

U.S. Department of
Homeland Security

United States
Coast Guard

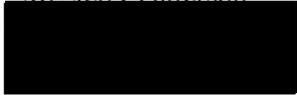


Director
National Pollution Funds Center

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5890
May 28, 2014

CERTIFIED MAIL NUMBER:
Number: 7013 3020 0000 7550 3640

Mr. Jerry Patterson


RE: Claim Number: N10036-2018

Dear Mr. Patterson:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq. (OPA) and the associated regulations at 33 C.F.R. Part 136, denies payment on claim number N10036-2018 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.


Signature

Chief, Claims Adjudication Division
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-2018
Claimant	: Mr. Jerry Patterson
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$84,173.00

FACTS:

On or about 20 April 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. The Coast Guard designated the source of the discharge and identified BP as a responsible party (RP). BP accepted the designation and advertised its OPA claims process. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT:

On 11 March 2014, Mr. Jerry Patterson (“the Claimant”), submitted a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking \$300,000.00 in loss of profits or impairment of earning capacity damages allegedly resulting from the Deepwater Horizon oil spill.

At the time of the oil spill, the Claimant states he was working but lost work as a result. He claims that he still has not recovered from the spill and continues to seek full-time employment, but has been unable to find any. Additionally, the Claimant states that, while his claim was being paid under the GCCF, the subsequent Deepwater Claims process has denied payment to him.

The NPFC denied the claim on 18 March 2014, on the basis that the Claimant’s alleged loss was not due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

REQUEST FOR RECONSIDERATION:

On 20 May, 2014, the Claimant sent a request for reconsideration via mail to the NPFC stating he would like the NPFC to reconsider his claim and provided additional documentation in support of his claim. Of note, the Claimant changed his claim total from \$300,000.00 to \$84,173.00 to more accurately represent his alleged losses. He also provided a letter from his employer, Northrop Grumman that states his position was dissolved as a result of the spill, as well as a denial notice from the Deepwater Horizon Claims Center.

On May 12, 2014, the Claimant sent a request for reconsideration to the NPFC stating he would like the NPFC to reconsider his claim. It is important to note that the Request for Reconsideration was not received until May 20, 2014 making the request untimely and four days late.

RECONSIDERATION CLAIM ANALYSIS:

In addition to the documents described above, the Claimant also provided the following documentation on reconsideration:

1. Paystub from Northrop Grumman for Claimant;
2. GCCF Claim status for Claimant;
3. Ship Systems Payroll printouts for Claimant;
4. 2010 W2s for Claimant;
5. 2010 Federal Tax Return for Claimant

NPFC Determination on Reconsideration

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity and that the loss was due to the destruction or injury to real or personal property or natural resources. The NPFC considered all the documentation submitted by the Claimant. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d).

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

Upon consideration of all information presented by the Claimant, the NPFC again denies this claim on reconsideration because (1) the Claimant has failed to provide evidence to demonstrate that he is not part of the Deepwater Horizon Economic and Property Damage Class Action Settlement (E&PD Settlement), (2) he has not demonstrated that the loss, if one had been established, was due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil, and (3) the Claimant only had 60 days from the date of the original denial letter by which to request reconsideration. The letter informed the Claimant that the request must be "received" by the NPFC within 60 days and the Claimant's request was received four days late.

This claim is denied upon reconsideration.

Claim Supervisor: 

Date of Supervisor's review: 5/28/14

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: