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:

- <u>We assume that it would take tourism 30 months to achieve full recovery</u> (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.
- <u>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.</u> 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.
- <u>The 30 month full recovery period and the assumed recovery rate yields a Future Recovery Factor of 1.0.</u>

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.