

CLAIM SUMMARY / DETERMINATION FORM

Date : 9/29/2010  
Claim Number : N10036-0001  
Claimant : ██████████  
Type of Claimant : Private (US)  
Type of Claim : Loss of Profits and Earning Capacity  
Claim Manager : ██████████  
Amount Requested : \$21,000.00

FACTS:

Claimant ██████████ presented an optional OSLTF claim form to the NPFC on 05 July 2010. His form claimed a total of \$21,000 for Profits and Lost Earnings due to lost wages resulting from fisheries closures in the Gulf of Mexico resulting from the Deepwater Horizon oil spill. ██████████ is a marine biologist who is regularly employed by NOAA to conduct fisheries research in the Gulf of Mexico. ██████████ claimed that he could not be employed by NOAA this year as a result of fisheries closures in the Gulf. ██████████ reported submitting his BP claim on 06 May 10. Follow up with BP indicated that he had already been paid \$15,296 which amount was confirmed by ██████████. ██████████ also submitted a claim with the Gulf Coast Claims Facility (GCCF). On 20 September 2010 the GCCF notified the Coast Guard that ██████████ was paid \$20,300.<sup>3</sup> ██████████ confirmed receipt of the GCCF payment on 27 September 2010 and stated that he was fully satisfied with the payments he received from the Responsible Party for 2010 totaling 35,596.<sup>4</sup>

APPLICABLE LAW:

Under OPA 90, at 33 USC § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA 90.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 CFR §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

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 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earning capacity is limited to the actual net reduction or loss of earnings or profits suffered. Calculations for net reductions or losses must clearly reflect adjustments for-

- (a) All income resulting from the incident;
- (b) All income from alternative employment or business undertaken;

<sup>1</sup> Email from ██████████, Worley Catastrophe Response to ██████████ NPFC dtd 05 August 2010.

<sup>2</sup> Email between ██████████ of the NPFC and ██████████ dtd 19 August 2010.

<sup>3</sup> Weekly status report from GCCF to Coast Guard via Email from ██████████ (Garden City Group) to LCDR ██████████ dtd 20 SEP 10.

<sup>4</sup> Notes of phone conversation between ██████████ of the NPFC and ██████████ dtd 27 September 10.

