

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
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Staff Symbol: (CA)
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5890

3/16/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Number: [REDACTED]



Mount Meigs, AL 36057

RE: Claim Number: N10036-0032

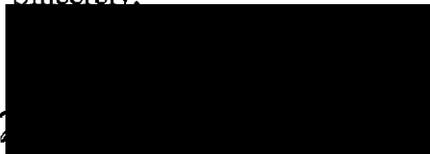
Dear [REDACTED]:

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 N10036-0032 involving the Deepwater Horizon incident. 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,



Chief, Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/14/2011
Claim Number	: N10036-0032
Claimant	: [REDACTED]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [REDACTED]
Amount Requested	: \$28,350.00

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 14 June 2010, [REDACTED] (Claimant) presented a handwritten letter on behalf of himself and his business, [REDACTED] seeking \$28,350.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant owns a grocery store where he retails meat, dairy produce and fishing supplies. Claimant asserted that his business is extremely dependent on seasonal tourism and that as a result of the Deepwater Horizon incident, tourism in and around Mobile, Alabama decreased 75% in 2010 from the previous year.¹ Claimant also stated that he would close his business until the oil spill was cleaned up and the local beaches near Claimant's location reopened for business. His claimed loss accounts for unsold produce stock in the amount of \$8,500; unsold meat and dairy stock in the amount of \$4,000; and unsold swim gear, fishing gear, etc. in the amount of \$15,850 due to loss of tourist business. Claimant did not initially specify whether he had already presented this claim for lost earnings to the RP.

Claimant also presented a claim for property damage in the amount of \$4,872.31, asserting that on 24 May 2010 while trolling on the Gulf of Mexico, oil from the Deepwater Horizon spill damaged the water pump on his boat causing the motor to overheat and crack.²

REQUEST FOR RECONSIDERATION:

On March 2, 2011, the Claimant sent a letter requesting reconsideration to the NPFC. In the Claimant's letter dated February 22, 2011, the Claimant advised the NPFC that due to the fact that he is presently incarcerated, he is unable to send documentation to support his claimed loss.

Claimant further requested that we only reconsider the real property damage component of his claim in the amount of \$4,872.31 for the damaged water pump on his boat which caused damage

¹ Claimant did not explain how this figure was calculated.

² Per phone conversation with Claimant on 09 December 2010, the damaged motor was eventually replaced by Claimant's insurance, effectively reducing his property damages to the \$500 deductible he paid.

to his boat motor. In his letter, the Claimant requested we contact the BP Claims Office where he filed his claim in order to obtain copies of his documentation associated with the boat motor.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via a letter dated February 22, 2011. To support his request for reconsideration, the claimant provided no new information.

NPFC Determination on Reconsideration

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury, destruction or loss of real or personal property or a natural resource as a result of a discharge or substantial threat of a discharge of oil. Under 33 C.F.R. § 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. The NPFC considered all of the documentation presented by the Claimant.

The NPFC contacted Mr. [REDACTED] who was one of BP's contractors in the claims field office during the time BP was handling all claims filed. Mr. [REDACTED] emailed the NPFC a copy of all documents contained within the Claimant's file although all of the documents were handwritten and there were no receipts associated with the boat motor or insurance claim and there were no surveys depicting the alleged damage to the boat motor. Although the Claimant stated in a phone conversation with the NPFC that his sister had a Power Of Attorney (POA) to act on his behalf with respect to the claim, she has never contacted the NPFC and her complete phone number was not provided by the Claimant.

The NPFC again denies the claim because the Claimant has failed to produce documentation to support his allegation of damage to his boat motor. Therefore this claim is denied on reconsideration.

Determination amount: \$0.00 Amount denied: \$28,350.00

Claim Supervisor: [REDACTED]

Date of Supervisor's review: *3/16/11*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: