

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

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5890
1/19/2011

VIA MAIL and EMAIL: [REDACTED]@yahoo.com

[REDACTED]
Houma, LA 70360

RE: Claim Number: N10036-0151

Dear [REDACTED]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0151 involving Deepwater Horizon. Please see the attached claim summary for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[REDACTED]
Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/11/2011
Claim Number	: N10036-0151
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$62,700.00

FACTS

On or about April 20, 2010, the Mobile Offshore Drilling Unit Deepwater Horizon (Deepwater Horizon) exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On November 29, 2010 the Claimant, [REDACTED] presented a loss of profits and impairment of earning capacity claim in the amount of \$62,700.00 to the National Pollution Funds Center (NPFC) for reimbursement. [REDACTED] asserted that he was a boat Captain who worked onboard the M/V [REDACTED] for [REDACTED], The Woodlands, TX 77380, and that he was released from his employer due to work being unavailable as a result from the Deepwater Horizon Incident. He claimed lost earnings and wages in the amount of \$62,700.00 due to his loss of income.

On December 16, 2010, the NPFC denied the claim on the grounds that the Claimant had not met his burden to establish a loss of profits as a direct result of the Deepwater Horizon incident.

REQUEST FOR RECONSIDERATION

On December 21, 2010, the Claimant sent an email request for reconsideration to [REDACTED] stating he did not request compensation for losses during the months of January, February or March 2010. He has requested compensation for April 2010 forward when work generally picks up. Claimant has not provided any new information to support his request for reconsideration.

DETERMINATION on RECONSIDERATION

NPFC Initial Determination

On December 16, 2010, the NPFC issued a denial on this claim on the grounds that he was terminated by [REDACTED] on 18 January 2010, more than three months prior to the Deepwater Horizon incident. Mr. [REDACTED] of [REDACTED] Marine LLC stated that the Claimant was

terminated for a poor work performance. Thus, the Claimant's asserted loss of profits was not a result of the Deepwater Horizon incident.

The initial determination to deny the claim also noted that under 33 C.F.R. 136.9, Falsification of claims, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim. The Claimant has submitted an intentionally fake document in conjunction with his claim submission for which the NPFC was able to obtain from Claimant's previous employer, a true copy of separation notice and reason for termination.

NPFC Determination on Reconsideration

The Claimant reiterates in his official request for reconsideration that his separation from employment did not happen until April 2010. He provided no new facts or legal argument to support his request for reconsideration.

The claim is denied on reconsideration.

Claim Supervisor:

Date of Supervisor's review: *1/19/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: