant's continuing losses after 2010 are attributable to the Oil Spill. It is clear, that as time passes, it becomes increasingly difficult to determine whether changes in revenue and earnings are due to the Oil Spill or other factors.

A reasonable approach to determine the ongoing impact of the Oil Spill on claimants is to expect that all claimants demonstrate a revenue and/or earnings growth rate of at least 5% from 2010. If the claimant demonstrates a growth rate of at least 5% from 2010, the losses would be presumed to be due to the Oil Spill. If the claimant does not demonstrate a 5% growth rate, some or all of the losses would be attributed to factors other than the Oil Spill and would therefore be disallowed. Claimants filing claims for interim payments (who have previously filed for 2010 losses and have passed existing financial and eligibility tests) would be allowed to receive full or partial payment without the need to provide supporting evidence which ties the losses to the Oil Spill. In the event these claimants do not demonstrate a growth rate of at least 5% from 2010, they could still provide specific evidence demonstrating that their losses or a portion of their losses are due to the Oil Spill. This modification redefines the computation of loss due to the Oil Spill by using data which implies a Gulf Region economic growth rate in excess of 10%[1]. (The GCCF already anticipated this 10% growth rate in determining the Future Factor[2].) Since not all individuals and businesses will experience this level of recovery, a lower growth rate of 5% has been selected.

This approach assumes that, if the claimant's individual or business growth is less than 5% from 2010, not all of the loss is attributable to the Oil Spill and only part of the loss will be compensated. For claimants who have already filed claims with the GCCF, and are submitting additional interim claims, loss above the 5% growth rate is presumed to be from the Oil Spill. The loss associated with revenues or earnings less than the 5% growth rate is presumed to be from non-Oil Spill factors and <u>would</u> <u>not</u> be compensated.

Determination of the 5% rate is derived as follows:

- **Determine the Average Anticipated Growth Rate for Individuals and Businesses with a Loss in 2010**

A 10% growth rate in the Gulf Region is a conservative estimate of the average growth rate for individuals and businesses with a loss in 2010. The available economic indicators provide a good basis for the development of the conservative growth rate for this purpose.

- Tourism
  - Trends in hotel occupancy rates and revenues per available room indicated that the growth rate in the areas close to the beach is likely to be approximately 15%.[3]
  - Sales tax revenues for restaurants (where available) show full recovery or increases to pre-Oil Spill levels.
  - Tourism spending indicators (where available) show full recovery or increases to pre-Oil Spill levels.

- Fishing
  - All federal fishing grounds are reopened.
  - Nearly all state fishing areas have been reopened.
  - Increases in catches of shrimp in the first four months of 2011 and the National Marine Fisheries Service expects a solid harvest of menhaden in 2011.[4]

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[1] See ARPC report, *"Measures of the Effects of the Gulf Oil Spill on Individuals and Businesses and Proposed Compensation Schema,"* dated January 24, 2011, http://www.gulfcoastclaimsfacility.com/exhibit_c.pdf.
[2] See *Bibliography* on GCCF web site – http://www.gulfcoastclaimsfacility.com/exhibit_e.pdf. Oxford Economics, *"Potential Impact of the Gulf Spill on Tourism,"* prepared for the US Travel Association, July 2010.
3 Based on the analysis of data from Smith Travel Research, Inc.
[4] Shrimp harvest based on landings data provided by NOAA Fisheries Market News Archive summaries from the Fisheries Statistics Division, National Marine Fisheries Service. For Menhaden, see *Forecast for the 2011 Gulf and Atlantic Menhaden Purse-Seine Fisheries*, March 2011, Sustainable Fisheries Branch, NMFS, Beaufort, NC.

In addition, these observations concerning the recovery of tourism are consistent with our analysis of the recovery of tourism derived from other historical events such as natural disasters or other large unpredictable shocks[5]. That analysis indicates that the short-term recovery rate was about 10%.[6]

- **Determine the Growth Rate the Majority of the Claimants Would be Expected to Equal or Exceed.**

We do not assume that all individuals and businesses will grow at a 10% average – some will grow faster and others slower. Based on a statistical analysis of historical data from the five Gulf States indicating a 10% overall growth rate, we can be confident that 75% of the individuals and businesses will grow at a rate of at least 5.6%.

The derivation of the 5.6% was determined by analyzing the Bureau of Economic Analysis's quarterly Personal Income data for each of the Gulf States, from the first quarter of 2000 through the fourth quarter of 2010 (the most recent quarter the data was available). During this period, across the five Gulf States, the analysis indicates that if the average growth rate is 10% that 75% of the individuals and businesses will grow at a minimum of 5.6%. To be conservative, we lowered the 5.6% to 5%.

The claimant's "actual" revenue/earnings for 2011 is presumed to grow at no less than 5% from 2010 levels, unless the claimant can provide proof that the "actual" loss can be explained <u>solely</u> due to the Oil Spill. This approach reflects the expectation that, in an environment where opportunities for recovery have improved markedly, it is reasonable to expect that a claimant's actual 2011 revenues or earnings will show some minimum improvement.

II. Interim Claims of Unemployed Claimants

An analysis of the unemployment statistics in the Gulf States concludes that the average duration of unemployment in the Gulf States is approximately 22 weeks[7]. A study of the duration of unemployment indicates that approximately 95% of unemployed individuals in the Gulf States will become re-employed after 78 weeks[8]. Based on the above statistics, an eligible

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[5] See *Bibliography* on GCCF web site – http://www.gulfcoastclaimsfacility.com/exhibit_e.pdf. Oxford Economics, "*Potential Impact of the Gulf Spill on Tourism*," prepared for the US Travel Association, July 2010.
[6] Our analysis of the "recovery curve" indicated that immediately after the disaster or unpredictable shock, the general economy would lose about 20% from its pre-disaster level, but after the first year it would rebound to about 90% of its pre-disaster level. This growth is approximately 10%.
[7] U.S. Bureau of Labor Statistics, Geographic Profile of Employment and Unemployment, Table 26, 2009 (http://www.bls.gov/opub/gp/pdf/gp09_26.pdf).
[8] Carrington, William "*Wage Losses for Displaced Workers: Is it really the firm that matters?*" Journal of Human Resources 28(3) Summer 1993: 435-462; Abbring, Jaap, et al, "*Displaced Workers in the United States and the Netherlands*," Working Paper, August 1998; Bowlus & Vilhuber, "*Displaced workers, early leavers and re-employment wages*," U.S. Census Bureau Technical Paper No. TP-2002-18, November 2002 (citing Ruhm, Christopher, "*Advance Notice and Postdisplacement Joblessness*," Journal of Labor Economics 10(1) 1992: 1-32.

individual should continue to be paid through the GCCF interim payment process for a maximum of 78 weeks from the date of unemployment due to the Oil Spill, as supported by documentation provided by the claimant.

III. Compensation Formula for Claimants Without 2010 Losses

For claimants who do not have 2010 losses but can demonstrate 2011 losses due to the Oil Spill, compensation will have two components:

1. Valid 2011 losses,[9] and

2. A Final Offer equal to 2011 losses plus a Future Factor times the 2011 losses that will be determined on a case-by-case basis.

The determination of the Future Factor for these claimants is based on the same research that underlies the Final Offer for claimants with 2010 losses. ARPC provided a description of this research in a recently published document detailing the presumed recovery path for claimants with 2010 losses.[10] In sum, data from previous disasters indicates that approximately 70% of the recovery is expected to take place in the first year and approximately 30% thereafter. Claimants with proven 2011 losses, but no 2010 losses are a unique category. These claimants incur their first loss during the recovery period and therefore require a separate, individualized case by case review and analysis.

IV. Compensation Formula for Claimants With No 2010 Income

Claimants who have no 2010 income are either individuals that were unemployed for the entire year (both pre and post the Oil Spill) or businesses without any sales for the entire year (both pre and post the Oil Spill). The GCCF believes that very few claimants that are qualified for payment are likely to exhibit such circumstances and that these circumstances are so unique that no generalized rule is applicable. Thus, the GCCF will review each of these cases individually.

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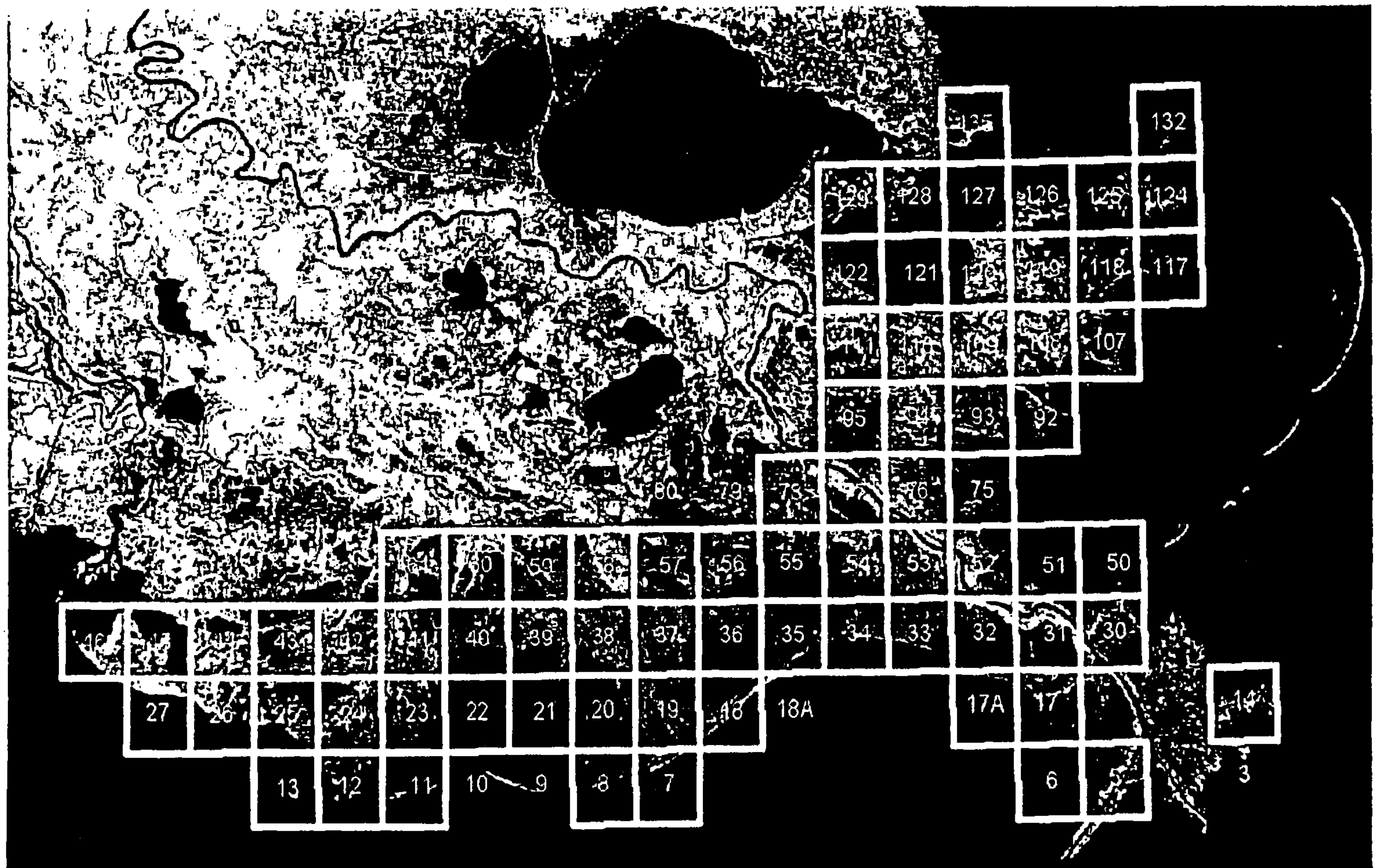
[9] See *Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology*, page 3, *Calculation of Awards for Interim and Final Payments*: http://www.gulfcoastclaimsfacility.com/FINAL_RULES.pdf

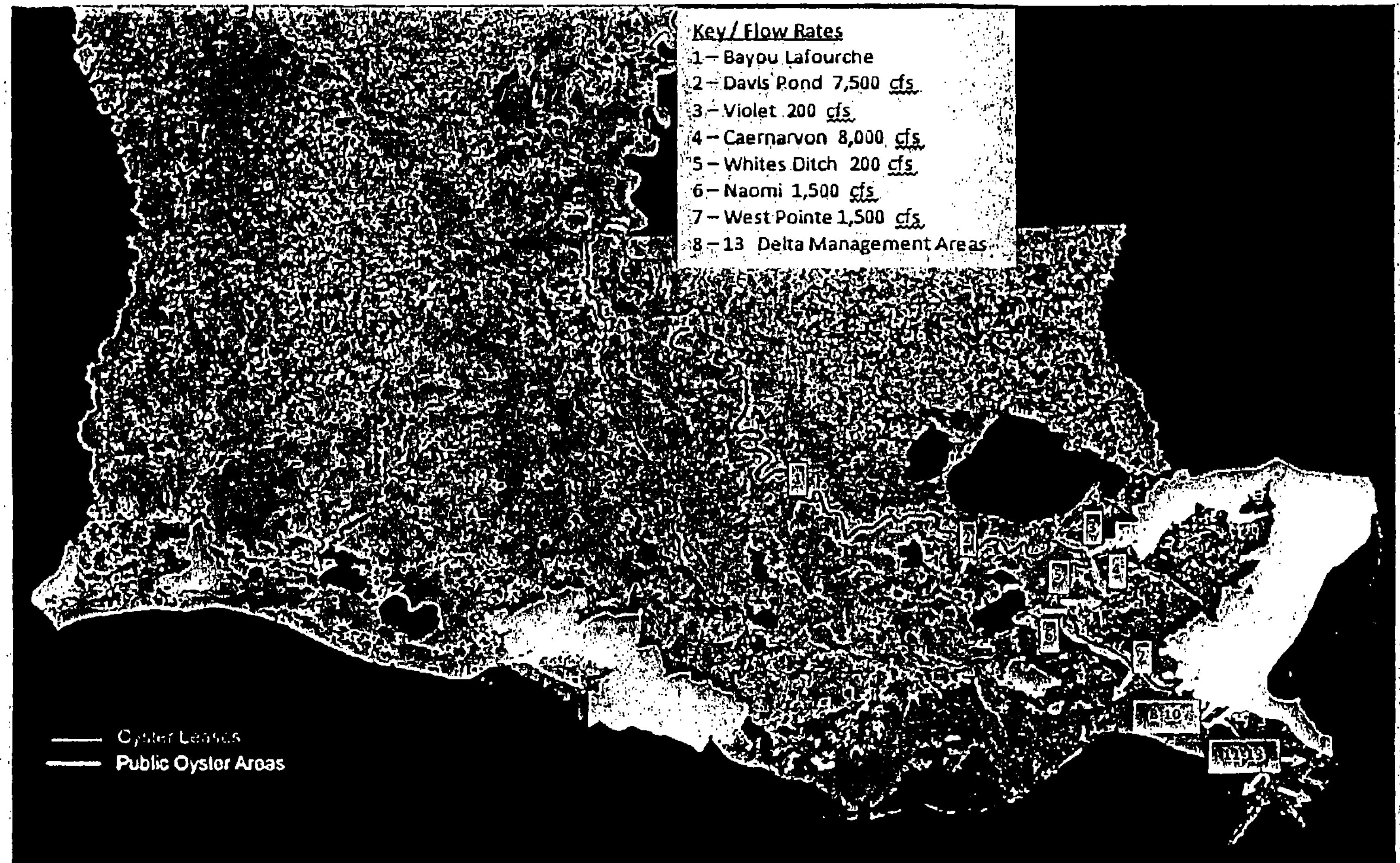
[10] See *Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology, Attachment B: Response to Comments on the Derivation and Calculation of Future Damages*, page 13: http://www.gulfcoastclaimsfacility.com/FINAL_RULES_B.pdf

ATTACHMENT B

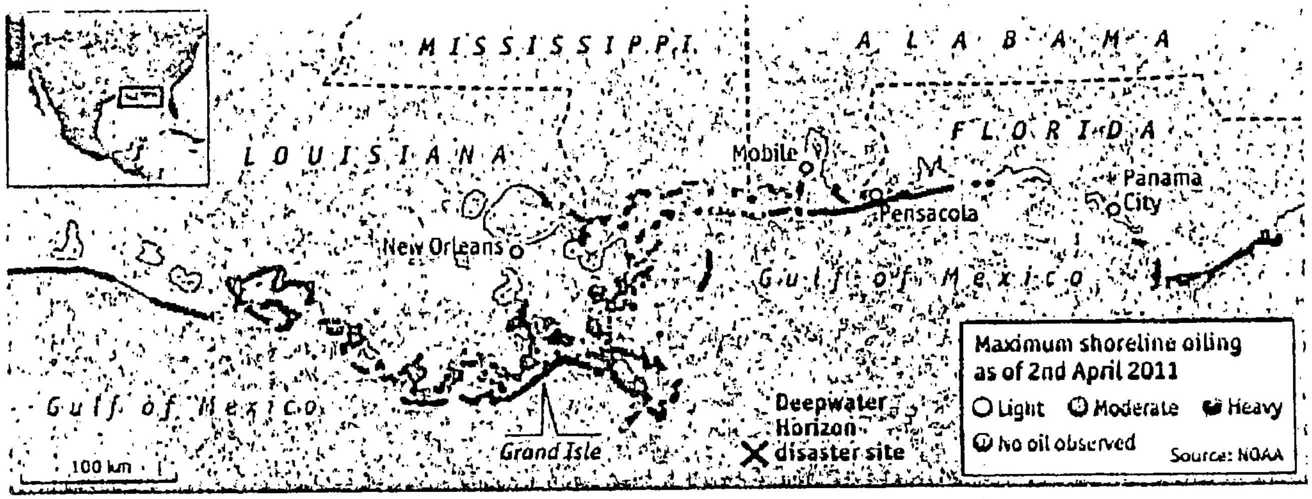
MAP 1 – Oyster Quad Areas



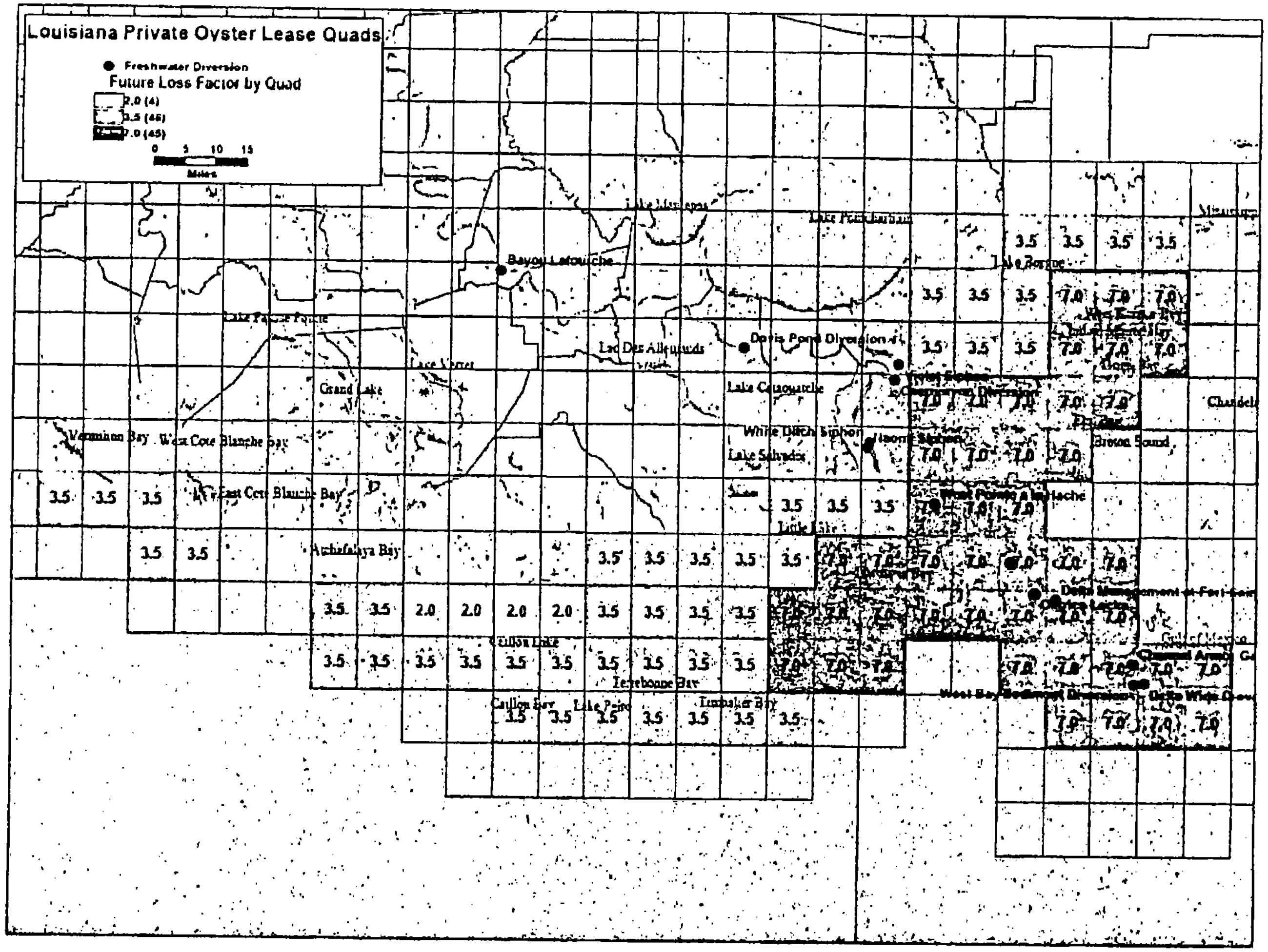
MAP 2 – Water Incursion Areas

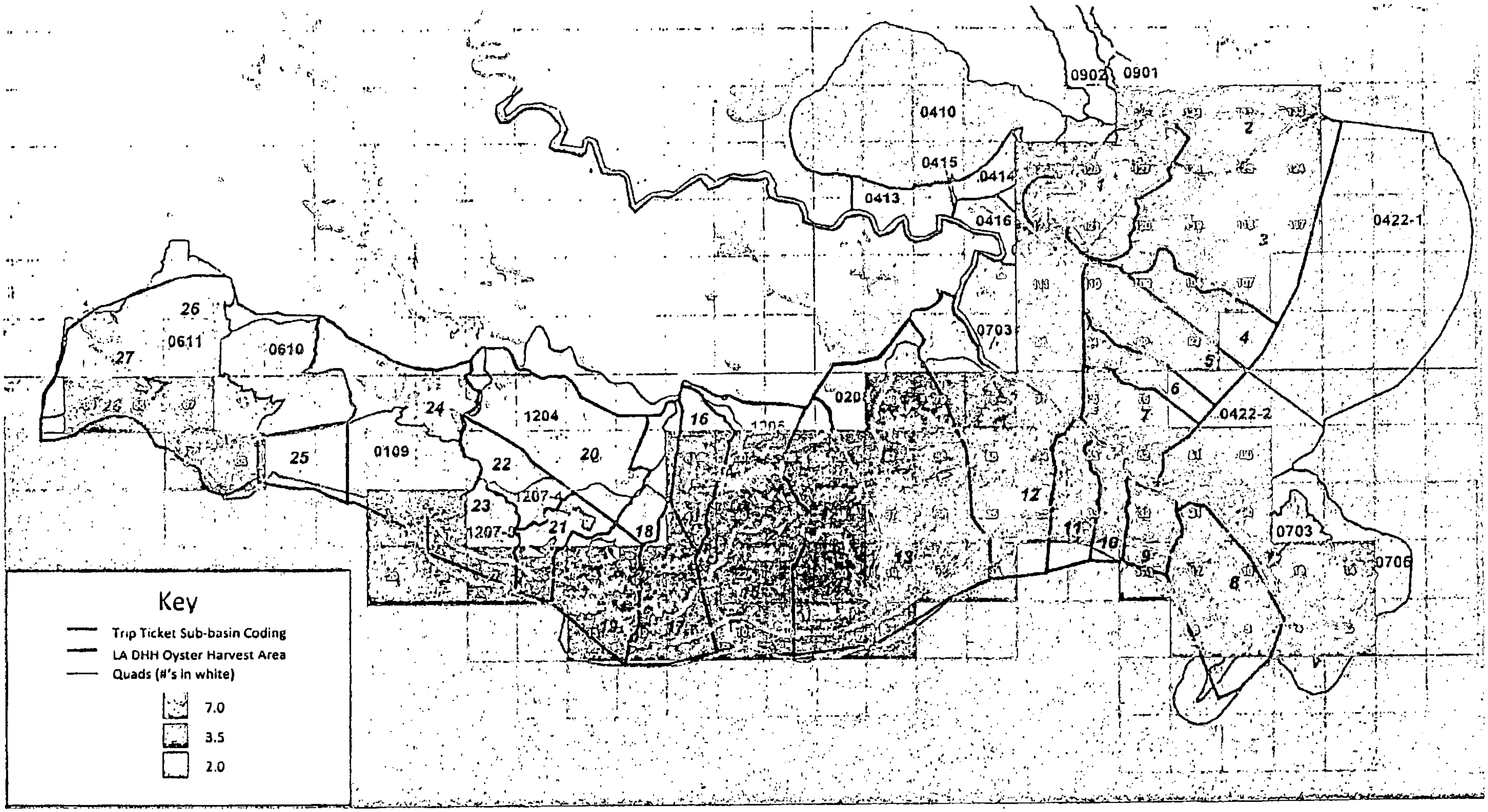


MAP 3 – Oil Contamination Areas



MAP 4 – Oyster Quad Ratings

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26
27
020
1204
1207-4
1207-5
0109
0610
0611
Key
Trip Ticket Sub-basin Coding
LA DHH Oyster Harvest Area
Quads (#'s in white)
7.0
3.5
2.0

Oyster Industry: Claims Compensation

July 2011

ARPC

Agenda/Issues

- Discussion of the impact of the oil spill on oyster harvests
- Description of the algorithm to compensate individuals and businesses in the Gulf oyster industry
- Related issues

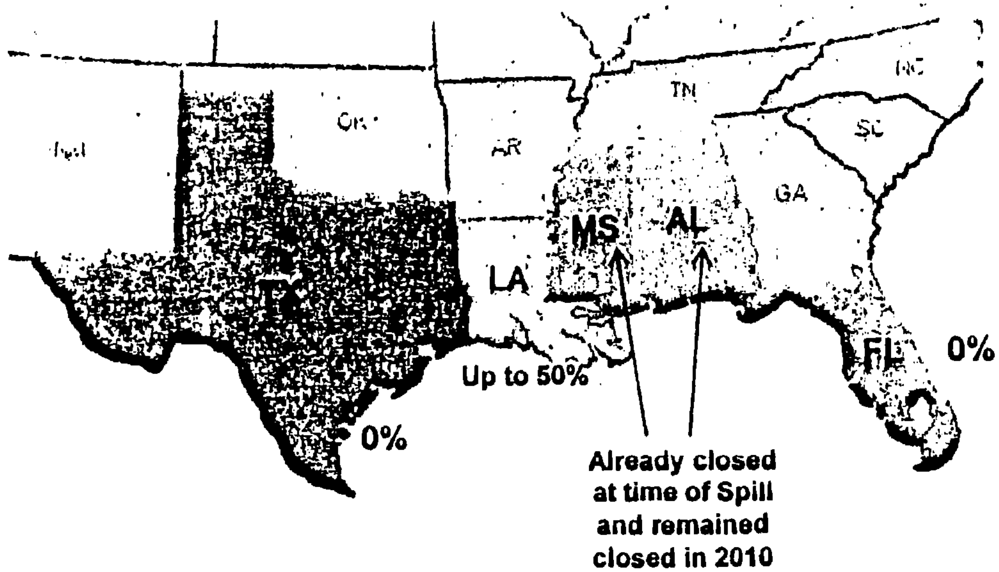
Impact of the Oil Spill on Oyster Harvests

- Impact on 2010 harvests
  - Closure of oyster beds
  - Loss in inventory of mature oysters

- Impact on future harvests
  - Some oyster beds remain closed
  - Loss in inventory of immature oysters (fresh water diversion)
  - Possible damage to oyster beds, unknown risk

Oyster Bed Closures

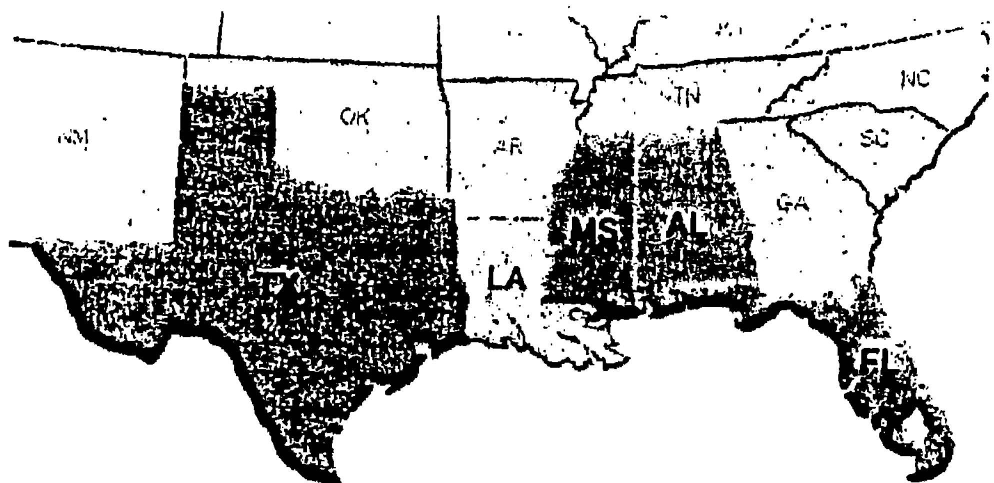
% of Oyster Beds Closed During Spill



Source: NOAA Fisheries Service, Deepwater Horizon/BP web site for both Federal closures and links to State sites for closures for each state. http://sero.nmfs.noaa.gov/BPOilSpillArchives.htm

56% of Historical Landings Come from Louisiana

2006-2009 Avg Harvest	Texas	Louisiana	Mississippi	Alabama	Florida
Landings (Million lbs)	3.8	13.2	2.6	0.8	2.7
% of Gulf Total	17%	56%	11%	4%	12%



Source: Annual and Monthly Landings from NOAA Fisheries Service
http://www.st.nmfs.noaa.gov/st1/commercial/index.html

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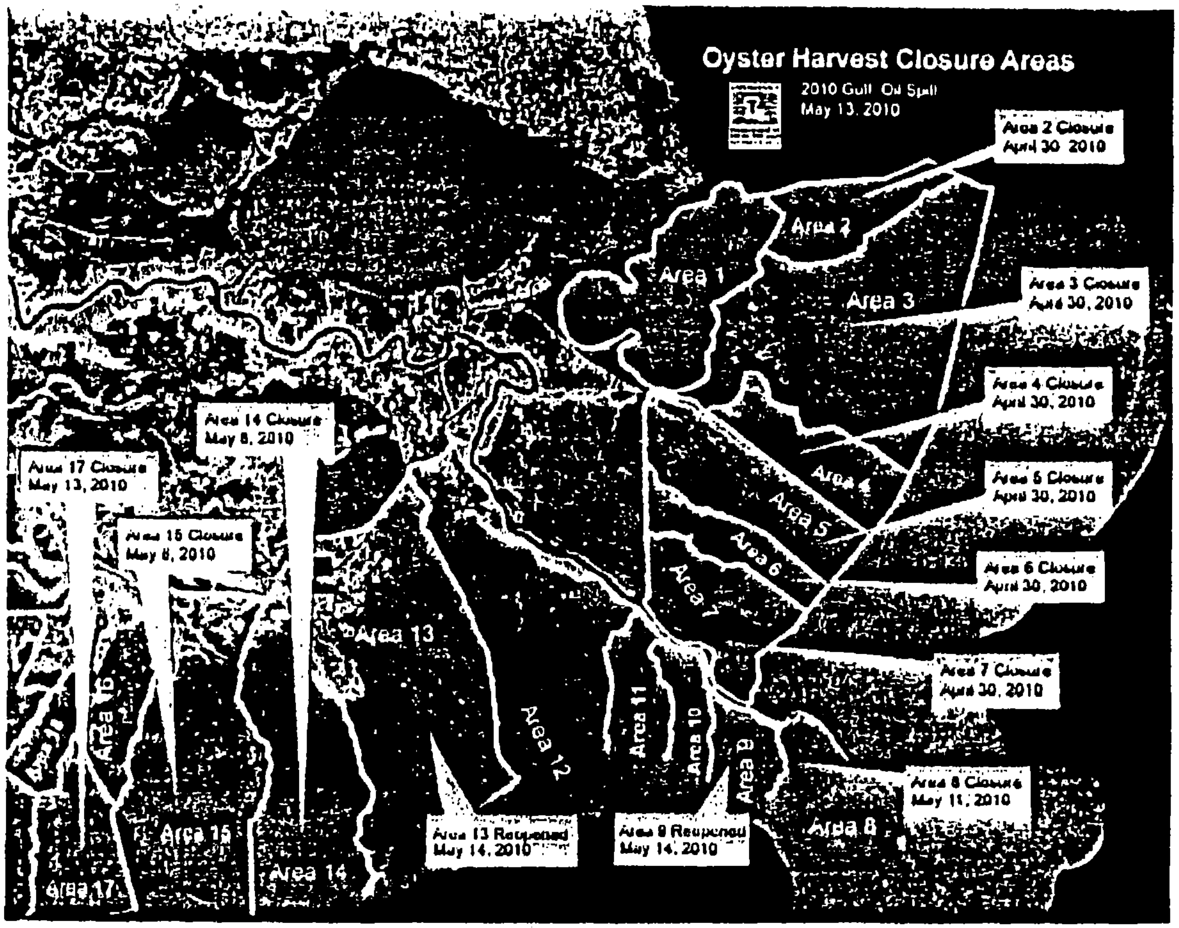
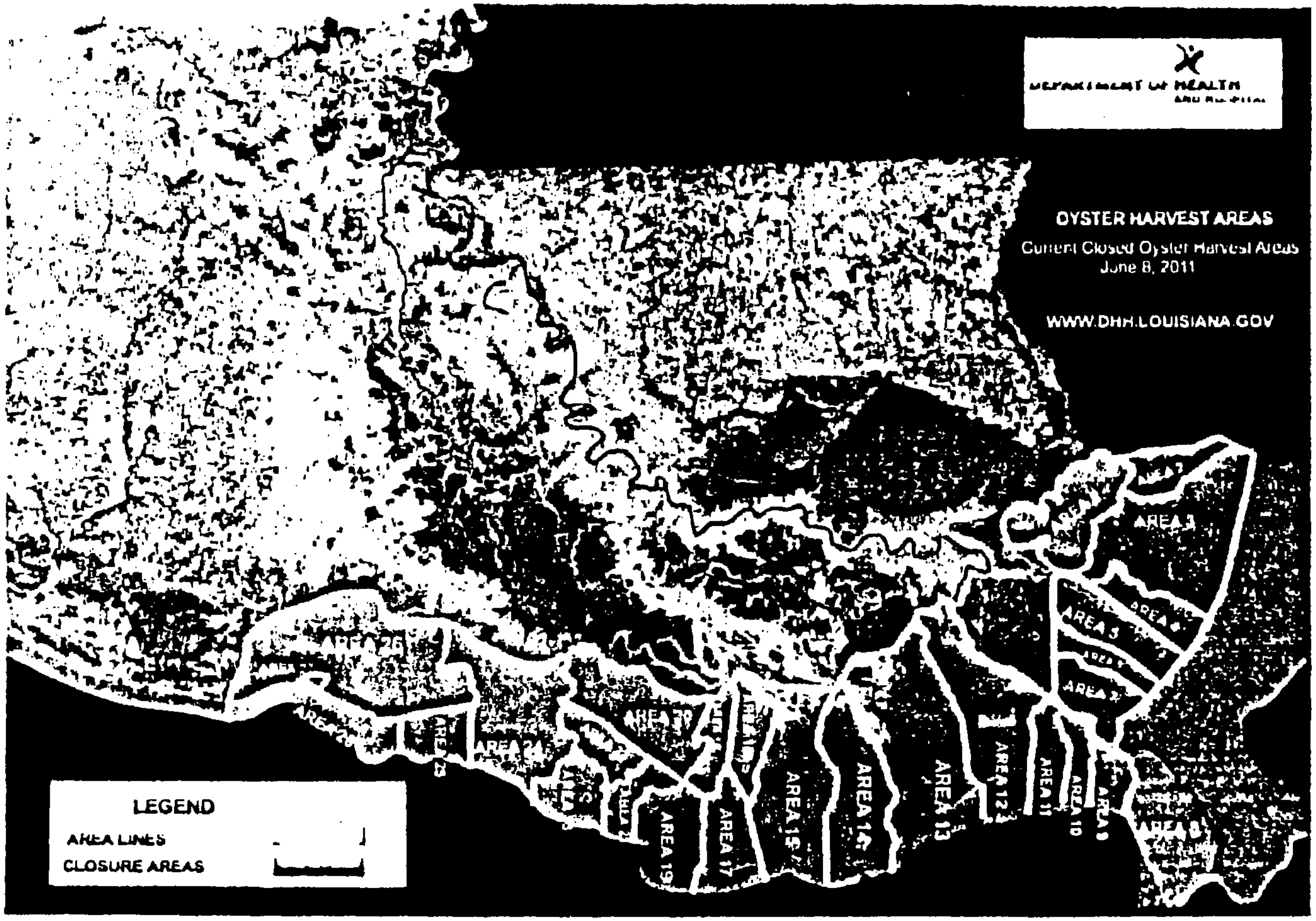
Louisiana Closures Were Substantial.



Source: Louisiana Department of Health and Hospitals: http://www.dhh.louisiana.gov/offices/?ID=214

Current Closures



Source: Louisiana Department of Health and Hospitals: http://www.dhh.louisiana.gov/offices/?ID=214

Estimates of Historical Oyster Production from Closed Waters

State	Percent of Catch From Closed Waters	Comments
Alabama	100.0%	
Florida	0.0%	No Closures
Louisiana	83.1%	
Mississippi	97.0%	
Texas	0.0%	No Closures
Total	65.5%	

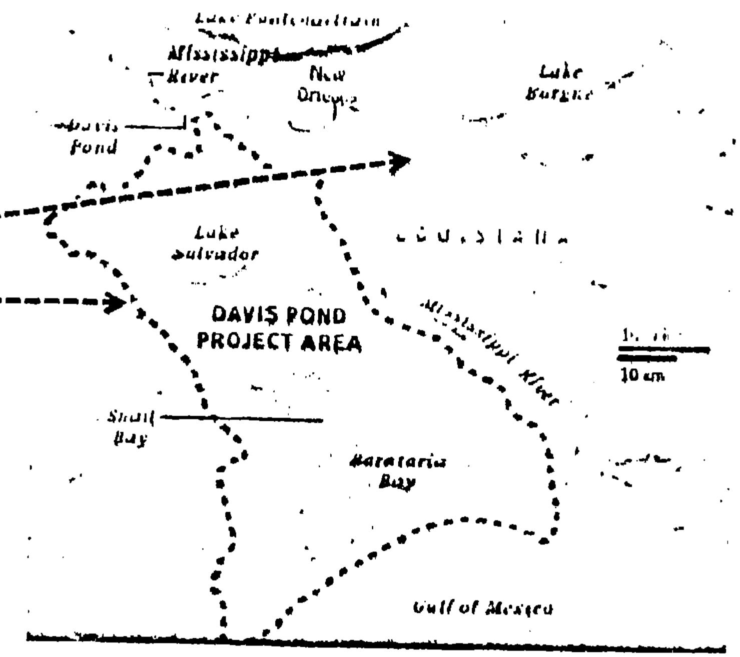
State	Value of Catch From Closed Waters	
Alabama	$ 3,168,519	
Florida		No Closures
Louisiana	$ 41,498,037	
Mississippi	$ 5,917,256	
Texas		No Closures
Total	$ 50,583,812	

Source: From special request from ARPC to NOAA Fisheries Service. NOAA used Accumulated Landings System data. Federal Statistical Fishing Areas are designated by NOAA.

LA Water Diversions Created Oyster "Kill Zones".

Water Diversions in Louisiana

- Caernarvon Diversion
- Davis Pond Diversion
- Ostrica Locks
- Bayou Lamoque
- Bohemia Spillway
- Violet Siphon
- White's Ditch Siphon
- Naomi Siphon
- West Pointe a la Hache
- Lower Delta Management

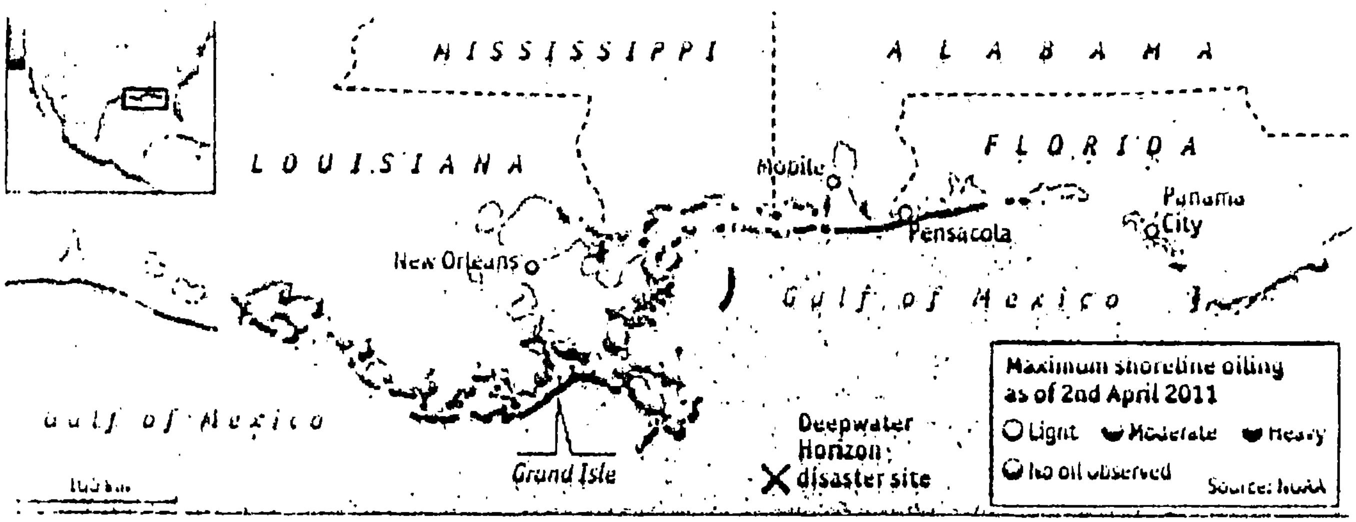


Water diversions ran continuously from May through August 2010.

Source: Times Picayune, September 2011

Oil Also Encroached on the LA Oyster Beds … The Extent of the Damage is Unknown.

Maximum Extent of Oil Encroachment

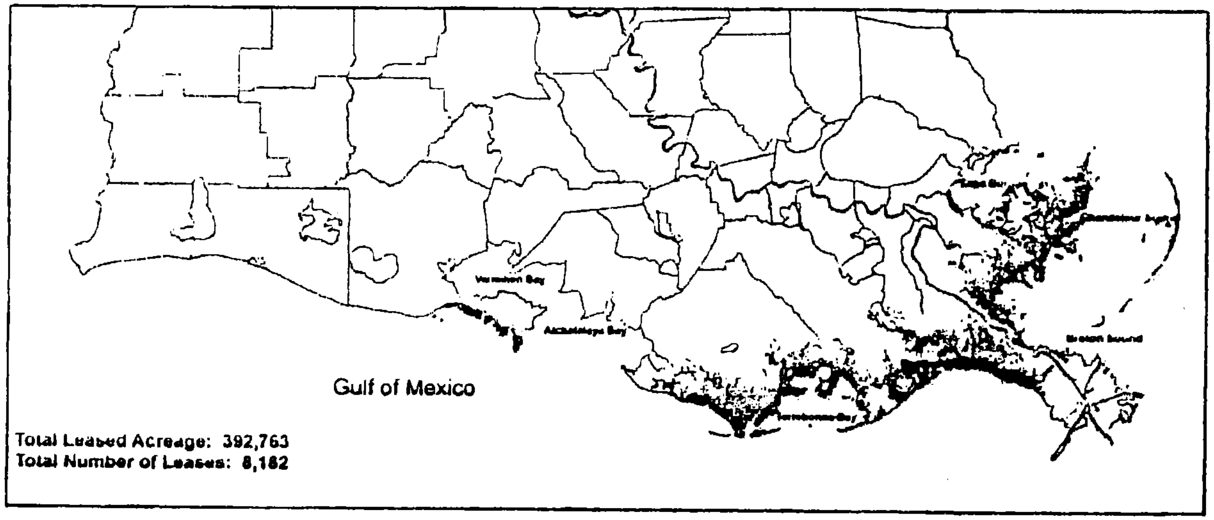


Source: "Deep Water Horizon, One year Later", The Economist: http://www.economist.com/node/18587367

Both Oil and Water Incursions Hit Louisiana Private Grounds

- 76% of LA harvest comes from Private Leases.
- Private season is year-round – no restrictions.
- Public season is closed April through October.

Location of Private Oyster Beds in LA



Source: Louisiana Department of Wildlife & Fisheries, March 2005

Leaseholder Status by State

State	Number of Leases	Acreage of Leases	Estimated 2007-09 Avg Production (Millions of pounds)	% of State Production from Leases
Alabama	< 10	252	0.8***	Not Avail
Florida*	11	668	2.7	5%
Louisiana	7,840	390,000	13.2	76%
Mississippi	7	700	2.6	Confidential
Texas**	43	2,320	3.8	24%

* Panhandle area only
** All private oyster leases are in Galveston Bay
*** Alabama figure is for 2007 only.

Source: Louisiana Department of Health and Hospitals: http://www.dhh.louisiana.gov/offices/?ID=214

Conceptual Framework for Compensation Algorithm – Three Types of Potential Losses

1. Initial loss of income in 2010
   - Water closures
   - Inventory loss of mature oysters resulting from water diversions

2. Loss in income after 2010
   - Some oyster beds remain closed
   - Loss in inventory of immature oysters (fresh water diversion)

3. Possible damage to oyster beds and other unknown risk

Specific Proposal: Non-Leaseholders

Captains / Crew / Processors

Offer = 4 x 2010 Lost Income

1. Compensates for immediate loss from closures and the loss due to the "killing" of mature inventory (fresh water diversions)

2. Provides sufficient compensation to cover losses during the recovery period (re-seeding and maturation)

Specific Proposal: Leaseholders Only

Leaseholders

Offer = 4 x 2010 Lost Income

\+

Allowance for Future Risk

1. Adds compensation for potential long-term damage to the oyster beds and potential unknown future risk

2. Additional Allowance is based on a multiple of:

   Historically based average income

   or

   2010 Lost Income

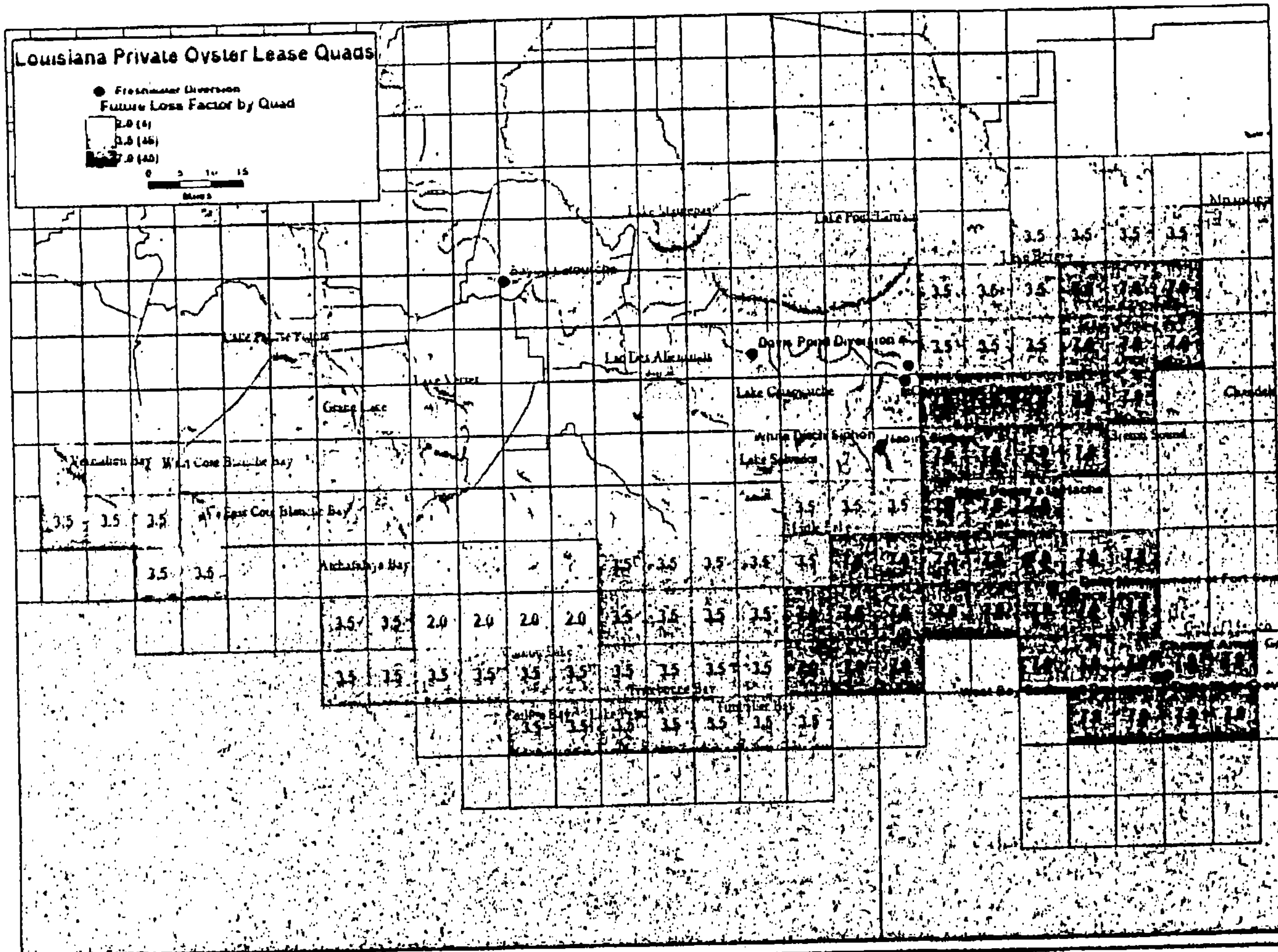
Future Risk Multiple

Allowance for Future Risk =
Average Historical Income x Future Risk Multiple

Values for the Future Risk Multiple

1. **Louisiana** Risk Multiples range from 2.0 to 7.0 depending on the geographic location of the lease and the anticipated water and oil damage at that location
2. All areas in **Mississippi and Alabama** have a Risk Multiple of 3.5, reflecting oil infiltration only.
3. The **Panhandle of Florida** has a Risk Multiple of 1.0, reflecting minimal oil infiltration only
4. **Texas** and areas in **Florida east of the Panhandle** are not allowed a Risk Multiple

Future Risk Multiples for LA Oyster Quads



Summary of Compensation Parameters

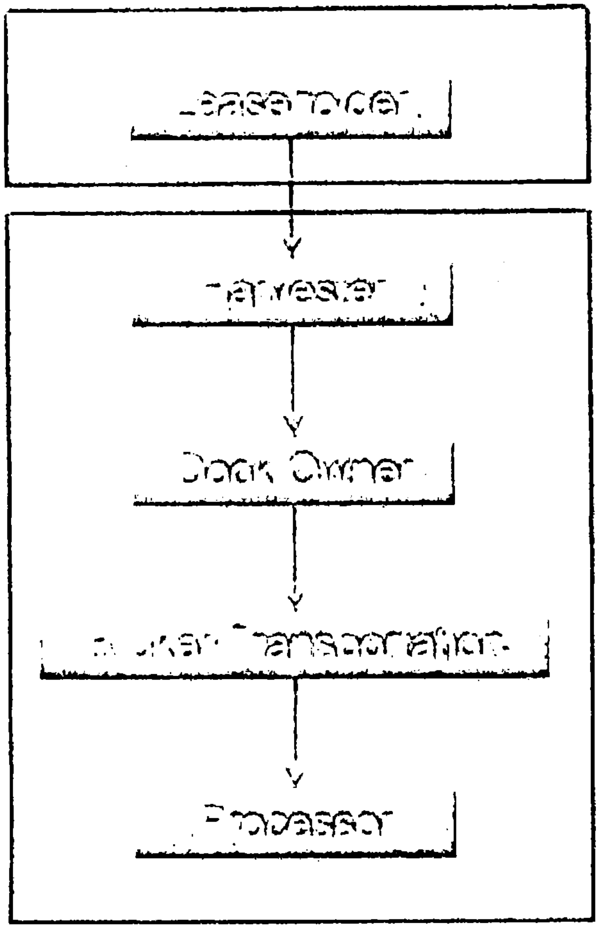
	2010 Loss Multiple	Future Risk Multiple
Leaseholder	4x	1 to 7x
Harvester	4x	None
Dock Owner Broker/Transportation	2x	None
Processor	4x	None

Related Issues

Related Issues

- Treatment of integrated businesses
- Documentation requirements

Implementation for Integrated Businesses



Step 1: Calculate Leasehold Loss

2010 Leasehold Loss x 4

\+

Future Component x Risk Factor

Step 2: Calculate Other Business Loss

2010 Enterprise Loss less 2010 Leasehold Loss

Step 3: Add Steps 1 and 2

Note: For simplicity sake, if the processor is fully integrated we will apply a full loss factor of four (4) to 2010 Losses to compensate the Dock/Broker/Transport part of the business.

Documentation Requirements

For a Leaseholder-Only Claim:

- Trip Ticket Data/Other Monthly data for 2008, 2009 and 2010 that provides landings information
- Proof of Leases owned
- Profit & Loss Statements detailing lease related expenses

For a Harvester/Seafood Processor-Only Claim:

- Monthly Profit and Loss Data for 2008, 2009 and 2010

For a Harvester/Seafood Processor + Leaseholder Claim:

- Trip Ticket Data/Other Monthly data for 2008, 2009 and 2010 that provides landings information
- Proof of Leases owned
- Profit and Loss Statements detailing lease related expenses
- Monthly Profit & Loss Data for 2008, 2009 and 2010

EXHIBIT X

Exhibit X

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

GULF COAST CLAIMS FACILITY

Second Modification to Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology (dated February 18, 2011)

November 30, 2011

The GCCF has analyzed various economic data including tourism-related revenues and taxable sales to continue to monitor the status of the recovery, both Gulf-wide and on regional levels. The following modification to the GCCF's **Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology** (dated February 18, 2011) ("Final Rules") is designed to reflect the current economic situation in the Gulf while continuing to provide a methodology for a fair and consistent approach to determine and calculate final and interim payments for individuals and businesses for 2011 losses sustained due to the oil spill.

Modifications to the Final Rules outlined below (with the exception of Section I Changes in Compensation for Commercial shrimp and crab Harvesters and Processors), will be effective immediately and applied to all claims submitted to the GCCF postmarked, filed electronically, faxed or hand delivered on or after November 30, the date of this modification. For claims filed on or after November 30, 2011, **including claims new to the GCCF and existing claimants filing additional interim or new final claims (including those claimants who previously received an Emergency Advance Payment from the GCCF)**, the eligibility requirements and computations for Interim Payments and Final Payments will follow the modified rules.

The GCCF Final Rules are modified as follows:

I. Changes in Compensation for Commercial Shrimp and Crab Harvesters and Processors

The GCCF recognizes the ongoing uncertainty regarding the state of the commercial harvesting of shrimp and crab in the Gulf and the uncertainty of any ongoing impact from the spill. As a result of this uncertainty, the GCCF has adjusted its methodology for compensation to commercial shrimp and crab harvesters and processors to include additional compensation. This modification for compensation for commercial shrimp and crab harvesters and processors will apply to all Final Payment Offers made by the GCCF for claims currently under review by the GCCF but not yet determined or accepted, and for all claims received on or after November 30, 2011, the date of this modification. Note that commercial shrimp and crab harvesters and processors will continue to be required to prove 2010 losses. Commercial shrimp and crab harvester business claimants must provide evidence of their license to harvest in the loss year that they are claiming losses.

Specific Eligibility and Documentation Requirements:

- Business Claimants: Commercial shrimp and crab harvester and processor business claimants must provide tax returns for the past three years (2008 – 2010). In addition, business claimants who are shrimp harvesters must provide evidence of: 1) a commercial shrimp license or shrimp vessel license; 2) a shrimp captain's license; 3) proof of ownership of a shrimping vessel; or 4) a commercial gear license. For business claimants who are crab harvesters, claimants must provide: 1) a commercial crab catcher license; 2) a commercial crab trap license; or 3) a commercial crab fisherman's license. More generic saltwater product or commercial fisherman's licenses will be considered for both shrimp and crab harvesters on a case by case basis.

- Individual Claimants: Individual shrimp and crab harvester or processor claimants who are employed by commercial harvesters and processors of shrimp or crab must provide proof of employment by a captain or owner of a vessel or business entity who has submitted a claim to the GCCF for a similar loss period and whose claim has been deemed eligible for payment, received a final payment offer or has been paid by the GCCF prior to or after the effective date of this modification, or the claimant must provide an appropriate harvesting license and a letter from the employer confirming the dates and type of employment.

Therefore, the following rules for compensation for commercial shrimp and crab harvester and processor claimants will be applied. (For generic seafood harvesters and processors, only the portion of losses attributable to Gulf shrimp or crab will be eligible for the new compensation calculation provided with this modification to the Final Rules described below.)

Each Commercial shrimp and crab Harvester Claimant (who meets the specific eligibility and documentation requirements as noted above) and who provides the required documentation to harvest in the loss year that they are claiming losses and Commercial shrimp and crab Processors will be **eligible for a Final Payment Offer Amount of the larger of:**

1) **Four times each claimant's 2010 Actual Documented Losses (except for claimants with 2010 losses in excess of $500,000); or**

2) **The total actual documented losses through the date of the determination of the Final Claim.**

Consistent with the Final Rules, the Final Payment Offer will be reduced by compensation already received in Emergency Advance Payments from BP, Emergency Advance Payments from the GCCF and Interim Payments from the GCCF.

I. Changes in Eligibility Rules for All Individuals and Businesses in the Florida Peninsula and Texas

Based on an analysis of recent revenue trends at beachfront hotels along the Gulf as well as taxable sales data at a county level in Florida and Texas, the GCCF has concluded that there is a significant differential impact of the oil spill between (1) the Gulf Alliance counties along the western coast of Florida south of the Panhandle (hereafter called "Florida Peninsula") and Texas, and (2) other areas in the Gulf. See Appendix A for a list of the Gulf Alliance counties in the Florida Peninsula.) (Availability of data varies from state to state.)

The GCCF has analyzed the performance of three economic components related to tourism and compared the formance level observed in the Florida Peninsula and Texas with the performance in Mississippi, Alabama and the

Florida Panhandle. The three components are: (1) revenues for beachfront hotels; (2) taxable sales of restaurants and (3) taxable sales of amusement activities. (See Appendix B, Figures 1, 2 and 3.)

The GCCF will ensure that claimants from the Florida Peninsula and Texas that were affected by the oil spill are appropriately compensated.

Accordingly, the following modifications will be made to the eligibility requirements for individuals and businesses where the place of work or business is in a county in the Florida Peninsula or Texas.

- In general, losses claimed by **Individuals and Businesses** in the Florida Peninsula and Texas are no longer presumed to be the result of the oil spill as defined in Section IV 3a of the Final Rules. This rule previously allowed a presumption of loss due to the oil spill solely if the claimant was "in the immediate vicinity of the Gulf Shore."[1] This rule no longer applies to any claimants except seafood harvester and processor claimants.

- **Business Claimants** claiming 2010 losses in the Florida Peninsula and Texas will hereafter be treated as follows:

  - All Business claimants (including claimants in the immediate shore vicinity) will now have to satisfy the requirements of the financial test.[2]

  - All Business claimants who either (1) fail the financial test, or (2) are outside of the immediate vicinity of the Gulf shore, will also have to provide specific proof demonstrating an identifiable link between the asserted damage and the oil spill. (See the Final Rules, Section IV. 3c and Attachment A for examples of such proof.)[3]

- **Individual Claimants:** Individuals are deemed to be eligible for compensation for their losses if they can demonstrate that their employer has either been made an offer or has been paid by the GCCF under the revised eligibility rules described herein. Otherwise, Individual claimants will need to provide specific proof demonstrating an identifiable link between the asserted damage and the oil spill. This link could be a specific proof of termination of employment or reduction in wages that an employer confirms was a result of the oil spill.

- **All claimants in the Construction Industry in the Florida Peninsula and Texas,** both Individuals and Businesses, will now have to provide proof demonstrating an identifiable link between the asserted damage and the oil spill. Businesses in the Construction Industry will also be required to pass the financial test.

III. Changes in the Rules for Computing Comparison Year Income for Individuals

- Actual Documented Losses for Individuals will continue to be based on the difference in financial performance between the loss year and a Comparison Year as described in the Final Rules.[4] Effective with this modification, the Comparison Year income will be the average of the annual incomes for 2008, 2009 and 2010[5] except under the following circumstances:

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[1] *Final Rules*, Section IV 3a.
[2] *Final Rules*, Attachment C.
[3] *Final Rules*, Attachment A.
[4] *Final Rules*, Section III 4a.
[5] For this purpose, the GCCF will annualize 2010 using January through April results provided by the claimant.

- If annual income from 2008 through 2010 shows either a consistent increase or decrease, 2010 will be used.
- If the income for two of the three years is more than 10% different from the average of all three, the claim will be evaluated under a Special Review process.
- 2008 income must be made available unless the difference between 2009 and 2010 is less than 10%.
- Income for 2010 will be based on the January through April period and annualized as follows:
    - Bonus or special award payments will be deducted from income prior to annualization.
    - The income, after deduction of bonus or special award payments, will be annualized using a seasonality factor that is a function of:
        - Location (Florida Peninsula vs. all other areas)
        - Business type (Tourism related vs. other)
        - Compensation type (Salary vs. Hourly)
    - Bonus or special award payments will be added back to total income after annualization.

- Individual claimants who provide either insufficient income data or were laid off during any of the Comparison Years (2008, 2009) or the pre-spill months in 2010 (January – April) will be evaluated under Special Review.

Note: For all claimants with actual documented losses in 2010 of $500,000 or more, the GCCF will not automatically apply the recovery factor to claimant's actual 2010 total losses. The Final Payment calculation for these claimants will be determined on an individualized basis after analyzing input from the claimant as well as the GCCF's economists. The Final Payment Offer will be the actual documented losses in 2010 and an additional amount to compensate for the projected recovery and risk of possible future losses.

Appendix A

Listing of Gulf Alliance Counties in the Florida Peninsula

Charlotte
Citrus
Collier
DeSoto
Glades
Hardee
Hendry
Hernando
Hillsborough
Lake
Lee
Levy
Manatee
Marion
Monroe
Pasco
Pinellas
Polk
Sarasota
Sumter

Appendix B

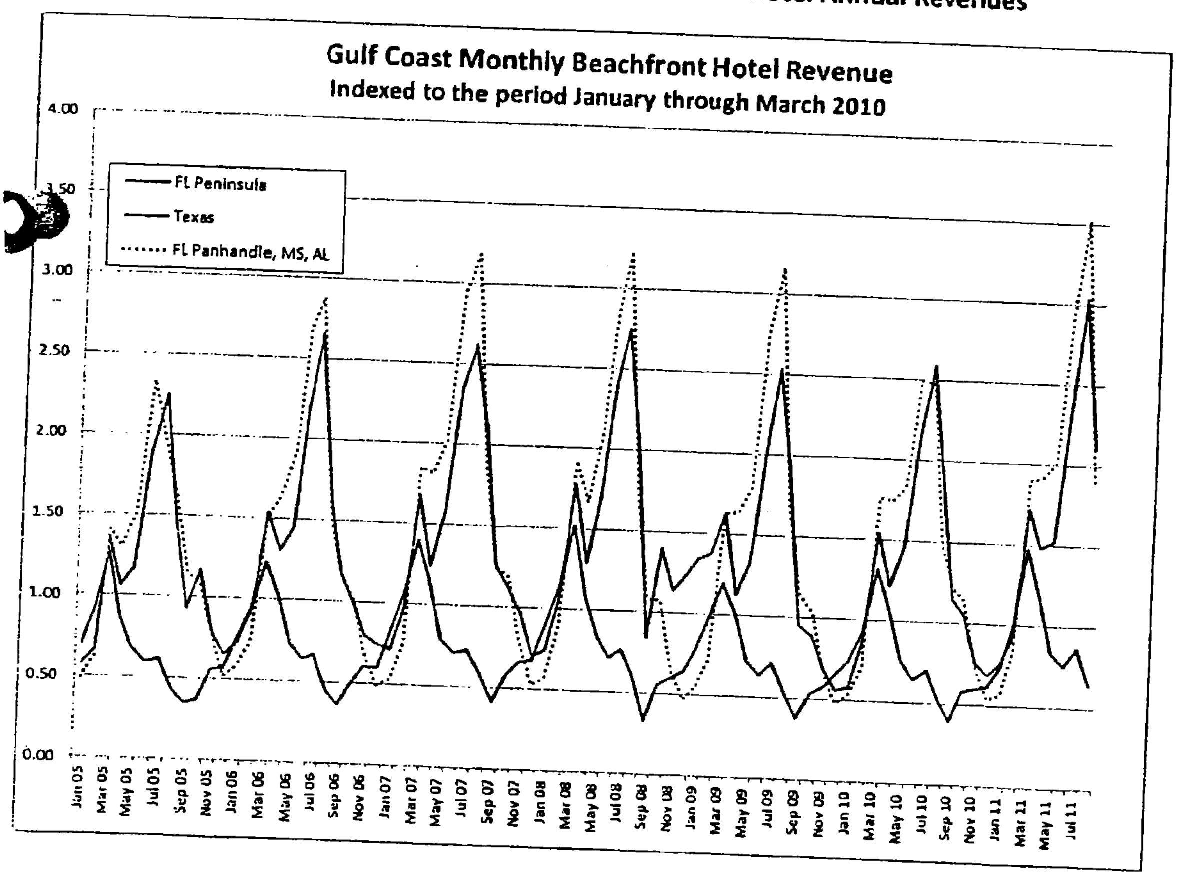
Graphs of Key Tourism Indicators

Revenues at Beachfront Hotels[6]

Beachfront hotel revenue in the Florida Peninsula and Texas grew steadily from 2005 to 2008.[7] (See Figure 1.) Likewise, the Florida Panhandle, Mississippi and Alabama also experienced steady growth over the same period. In 2009, the beachfront hotels throughout the Gulf experienced a slight decline, likely a result of the nationwide recession. However, in 2010 revenues from hotels in Texas and the Florida Peninsula began to diverge from revenues generated in the rest of the Gulf. Specifically, the Florida Panhandle, Mississippi and Alabama declined dramatically in the summer of 2010, likely the combined effect of the continued recession and effect of the oil spill. The Florida Peninsula and Texas show a very different pattern. Rather than a steep decline through the summer of 2010, both areas actually showed a slight increase in revenues.

The upward trend in the Peninsula and Texas continued in 2011 and by August hotel revenues in these areas had returned to 2008 levels. It seems clear that in the aggregate, the Florida Peninsula and Texas did not experience a significant decline immediately after the oil spill.

Figure 1: Trends in Beachfront Hotel Annual Revenues



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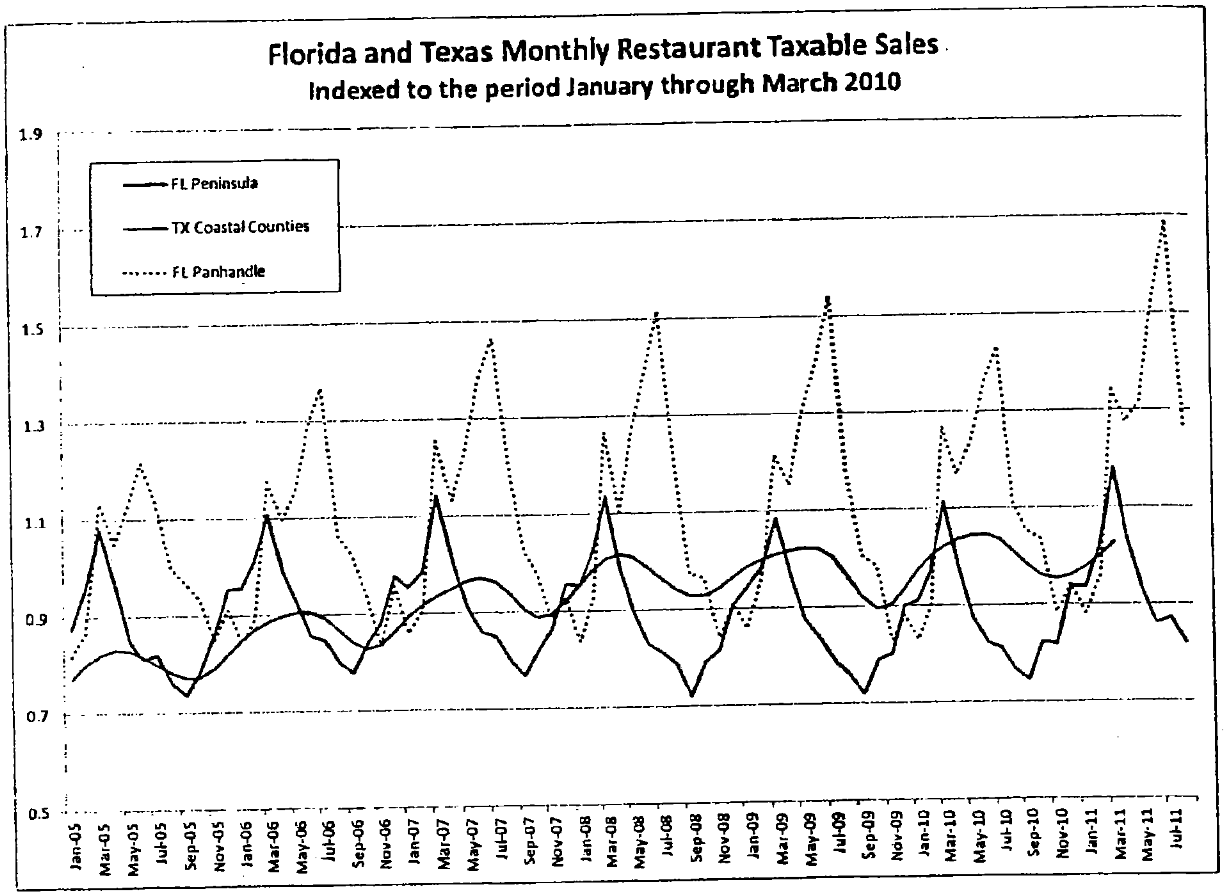
[6] Note that data were not available for similarly situated hotels in Louisiana.
[7] "Beachfront" hotels are located within one mile of the coastline.

Taxable Sales – Restaurants[8]

Taxable restaurant sales in the coastal counties in the Florida Peninsula and the Panhandle as well as coastal Texas all experienced steady growth between 2005 and 2008.[9] (See Figure 2.) However, in 2009, the coastal Florida Peninsula experienced declining revenues while the Panhandle continued its upward trend in revenues through 2009. Revenues restaurants in coastal Texas were flat during the peak summer period in 2009, falling off somewhat more than usual thereafter. In the aftermath of the oil spill, the Panhandle region demonstrated a severe decline in peak revenues while the Florida Peninsula and Texas seemed unaffected. In 2011, both regions in Florida have recovered significantly with the June-August period bringing the highest restaurant sales of the last five years in the Panhandle, while in the Peninsula, restaurant sales have returned to 2008 levels. Revenues have remained consistent in Texas.

Figure 2: Trends in Restaurant Taxable Sales



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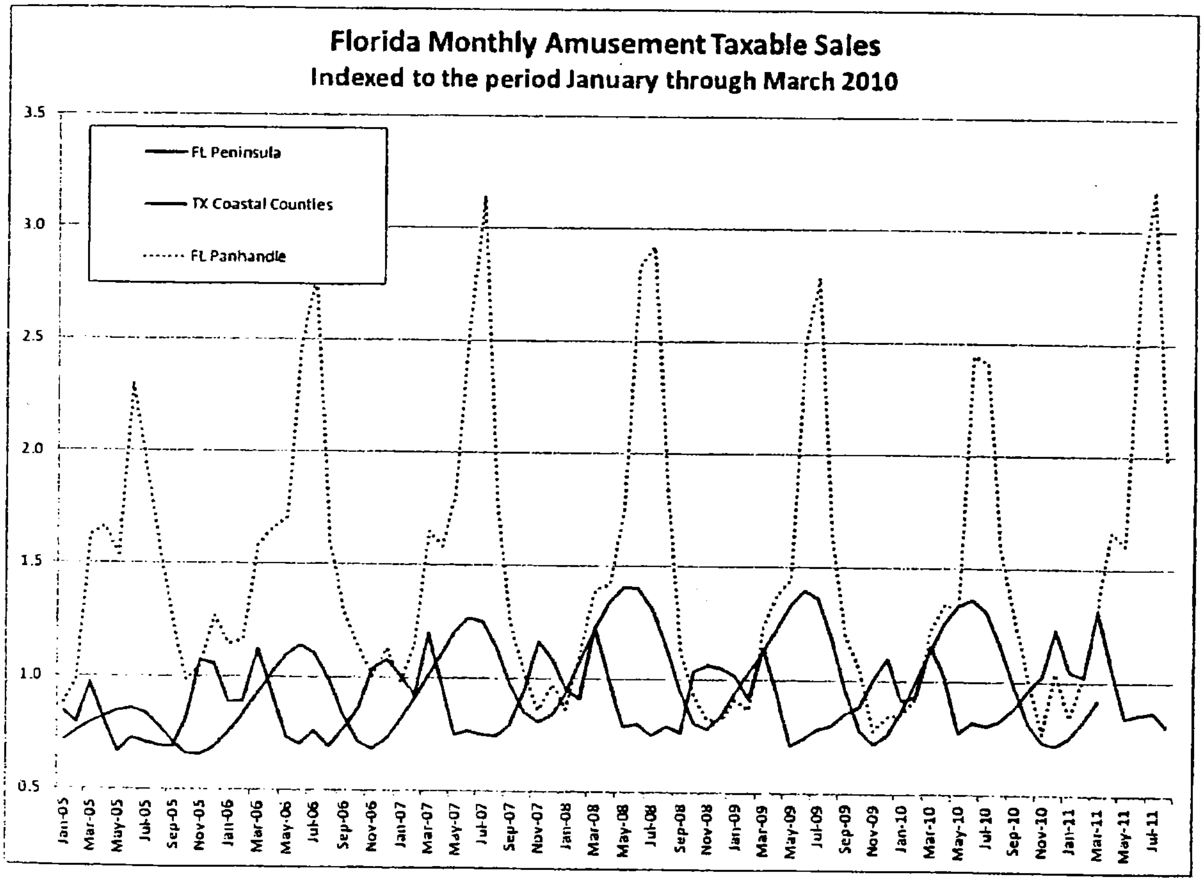
[8] Data for Alabama, Mississippi and Louisiana were not available on a comparable basis.
[9] Texas data is only available by quarter and unavailable after the first quarter of 2011. The line shown is an interpolated representation of the quarterly data.

Taxable Sales – Amusements[10]

Taxable amusement sales provide further evidence of the disparity in the effects of the oil spill in the Florida Panhandle and coastal counties in the Florida Peninsula as well as coastal Texas. (See Figure 3.) The Panhandle experienced steady growth in taxable amusement sales between 2005 and 2007 while the Florida Peninsula and coastal Texas continued to experience growth in 2008. As Figure 3 in Appendix B shows, taxable sales in the coastal Peninsula show a reasonably similar pattern in 2008 through 2009 to prior years while in the Panhandle, decline in peak months began in 2008 and continued into 2009. Coastal Texas was flat to marginally down during this period.

Once again the 2010 data indicate that the coastal counties in the Peninsula showed no ill-effects as a result of the spill as sales continued to grow. The Panhandle on the other hand experienced a sharper downturn in the post spill period of June-August 2010. Amusement sales in both regions rebounded in 2011. In the Panhandle, sales recovered from the effects of the recession and the oil spill to post 2011 peak revenues that are comparable to those seen in 2007. The Florida Peninsula also looks to have recovered successfully in 2010 and 2011 from the effects of the 2009 downturn showing growth in both years to post peak sales comparable to 2008 levels. Revenues have remained consistent in Texas.

Figure 3: Trends in Amusement Taxable Sales



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[10] Data for Alabama, Mississippi and Louisiana were not available on a comparable basis.

EXHIBIT Y

Exhibit Y

[redacted]

October 12, 2011

[redacted]

Re: Follow-Up to Previous Denial Letter
GCCF Claimant Identification Number: [redacted]

Dear [redacted]

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 ("Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

You previously filed a claim with the GCCF seeking damages relating to the Oil Spill. The GCCF sent you a Denial Letter that denied your claim for the reasons explained in that letter. If you think you should have been paid and can provide supporting documentation to tie your losses to the Oil Spill, you may file a new Claim Form and any supporting documents you have. The GCCF will review that claim and send you a letter explaining the outcome of that review. If you have not signed a Release and Covenant Not to Sue, you may file a new claim with the GCCF until the program ends in August of 2013.

If you are not represented by a lawyer and need help preparing your claim and assembling the necessary documentation or would like to talk with a lawyer but cannot afford one, free legal help is available for the GCCF Interim or Final Claims process through a network of these nonprofit civil legal service organizations in Alabama, Florida, Louisiana, Mississippi and Texas:

State		Legal Service Organization	Contact Information
1.	**Alabama**	Legal Services Alabama	**Telephone:** 866-456-4995, press 6
2.	**Florida**	a) Legal Services of North Florida b) North Florida Center for Equal Justice	**Telephone:** 855-299-1337

State		Legal Service Organization	Contact Information
3.	**Louisiana**	a) Louisiana Civil Justice Center b) Louisiana Justice Institute c) Moving Forward Gulf Coast d) The Pro Bono Project of New Orleans e) Southeast Louisiana Legal Services	**Telephone:** 504-355-0970 if you are in Orleans or Jefferson Parish. Outside those areas, call 800-310-7029. **Email:** Send your name, telephone number and a brief description of the help you are seeking to: oil.spill.info@lacivijustice.org.
4.	**Mississippi**	a) Mississippi Center for Justice b) Mississippi Center for Legal Services c) Mississippi Volunteer Lawyers Project	**Telephone:** 888-725-5423
5.	**Texas**	Lone Star Legal Aid	**Telephone:** 800-733-8394

You can also request free legal help by sending an email to LegalAssistance@GCCF-Claims.com or calling the toll-free number 1-800-916-4893 and asking for the Legal Services Escalation Team. This information about free legal assistance is available on the GCCF website, www.gulfcoastclaimsfacility.com.

If you disagree with the GCCF's denial of your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at www.uscg.mil/npfc/claims. Information regarding the multidistrict litigation may be obtained from the court's website at www.laed.uscourts.gov. A claim for physical injury is not a claim under OPA and therefore cannot be submitted to the NPFC.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

EXHIBIT Z

GCCF Gulf Coast Claims Facility
www.GulfCoastClaimsFacility.com

Exhibit Z

November 24, 2011

[redacted]

RE: Denial Letter on Interim Payment/Final Payment Claim
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 (the "Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All Claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

You have filed one or more Claim Forms with the GCCF. This Denial Letter ("Letter") is an official notification from the GCCF. This Letter addresses all the Claim Forms and documents that you have filed concerning the claims described below. If you filed more than one Claim Form or claims for businesses or activities on which you pay taxes using the same taxpayer identification number (Social Security Number or Employer Identification Number), then we have combined all the claims for that taxpayer identification number into one claim.

The GCCF has reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted, and your claim is denied for the following reason(s):

1.	Loss of Subsistence Use of Natural Resource	You did not demonstrate your dependence on your catch for sustenance purposes (meaning to meet the minimum necessities of life, or for survival).

If you think you should have been paid and can provide supporting documentation to tie your losses to the Oil Spill, you may file a new Claim Form and any supporting documents you have. The GCCF will review that claim and send you a letter explaining the outcome of that review. If you have not signed a Release and Covenant Not to Sue, you may file a new claim with the GCCF until the program ends in August of 2013.

If you disagree with the GCCF's denial of your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims**. Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Denial Letter, and the reason your claim is denied. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email.

If you are represented by an attorney, the GCCF will communicate directly with your attorney. If you have authorized a claims preparation firm to receive information on your claim, the GCCF is mailing a copy of this Letter to that firm.

Your GCCF Claims Review Specialist is: Brian 57843 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility

November 24, 2011

[redacted]

RE: Deficiency Denial Letter on Interim Payment/Final Payment Claim
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 ("Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

You have filed one or more Claim Forms with the GCCF. This Denial Letter ("Letter") is an official notification from the GCCF. This Letter addresses all the Claim Forms and documents that you have filed concerning the claims described below. If you filed more than one Claim Form or claims for businesses or activities on which you pay taxes using the same taxpayer identification number (Social Security Number or Employer Identification Number), then we have combined all the claims for that taxpayer identification number into one claim.

We previously reviewed the Interim Payment and/or Full Review Final Payment Claim Form that you submitted and sent you a Deficiency Letter explaining that your file was missing documents necessary for us to be able to evaluate your claim and giving you 30 days to send us those documents. You have not requested a review of your claim or submitted any additional documentation since we sent you a Deficiency Letter. Because your claim is still missing the following information that is necessary to the review of your claim, your claim is denied.

Claim Type		Why We Needed the Missing Information	What You Needed to Submit
1.	Loss of Subsistence Use of Natural Resource	No proof of subsistence use and/or proof of damages incurred due to loss of subsistence.	You did not demonstrate your dependence on your catch for sustenance purposes (meaning to meet the minimum necessities of life, or for survival).
2.	Lost Earnings and Profits	We are unable to determine the location where you were working in 2008.	For all of your sources of employment in 2008, documents or information showing the location, including the Zip Code, where you worked or were doing business.
3.	Lost Earnings and Profits	We are unable to determine the location where you were working in 2009.	For all of your sources of employment in 2009, documents or information showing the location, including the Zip Code, where you worked or were doing business.

4.	Lost Earnings and Profits	We are unable to determine the location where you work.	Documents or information showing the location, including the Zip Code, where you worked or were doing business at the time of the Deepwater Horizon Incident.
5.	Lost Earnings and Profits	We are unable to determine what kind of business your employer does.	Documents or information showing the type of business in which you worked or were engaged at the time of the Deepwater Horizon Incident.
6.	Lost Earnings and Profits	We are unable to determine what kind of business your employer in 2008 did.	For all of your sources of employment in 2008, documents or information showing the type of business in which you worked or were engaged.
7.	Lost Earnings and Profits	We are unable to determine what kind of business your employer in 2009 did.	For all of your sources of employment in 2009, documents or information showing the type of business in which you worked or were engaged.
8.	Lost Earnings and Profits	We are unable to determine whether you were working at the time of the Spill on April 20, 2010.	Documents that establish your employment at the time of the Deepwater Horizon Incident on 4/20/10, such as 1) paycheck stubs or other payroll records from all employment on or around 4/20/10, or 2) a letter or other records from an employer that confirm your employment on or around 4/20/10. If you were not working on or around 4/20/10 because the nature of your employment is seasonal, you must provide a letter or other records from your employer that describe when you were scheduled to work in 2010.
9.	Lost Earnings and Profits	We are unable to determine your income after the Spill.	Documents sufficient to determine the total gross amount you earned as wages or salary from all employers from May 1, 2010, until the present, or proof, such as a letter from your employer, that you have earned no income during this time.
10.	Lost Earnings and Profits	We are unable to determine your total earnings in 2008 or 2009.	Documents that establish your earnings for the entire year of 2008 or 2009, such as 1) a federal income tax return for 2008 or 2009, including all W-2 forms, 1099 forms, and other attachments or schedules to the return; 2) paycheck stubs or other payroll records from all employment demonstrating all earnings from 1/1/08 to 12/31/08 or 1/1/09 to 12/31/09; or 3) a letter or other records from an employer that describe when you were working in 2008 or 2009 and your rate of pay and total earnings. If your federal income tax return for 2008 or 2009 was jointly filed, you must submit proof of your salary, separate from your spouse's, in 2008 or 2009, such as a W-2 form, a 1099 form, copies of your paycheck stubs or direct deposit slips, or a personnel file.

If you think you should have been paid and can provide supporting documentation to tie your losses to the Oil Spill, you may file a new Claim Form and any supporting documents you have. The GCCF will review that claim and send you a letter explaining the outcome of that review. If you have not signed a Release and Covenant Not to Sue, you may file a new claim with the GCCF until the program ends in August of 2013.

If you disagree with the GCCF's denial of your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims**. Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**. A claim for physical injury is not a claim under OPA and therefore cannot be submitted to the NPFC.

If you have any questions about this Letter, you can either visit a GCCF Site Office where local personnel have been retained by the GCCF and are now in place at GCCF Site Offices throughout the Gulf region, or speak to the GCCF Claims Review Specialist identified below who can answer questions about your claim, this Deficiency Denial Letter, and the reason your claim is denied. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call or reference them in your email.

If you are represented by an attorney, the GCCF will communicate directly with your attorney. If you have authorized a claims preparation firm to receive information on your claim, the GCCF is mailing a copy of this Letter to that firm.

Your GCCF Claims Review Specialist is: Brian 57843 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims AdministratorGulf
Coast Claims Facility

EXHIBIT AA

Exhibit AA

UNITED STATES DISTRICT OF COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE OIL RIG "DEEPWATER HORIZON" IN THE GULF OF MEXICO, ON APRIL 20, 2010	§	**MDL No. 2179**
	§	**SECTION: J**
Relates to: ***All Cases***	§	**JUDGE BARBIER**
	§	**MAG. JUDGE SHUSHAN**

FIRST AMENDED[1] ORDER CREATING TRANSITION PROCESS

THIS CAUSE coming to be heard, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

APPOINTMENT OF CLAIMS ADMINISTRATOR AND TRANSITION COORDINATOR

1. The Court appoints Patrick Juneau as the Claims Administrator of the Transition Process (defined below) and the proposed Court Supervised Claims Program (defined below).

2. The Court appoints Lynn Greer as the Transition Coordinator of the Transition Process.

3. The Claims Administrator shall oversee the Transition Coordinator.

4. In the event that the appointed Claims Administrator or Transition Coordinator needs to be replaced during the Transition Process due to incapacitation by death or illness (including mental health illness) or dereliction of responsibility, or he or she is unable to perform the role of Claims Administrator or Transition Coordinator in accordance with the terms of this Transition Order, and upon a showing of cause to the Court, the Parties agree to recommend jointly approved candidates to the Court for a replacement. Thereupon, the Court shall make any necessary appointment.

CREATION OF TRANSITION PROCESS

5. Upon the agreement of BP Exploration and Production Inc. and BP America Production Company (collectively, "BP") and the Interim Class Counsel (collectively, the "Parties") and in furtherance of the Agreement-in-Principle between the Parties to settle

[1] The Court's previous Order (Rec. Doc. 5988) is amended as follows: The date, "May 12, 2012," is deleted from the last sentence of Paragraph 13.A. and replaced with "May 7, 2012."

Plaintiffs' claims, the Claims Administrator and Transition Coordinator shall cause a transition process (the "Transition Process") to be implemented in an orderly, transparent, and timely manner following the entry of this Order (the "Transition Order").

6. The Transition Coordinator will: (a) evaluate claims currently pending with the Gulf Coast Claims Facility ("GCCF"); and (b) evaluate any new claims submitted before the proposed Court supervised claims program (the "Court Supervised Claims Program") agreed to by the Parties is opened (collectively, the "Transition Claims"). The Transition Coordinator will evaluate Transition Claims and, where appropriate under the existing GCCF rules, methodologies, and protocols, pay the amounts set forth in this Order.

7. If the Court provides Preliminary Approval to the proposed Settlement and the Claims Administrator certifies the Court Supervised Claims Process is ready to open, then the Court will enter an appropriate Order terminating the Transition Process. The Parties shall file a motion for Preliminary Approval by 5 pm CST on April 16, 2012.

8. Evaluation and processing of claims during the Transition Process shall be performed by Garden City Group, BrownGreer, PLC, and PricewaterhouseCoopers, LLP and other service providers as identified by the Claims Administrator and the Claims Coordinator.

9. The Claims Administrator shall periodically and upon request report to the Court, BP and Interim Class Counsel regarding all matters relating to the operation of the Transition Process.

10. New claims may be filed during the Transition Process until such time as the Court Supervised Claims Program is established and operational as set forth above. New claims submitted shall be processed and evaluated in the order they are received. Non-deficient claims previously pending with the GCCF shall be processed and evaluated prior to any new claims filed after the creation of the Transition Process.

11. Claims for bodily injury or death are not eligible for payment in the Transition Process. This paragraph shall not operate to void, reduce or otherwise impair any all rights that such claimants may have at law.

PAYMENT TERMS FOR TRANSITION CLAIMS

12. For all Transition Claims where the claimant has not executed a Final Release that was received by the GCCF as of 11:59 pm, EST, on February 26, 2012, the following applies:

A. If a non-expired GCCF offer is pending as of the date this Order is entered and if the claimant elects to accept the offer, then the Transition Process will pay 60% of the offer without requiring a release. If the claimant receiving the 60% payment is a member of the proposed settlement class, the claimant has a right to additionally recover from the Court Supervised Claims Program the greater of: the remaining 40% of the GCCF offer, or the class settlement payment minus any amount previously paid by the Transition Process, in exchange for a release. However, if the claimant receiving the 60% payment is not a member of the proposed settlement class or opts out of the proposed settlement class, the claimant may elect to receive the remaining 40% of the GCCF offer subject to executing a release.

B. If a GCCF claim is in process of review by the GCCF as of the date this Order is entered, the Transition Process will continue processing the claim. If the Transition Process extends an offer before the Court Supervised Claims Program is processing claims and the claimant accepts the offer, the Transition Process will pay 60% of the offer without requiring a release. If the claimant receiving the 60% payment is a member of the proposed settlement class, the claimant has a right to additionally recover from the Court Supervised Claims Program the greater of: the remaining 40% of the GCCF offer, or the class settlement payment minus any amount previously paid by the Transition Process, in exchange for a release. However, if no GCCF offer has been extended by the Transition Coordinator to the class member by the time the Court Supervised Claims Program starts processing claims, then, if the claimant completes a claim form the claim shall be processed under the terms of the proposed class settlement by the Court Supervised Claims Program. However, if the claimant receiving the 60% payment is not a member of the proposed settlement class or opts out of the proposed settlement class, the claimant may elect to receive the remaining 40% of the GCCF offer subject to executing a release.

13. Claims eligible for GCCF quick pay program:

A. The Transition Coordinator shall issue a letter to all claimants eligible to participate in the GCCF quick pay program who have not previously executed a GCCF Release and Covenant Not to Sue notifying them that the quick pay program shall terminate on May 7, 2012. The letter shall further advise of the option to either submit a claim under the applicable transition claims process set forth above, or accept the quick pay in exchange for a release. The letter shall be clear the claimant has the right to choose the greater offer if a payment under the Transition Process is offered before May 7, 2012.

B. All claimants eligible to elect a quick pay must do so on or before May 7, 2012.

14. Class Members with expired offers from the GCCF are not eligible for transitional payments, but can file a claim in the Court Supervised Claims Program. Class members with expired offers from the GCCF who opt out of the settlement class shall be deemed to have satisfied the presentment requirements of the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.*

15. The Transition Coordinator shall process and issue interim payments (as defined in Section IV.A of the GCCF's February 8, 2011 Protocol for Interim and Final Claims) pursuant

to the current GCCF rules as amended by this Order through and until the date on which the Court Supervised Claims Program commences processing claims. Recipients of interim payments during this period who are members of the proposed settlement class shall also have the right to submit a claim to the Court Supervised Claims Program. Any interim payments made during the Transition Process to a claimant shall reduce the amount of that claimant's settlement payment from the Court Supervised Claims Program. When the Court Supervised Claims Program begins processing claims, there will be no right to request or receive interim payments from the Transition Process or the Court Supervised Claims Program.

16. Any payments made during the Transition Process for the claims of class members who remain in the class and are eligible to participate in the seafood program set forth in Agreement-in-Principle shall reduce the funds available under that seafood program.

17. Offers of payment made during the Transition Process shall not be subject to negotiation, re-review, or appeal. If the claimant subsequently opts out of the Class or the Class is not certified, the claimant shall have any and all rights available to the claimant at law.

18. Any and all claims forms and related claims files and claims data (collectively, "Materials"), including but not limited to documents and electronically stored data, that are in the possession, custody or control of the GCCF, shall be made available to the Transition Process, and the Court Supervised Claims Program. BP will be given access as needed for the purpose of processing or administering claims under its OPA process and for purposes of class notice. The entity receiving the Materials shall be responsible for the cost of such copying and transferring. The GCCF shall provide the Court Supervised Claims Program with original documentation of any Materials. The GCCF shall provide BP with the original of each and every GCCF Release and Covenant Not to Sue executed by claimants with a copy to the Administrator. For purposes of this paragraph, Materials transferred and made available to the Transition Process and Court Supervised Claims Program shall be provided to the Claims Administrator. For purposes of this paragraph, BP shall identify for the GCCF in writing a designee for purpose of receipt of Materials transferred pursuant to this Paragraph.

19. Transition Claims paid in connection with the Transition Process shall be paid from the Deepwater Horizon Oil Spill Trust. BP is hereby authorized to take any necessary actions with regard to the Deepwater Horizon Oil Spill Trust so as to permit the payment of claims in connection with the Transition Process.

TERMINATION OF THE TRANSITION PROCESS

20. The Transition Process shall operate for the shortest possible time necessary to allow for the opening of a Court Supervised Claims Program which shall occur no later than thirty days after any Order of the Court providing for Preliminary Approval of the Settlement Class, unless otherwise ordered by the Court, at which point the Transition Process shall cease operation.

21. The Court hereby exercises and retains exclusive jurisdiction over the Transition Process described in this Order to supervise its operations.

GULF COAST CLAIMS FACILITY CLAIMS PROCESS

22. Effective immediately, the GCCF shall no longer accept, process, or pay claims submitted to it, except as provided herein, provided however that the GCCF shall pay those claims for which all of the following occurred: (i) the GCCF sent the claimant a determination letter offering a sum certain prior to 11:59 pm, EST, on February 26, 2012; (ii) the claimant accepted in writing the sum certain set forth in the determination letter and the GCCF received the executed release prior to 11:59 pm, EST, on February 26, 2012, and (iii) neither BP nor the claimant filed an appeal with the GCCF prior to the date on which this Order is entered. In addition, and notwithstanding the foregoing, the GCCF is authorized to take such actions as are necessary to wind down the operation of its facility.

23. The GCCF appeals process is terminated, except as to any appeals that are pending as of the date this Order is entered. Such pending appeals shall be completed under the existing GCCF appeals process unless withdrawn. There will be no right of appeal in the Transition Process.

24. In the event that the federal audit of the GCCF currently being performed by BDO Consulting identifies one or more errors in the application of the GCCF rules and methodologies to specific claims, the GCCF retains the right to correct the error(s) and to issue payments to the claimant(s) at issue in an amount necessary such that the Claimant(s) will have received from the GCCF the same amount as if the error had not occurred. Within 24 hours of the GCCF making such a payment, the GCCF shall provide written notice of the fact and amount of the payment to the Claims Administrator. Any amounts paid pursuant to this provision shall be offset against any payments made by the Transition Facility and the Court Supervised Claims Program, if such payments are made prior to final payment by the Court Supervised Claims Program.

New Orleans, Louisiana this 8th day of March, 2012.

United States District Judge

EXHIBIT BB

Exhibit BB

Report on Negative Impact by County of Loss (Data as of 5/24/12)			
Row	**County Of Residence**	**Number of Claimants**	**Total Negative Impact**
1.	**ALABAMA**		
2.	Baldwin	295	$2,885,247.42
3.	Mobile	229	$2,941,711.73
4.	Shelby	2	$11,560.30
5.	Coffee	1	$387.51
6.	Jefferson	3	$21,038.30
7.	Marshall	1	$10,243.53
8.	Morgan	1	$8,592.98
9.	Montgomery	5	$34,069.06
10.	Geneva	2	$16,965.40
11.	Houston	6	$106,441.50
12.	Escambia	3	$20,968.34
13.	Washington	1	$4,965.40
14.	Madison	1	$511.20
15.	Tuscaloosa	2	$49,172.02
16.	Covington	1	$7,779.08
17.	**FLORIDA**		
18.	Walton	142	$1,321,037.84
19.	Escambia	237	$2,421,485.51
20.	Bay	344	$3,629,056.12
21.	Collier	495	$5,194,161.14
22.	Pinellas	1002	$8,544,270.15
23.	Okaloosa	302	$2,886,536.33
24.	Santa Rosa	80	$783,983.99
25.	Franklin	19	$269,124.83
26.	Monroe	254	$2,491,312.74
27.	Hillsborough	735	$4,226,326.56
28.	Pasco	43	$195,505.40
29.	Lee	345	$2,530,801.62
30.	Wakulla	5	$28,983.95
31.	Gulf	18	$269,054.94
32.	Manatee	106	$778,727.50
33.	Sarasota	137	$1,198,728.10
34.	Miami-dade	10	$85,358.63
35.	Polk	76	$231,588.71
36.	Orange	1	$7,222.11
37.	Charlotte	63	$427,817.90
38.	Levy	4	$10,483.63
39.	Leon	1	$2,190.46
40.	Brevard	1	$1,545.36
41.	Washington	3	$26,977.50

42.	St. Lucie	1	$18,381.78
43.	Broward	3	$27,523.27
44.	Taylor	1	$1,920.00
45.	Holmes	2	$29,446.75
46.	Volusia	1	$98.90
47.	Citrus	2	$14,291.85
48.	Palm Beach	1	$2,672.24
49.	Duval	1	$5,000.00
50.	Hernando	2	$13,463.94
51.	**KANSAS**		
52.	Crawford	1	$4,570.12
53.	**LOUISIANA**		
54.	Jefferson	403	$4,105,112.30
55.	Orleans	894	$7,102,702.68
56.	Terrebonne	78	$924,291.18
57.	Plaquemines	20	$225,350.83
58.	Lafayette	12	$78,506.28
59.	St. Martin	17	$43,175.46
60.	Iberia	5	$296,342.74
61.	Vermilion	3	$8,556.44
62.	St. Tammany	78	$1,001,909.97
63.	Iberville	2	$5,090.28
64.	Lafourche	28	$229,850.77
65.	St. Bernard	35	$427,207.68
66.	Tangipahoa	10	$83,443.93
67.	St. Mary	16	$297,073.35
68.	E. Baton Rouge	31	$393,062.19
69.	St. John The Baptist	18	$108,731.29
70.	Calcasieu	4	$77,568.21
71.	Livingston	2	$17,545.26
72.	St. Landry	3	$15,370.91
73.	St. Charles	7	$36,412.74
74.	Rapides	1	$5,000.00
75.	Allen	1	$5,000.00
76.	Bossier	5	$28,294.76
77.	W. Baton Rouge	1	$69,860.94
78.	Caddo	1	$5,000.00
79.	Washington	1	$186.41
80.	**MISSISSIPPI**		
81.	Forrest	3	$43,960.08
82.	Jackson	56	$579,262.76
83.	Hancock	41	$640,469.72
84.	Harrison	373	$2,827,072.74
85.	Hinds	1	$3,229.14
86.	Marion	1	$6,826.73
87.	George	3	$15,003.82

88.	Pearl River	5	$52,678.28
89.	Stone	1	$5,000.00
90.	Tunica	90	$446,681.93
91.	**PENNSLYVANIA**		
92.	Montgomery	1	$6,920.27
93.	**TEXAS**		
94.	Harris	16	$202,450.71
95.	Galveston	9	$92,671.71
96.	Jefferson	7	$95,232.78
97.	Cameron	12	$44,312.52
98.	Aransas	1	$12,412.32
99.	Fort Bend	1	$2,217.82
100.	Dallas	2	$11,747.94
101.	Montgomery	1	$2,084.52
102.	**VIRGINIA**		
103.	Northumberland	1	$5,789.34
104.	**TOTAL:**	**7,292**	**$64,485,975.39**

EXHIBIT CC

Exhibit CC

Report on Negative Impact by County of Residence (Data as of 5/21/12)			
Row	**County Of Residence**	**Number of Claimants**	**Total Negative Impact**
1.	**Alaska**		
2.	Anchorage	1	$34,640.50
3.	**Alabama**		
4.	Autauga	1	$1,696.58
5.	Baldwin	237	$2,362,686.33
6.	Clarke	1	$754.59
7.	Covington	2	$8,571.83
8.	Dallas	1	$7,622.68
9.	Escambia	2	$31,860.60
10.	Geneva	1	$6,000.00
11.	Houston	3	$24,123.72
12.	Jefferson	4	$37,662.96
13.	Lee	2	$12,021.96
14.	Madison	5	$38,163.40
15.	Marshall	1	$10,243.53
16.	Mobile	238	$3,028,827.73
17.	Monroe	1	$594.76
18.	Montgomery	4	$13,295.34
19.	Morgan	2	$17,730.06
20.	Shelby	2	$51,682.00
21.	Tuscaloosa	5	$110,947.44
22.	Washington	2	$18,883.84
23.	Wilcox	1	$10,132.14
24.	**Arkansas**		
25.	Baxter	1	$4,092.71
26.	Miller	1	$5,000.00
27.	Phillips	1	$455.87
28.	**Arizona**		
29.	Maricopa	3	$19,101.34
30.	Pima	1	$5,280.84
31.	**California**		
32.	Alameda	3	$68,669.88
33.	Los Angeles	3	$76,252.46
34.	Madera	1	$557.14
35.	Marin	1	$242.94
36.	Napa	1	$2,454.72
37.	Orange	1	$14,775.85
38.	Riverside	1	$16,594.10
39.	San Diego	2	$33,409.13
40.	Ventura	1	$27,021.72
41.	**California**		

42.	Arapahoe	1	$9,447.12
43.	Boulder	2	$24,523.60
44.	Chaffee	1	$16,361.48
45.	Denver	2	$12,332.16
46.	Jefferson	2	$18,613.86
47.	Mohave	1	$2,291.42
48.	Montrose	1	$8,399.20
49.	**Connecticut**		
50.	New London	1	$13,252.64
51.	**District of Columbia**		
52.	District Of Columbia	1	$6,023.68
53.	**Delaware**		
54.	Sussex	1	$5,000.00
55.	**Florida**		
56.	Bay	325	$3,392,037.78
57.	Brevard	2	$22,776.62
58.	Broward	9	$80,156.36
59.	Calhoun	2	$22,801.37
60.	Charlotte	45	$374,670.13
61.	Citrus	4	$23,421.33
62.	Collier	451	$4,608,801.79
63.	Desoto	1	$15,273.44
64.	Duval	2	$26,162.41
65.	Escambia	226	$2,118,602.35
66.	Franklin	20	$363,584.13
67.	Gadsden	2	$6,443.90
68.	Gulf	14	$111,667.76
69.	Hernando	16	$110,167.06
70.	Hillsborough	655	$3,717,258.89
71.	Holmes	9	$76,873.87
72.	Jackson	4	$51,507.11
73.	Lake	1	$855.82
74.	Lee	366	$2,723,604.48
75.	Leon	1	$2,190.46
76.	Levy	3	$4,483.63
77.	Liberty	1	$6,379.92
78.	Manatee	88	$597,014.27
79.	Miami-dade	46	$556,570.14
80.	Monroe	197	$1,907,890.96
81.	Okaloosa	275	$2,599,773.69
82.	Orange	11	$61,458.73
83.	Osceola	2	$16,403.48
84.	Palm Beach	6	$103,808.33
85.	Pasco	117	$649,532.73
86.	Pinellas	956	$5,476,265.55
87.	Polk	74	$236,711.95

88.	Santa Rosa	109	$1,172,201.21
89.	Sarasota	170	$1,365,608.00
90.	Seminole	1	$8,442.16
91.	St. Lucie	1	$18,381.78
92.	Sumter	1	$5,000.00
93.	Taylor	1	$1,920.00
94.	Volusia	5	$14,172.88
95.	Wakulla	4	$27,840.05
96.	Walton	119	$1,118,308.55
97.	Washington	10	$112,873.34
98.	**Georgia**		
99.	Banks	1	$4,554.74
100.	Bibb	1	$2,455.42
101.	Carroll	1	$7,115.37
102.	Cherokee	2	$32,129.94
103.	Clarke	1	$1,403.85
104.	Cobb	5	$38,699.92
105.	Coweta	1	$19,374.52
106.	Fayette	1	$7,575.66
107.	Fulton	2	$13,415.42
108.	Gordon	1	$5,000.00
109.	Gwinnett	1	$299.40
110.	Henry	1	$9,369.75
111.	Muscogee	1	$18,906.84
112.	Sumter	1	$5,710.40
113.	**Hawaii**		
114.	Honolulu	1	$20,485.84
115.	**Iowa**		
116.	Washington	1	$36,955.42
117.	**Illinois**		
118.	Cook	3	$6,792.58
119.	Du Page	1	$2,774.06
120.	Kane	2	$44,041.50
121.	Saint Clair	1	$12,195.56
122.	**Indiana**		
123.	Bartholomew	1	$1,028.46
124.	St Joseph	1	$18,057.68
125.	**Jamaica**		
126.	Not Reported	1	$9,567.56
127.	**Kansas**		
128.	Lincoln	1	$3,778.88
129.	**Kentucky**		
130.	Jefferson	1	$3,445.98
131.	**Louisiana**		
132.	Allen	1	$27,482.96
133.	Ascension	3	$58,551.82

134.	Assumption	2	$6,740.74
135.	Bossier	2	$8,998.28
136.	Caddo	4	$23,613.27
137.	Calcasieu	5	$83,115.02
138.	E. Baton Rouge	20	$143,918.03
139.	Evangeline	1	$6,040.07
140.	Iberia	6	$80,510.78
141.	Iberville	2	$5,090.28
142.	Jefferson	608	$6,004,968.90
143.	Jefferson Davis	1	$13,424.64
144.	Lafayette	15	$162,322.85
145.	Lafourche	23	$203,667.42
146.	Livingston	3	$24,966.42
147.	Orleans	581	$4,381,936.69
148.	Ouachita	1	$4,900.94
149.	Plaquemines	22	$293,749.42
150.	St. Bernard	49	$505,549.16
151.	St. Charles	19	$307,395.40
152.	St. James	1	$525.69
153.	St. John The Baptist	19	$104,742.74
154.	St. Landry	2	$17,684.43
155.	St. Martin	13	$31,921.02
156.	St. Mary	14	$133,003.71
157.	St. Tammany	100	$1,323,170.56
158.	Tangipahoa	25	$193,781.40
159.	Terrebonne	65	$625,689.18
160.	Vermilion	8	$351,689.33
161.	Washington	2	$23,197.21
162.	**Massachusetts**		
163.	Bristol	1	$1,488.06
164.	Hampshire	1	$18,606.88
165.	Middlesex	1	$9,222.00
166.	Norfolk	1	$403.75
167.	Suffolk	1	$4,383.42
168.	**Maryland**		
169.	Saint Marys	1	$365.02
170.	**Maine**		
171.	Cumberland	1	$39,814.02
172.	Lincoln	1	$1,052.70
173.	Penobscot	1	$2,438.20
174.	**Michigan**		
175.	Calhoun	1	$1,065.35
176.	Genesee	1	$5,000.00
177.	Kalamazoo	1	$19,432.48
178.	Lapeer	2	$11,959.24
179.	Oakland	1	$5,000.00

180.	Wayne	1	$25,000.00
181.	**Minnesota**		
182.	Hennepin	1	$14,719.66
183.	Ramsey	1	$16,139.62
184.	**Missouri**		
185.	Clay	1	$20,311.22
186.	Jackson	1	$26,395.64
187.	Saint Charles	1	$9,721.18
188.	Saint Louis City	1	$8,268.76
189.	**Mississippi**		
190.	Bolivar	1	$8,390.95
191.	Coahoma	16	$68,507.37
192.	Covington	1	$5,000.00
193.	Desoto	22	$96,262.56
194.	Forrest	1	$11,816.00
195.	Franklin	2	$26,441.40
196.	George	5	$26,555.56
197.	Hancock	41	$500,375.51
198.	Harrison	309	$2,635,175.82
199.	Jackson	109	$897,553.63
200.	Jefferson Davis	1	$5,000.00
201.	Lauderdale	1	$12,419.70
202.	Madison	2	$30,726.24
203.	Marion	2	$16,168.57
204.	Marshall	1	$5,000.00
205.	Panola	6	$28,312.50
206.	Pearl River	9	$73,943.85
207.	Quitman	1	$2,550.63
208.	Stone	3	$10,122.99
209.	Sunflower	1	$1,823.70
210.	Tate	5	$31,576.02
211.	Tishomingo	1	$6,000.00
212.	Tunica	32	$181,393.58
213.	Walthall	1	$10,354.30
214.	**Mexico**		
215.	Not Reported	1	$2,083.50
216.	**North Carolina**		
217.	Catawba	1	$4,636.22
218.	Haywood	1	$7,494.74
219.	Wake	1	$769.22
220.	**New Jersey**		
221.	Bergen	1	$1,072.12
222.	Camden	1	$209.73
223.	Cape May	1	$28.80
224.	Gloucester	1	$1,909.60
225.	Mercer	1	$228.29

226.	Ocean	2	$6,162.60
227.	Passaic	1	$15,801.60
228.	**New Mexico**		
229.	Bernalillo	1	$10,030.76
230.	**Nevada**		
231.	Clark	1	$3,109.22
232.	Douglas	1	$8,022.94
233.	Washoe	1	$8,739.84
234.	**New York**		
235.	Albany	1	$26,638.12
236.	Chemung	1	$2,349.56
237.	Kings	3	$12,841.71
238.	New York	1	$430.38
239.	Oneida	2	$9,257.86
240.	Onondaga	1	$137.39
241.	Orange	1	$680.68
242.	**Ohio**		
243.	Butler	1	$7,409.47
244.	Clermont	1	$6,185.90
245.	Cuyahoga	1	$1,000.00
246.	Erie	1	$6,783.67
247.	Fairfield	1	$7,105.73
248.	Lake	1	$929.57
249.	Montgomery	1	$5,000.00
250.	Stark	1	$25,000.00
251.	Wood	1	$7,910.59
252.	**Oklahoma**		
253.	Oklahoma	2	$7,165.96
254.	Tulsa	1	$27,517.15
255.	**Oregon**		
256.	Deschutes	1	$7,309.68
257.	Multnomah	1	$2,500.00
258.	**Pennsylvania**		
259.	Beaver	1	$5,000.00
260.	Cambria	1	$14,801.78
261.	Forest	1	$6,671.88
262.	Lehigh	1	$701.73
263.	Montgomery	1	$11,760.60
264.	Philadelphia	2	$37,178.38
265.	Schuylkill	1	$628.86
266.	**Puerto Rico**		
267.	Juncos	1	$2,319.32
268.	**South Carolina**		
269.	Charleston	1	$2,576.08
270.	Lexington	1	$2,900.00
271.	**South Dakota**		

272.	Minnehaha	1	$10,699.62
273.	**Tennessee**		
274.	Blount	1	$19,835.68
275.	Davidson	4	$18,272.26
276.	Hamilton	1	$4,002.62
277.	Loudon	1	$175.96
278.	Polk	1	$25,343.08
279.	Shelby	4	$22,408.75
280.	Williamson	2	$56,600.07
281.	Wilson	1	$7,194.94
282.	**Texas**		
283.	Bexar	1	$644.40
284.	Brazoria	1	$3,145.82
285.	Calhoun	2	$22,026.37
286.	Cameron	12	$49,755.99
287.	Dallas	3	$2,722,822.58
288.	Denton	1	$18,033.63
289.	Galveston	12	$136,238.86
290.	Harris	13	$147,126.28
291.	Jefferson	7	$73,712.81
292.	Nueces	1	$23,107.58
293.	Orange	1	$5,000.00
294.	Smith	1	$119.30
295.	Tarrant	1	$3,577.17
296.	Travis	3	$13,891.62
297.	Wichita	1	$10,240.56
298.	**Utah**		
299.	Salt Lake	1	$1,538.46
300.	**Virginia**		
301.	Danville City	1	$8,008.98
302.	Fairfax	1	$10,911.04
303.	Hampton City	1	$7,984.24
304.	Henrico	1	$6,232.34
305.	Middlesex	1	$5,789.34
306.	Norfolk City	1	$87,686.58
307.	Virginia Beach City	1	$18,379.10
308.	**Washington**		
309.	King	3	$53,515.62
310.	Pierce	1	$20,688.34
311.	Skagit	1	$338.93
312.	Snohomish	1	$1,436.00
313.	**Wisconsin**		
314.	Langlade	1	$5,000.00
315.	Vilas	1	$479.86
316.	**West Virginia**		
317.	Kanawha	1	$7,083.92

318.	**TOTAL:**	**7,292**	**$64,485,975.39**

EXHIBIT DD

Exhibit DD

March 6, 2011

[redacted]

RE: Denial of Interim Payment/Final Payment Claim – No Proof of Causation
[redacted]
Claimant ID: [redacted]

Dear Claimant:

The Gulf Coast Claims Facility (the "GCCF") is the official way for Individuals and Businesses to file claims for costs and damages incurred as a result of the oil discharges due to the Deepwater Horizon Incident on April 20, 2010 ("Oil Spill"). The GCCF and its Claims Administrator, Kenneth R. Feinberg, act for and on behalf of BP Exploration & Production, Inc. ("BP") in fulfilling BP's statutory obligations as a "responsible party" under the Oil Pollution Act of 1990 ("OPA").

All claimants have the right to consult with an attorney of their own choosing prior to accepting any settlement or signing a release of legal rights.

This Letter is an official notification from the GCCF. The GCCF has reviewed the Interim Payment and/or Full Review Final Payment claim that you submitted. To receive an Interim Payment or a Final Payment, each claimant must demonstrate both actual financial loss and a connection between that loss and the Oil Spill. The Final Rules Governing Eligibility and Substantiation Criteria followed by the GCCF (available on the GCCF website, **www.gulfcoastclaimsfacility.com**), provides that the GCCF will review claims to determine whether the claimant has established that a financial loss occurred as a result of the Oil Spill. Attachment A to the Final Rules Governing Eligibility and Substantiation Criteria provides guidance to assist claimants with formulating the basis of a claim and providing sufficient supporting documentation. We have reviewed all the materials that you submitted and determined that you have not provided documents sufficient to establish that your financial loss occurred as a result of the Oil Spill. Therefore, you do not qualify for an Interim Payment or a Final Payment and your claim has been denied.

If you disagree with the GCCF's denial of your Interim Payment or Final Payment claim, you have the right to submit the claim to the National Pollution Funds Center ("NPFC"), the Coast Guard office responsible for evaluating and approving OPA claims, or as an alternative you have the right to file a claim in court, including in the multidistrict litigation pending before the United States District Court for the Eastern District of Louisiana, titled, *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010* (MDL No. 2179). The multidistrict litigation is a consolidated grouping of federal lawsuits arising out of the Oil Spill. General information on the procedure for filing a claim with the NPFC may be obtained from the Director of the National Pollution Funds Center, NPFC MS 7100, U.S. Coast Guard, 4200 Wilson Blvd., Suite 1000, Arlington, VA 20598-7100, (800) 280-7118, or from the NPFC website at **www.uscg.mil/npfc/claims**. Information regarding the multidistrict litigation may be obtained from the court's website at **www.laed.uscourts.gov**.

If you have any questions about this Letter, you can either visit a GCCF Site Office or speak to the GCCF Claims Review Specialist shown below who can answer questions about your claim and this Letter. For TTY assistance call 1-866-682-1758. For more efficient service, have this Letter and your GCCF Claimant Identification Number with you when you call and reference it in your email. If you are represented by an attorney, the GCCF will communicate directly with your attorney, rather than with you.

Your GCCF Claims Review Specialist is: Tom 60027 at 1-800-353-1262.

Sincerely,

Kenneth R. Feinberg

Kenneth R. Feinberg
Claims Administrator
Gulf Coast Claims Facility