

District Court Ruling in Response to Remand of BEL Issues

- 1. Introduction.** BP appealed the District Court’s order of March 5, 2013, that affirmed the Claims Administrator’s interpretation of the Settlement Agreement concerning the review of Business Economic Loss claims that involve the issue of matching revenues and expenses. On October 2, 2013, the Fifth Circuit Court of Appeals reversed the District Court’s ruling and sent the case back to the District Court for further consideration. Further, on December 2, 2013, the panel of the Fifth Circuit Court of Appeals found that the District Court was also required to consider the issue of causation on remand.

After consideration of the merits, on December 24, 2013, the District Court found, with respect to the calculation of Variable Profit under Exhibit 4C, that revenue must be matched with the variable expenses incurred by a claimant in conducting its business, and that does not necessarily coincide with when revenue and variable expenses are recorded. Pursuant to this finding, the District Court ordered the Claims Administrator to adopt and implement an appropriate protocol or policy for handling BEL claims in which the claimant’s financial records do not match revenue with corresponding variable expenses.

Additionally, with respect to how causation is determined under the Settlement, the District Court found that whether a business economic loss is “as a result of” the Deepwater Horizon Incident for purposes of the Settlement is determined exclusively by Exhibit 4B. Furthermore, the Court found that the Settlement was not defective nor was certification of the class improper. The Court, however, maintained the preliminary injunction as amended on December 5, 2013, pending further action by the Fifth Circuit Court of Appeals.

You can access a copy of the District Court’s ruling [here](#).

- 2. How this Affects Pending Business Economic Loss Claims.** The Claims Administrator will continue to accept BEL claims and process said claims but will continue to temporarily suspend the issuance of final determination notices and payments of BEL claims.
- 3. Questions.** If you have any questions regarding the information in this Alert, please email us at Questions@dhecc.com, call us at 1-800-353-1262, or visit a Claimant Assistance Center. Law firms should contact their Law Firm Contacts for assistance.