

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

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US COAST GUARD
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5890
3/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]

[REDACTED]
Gulfport, MS 39501

RE: Claim Number: N10036-0423

Dear [REDACTED]

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 N10036-0423 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.

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	: 3/14/2011
Claim Number	: N10036-0423
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$2,000.00

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 January 4, 2011, [REDACTED] (Claimant) presented a lost profits & earnings claim in the amount of \$2,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages due to cutbacks on hours worked per week. The Claimant stated he went down from 40 hours per week to 32 hours per week as a fire place installer for [REDACTED] in Gulfport, Mississippi as a result of the Deepwater Horizon incident but did not indicate a time period for which this lost profits was incurred. The NPFC denied the claim on January 31, 2010, because evidence provided to the NPFC shows that prior to the incident in 2010 he worked an average of 37 hours per week; after the incident he worked an average of 36 hours per week. This small decrease (3%) was nominal and there was no evidence that it was due to injury to or destruction of real property or personal property or the natural resources resulting from the incident.

The Claimant filed a claim with the GCCF and was given claim number [REDACTED]. He also provided the denial letter from the GCCF dated November 2, 2010.

REQUEST FOR RECONSIDERATION:

On February 17, 2011, the Claimant sent a facsimile request for reconsideration to the NPFC stating he would like the NPFC to reconsider his claim. It is important to note that the Claimant has not provided any new information in support of his claim for reconsideration.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via facsimile on March 9, 2011. To support his request for reconsideration, the claimant provided no new information. The Claimant originally requested compensation for lost wages resulting from a reduction in hours per week as a fireplace installer.

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. 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 another analysis of the payroll information the Claimant did provide in his original claim submission. Below are two tables which identify the Claimant's pre-spill hours and the Claimant's post-spill hours.

TABLE 1: Pre-spill Earnings

<i>Pay Period</i>	<i>Total Hours Worked</i>
1/6/10	40.5
1/13/10	32
1/20/10	40
1/27/10	40
2/3/10	32
2/24/10	32.5
3/3/10	32
3/10/10	40
3/17/10	40
3/31/10	40
4/7/10	40
4/14/10	40.5
4/21/10	41.5

TABLE 2: Post-spill Earnings

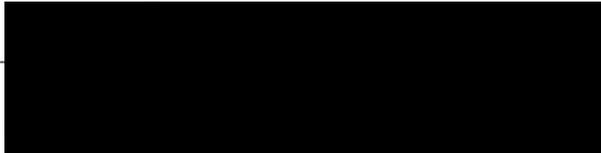
<i>Pay Period</i>	<i>Total Hours Worked</i>
4/28/10	40
5/5/10	38
5/12/10	41.5
5/19/10	40.5
5/25/10	40.5
6/2/10	41
6/9/10	40
6/16/10	40
6/23/10	44
6/30/10	44.5
7/7/10	37.5
7/14/10	40
7/21/10	35
7/28/10	32
8/4/10	8

8/11/10	32
8/17/10	32
8/24/10	32.5

Based on the preceding tables, the NPFC has determined that the Claimant's hours were overall consistent after the Deepwater Horizon incident than prior to the incident. Additionally, there is no way for the NPFC to determine if any of the reduced hours were associated with the Claimant not attending work for one reason or another. Furthermore, the Claimant's hours did not reduce until August 2010 which the Deepwater Horizon incident was capped in August. While the information originally provided was minimal, the NPFC does not see how the Claimant has calculated a loss of profits and earning capacity as a result of the spill.

The NPFC again denies the claim because the alleged loss is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Therefore this claim is denied upon reconsideration.

Claim Supervisor:



Date of Supervisor's review: *3/17/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: