U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
2/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0300

Dea[redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0300 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0300.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 17, 2011
Claim Number	: N10036-0300
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $42,000.00

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 (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 December 14, 2010, [redacted] on behalf of [redacted] (Claimant), presented a claim to the National Pollution Fund Center (NPFC) seeking $42,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that his construction business had several jobs that were under contract that fell through as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF on June 25, 2010 and was subsequently denied on December 3, 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- Letter from Claimant dated December 16, 2010 stating a claimed loss of $42,000 from cancelled jobs under contract.
- Denial letter from GCCF dated December 3, 2010 sent for lack of evidence demonstrating lost earnings or profits.
- Individual Income Tax Return filings from 2007 and 2008.
- Bid and proposals dated as follows:
  - 20 May 2010 totaling $17,500
  - 27 May 2010 totaling $11,200
  - 20 July 2010 totaling $28,800
  - Undated proposal totaling $14,000

NPFC Determination

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.

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to injury or 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.

Based on the documentation provided from Claimant, he indicated that his income was reduced due to several jobs under contract falling through as a result of the Deepwater Horizon incident.

On January 11, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain necessary information to adjudicate the claim. The documentation requested consisted of the following:

- Income Tax Return filing for 2009 including all attachments, Schedule C's, W-2's and form 1099's.
- Provide copies of documentation supporting completed projects from 2008 through 2010. Supporting documents include but are not limited to signed contracts, copies of payments, sales invoices and written correspondence with clients regarding work on projects.
- Provide copies of bank statements to support your revenue from 2009 and 2010. Specifically identify on the bank statements, any deposits that are related to your employment.
- You stated there were several contracts during 2010 that clients cancelled on. Provide the following in relation to those contracts: (please note that we received what appears to be unsigned bids or proposals only)
    - Documentation supporting an actual contract between you and your clients
    - Clients' signed acceptance of the contract/ proposal terms
    - Copies of deposits or progress payments made by clients
    - Any and all correspondence regarding your agreements, scope of work, work progress, payments, etc…
- Provide copies of all relevant licensing to work as a contractor, including any specialty licenses you have obtained.
- Monthly profit and loss statements from 2008 and 2010.
- Sales ledgers or a listing of all projects, project types and amounts billed during 2008, 2009 and 2010.
- Current Balance Sheet from your business.
- If you received unemployment benefits from 2009 through the present, provide copies of payments received and statements of benefits.

The NPFC also requested the Claimant answer the following questions:

- Describe how your loss was a direct result of the Deepwater Horizon oil spill.
- Describe your employment history from 2008 through the current period if you had earned income outside of your construction business.
- Describe in detail, the type of services offered by your company and any specific types of services you specialize in.
- Identify if you have any employees or sources laborers from outside sources.
- Identify the ownership structure of your business entity.
- Identify any specific periods of time that you were not working from 2008 through 2010.
- If you have received unemployment benefits during 2009 and 2010 identify the periods of time when you received benefits and the amounts received.

The Claimant has not provided the additional documents that were requested nor answered any of the questions to support his claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden demonstrating that he has a loss of profits and earnings and that alleged loss was the direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***February 17, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]00

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0301
18 February 2011

[redacted]

RE: Claim Number: N10036-0301

Dear [redacted],

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0301 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0301.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0301
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $15,000.00

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 17 December 2010, [redacted] (Claimant) presented a claim to the National Pollution Funds Center (NPFC) for $15,000 in loss of profits and earnings capacity resulting from the Deepwater Horizon incident.[1]

Claimant provided 2010 pay stubs indicating employment at [redacted] in New Orleans, LA and a 2009 W-2 from [redacted], a restaurant located in New Orleans, LA. The exact nature of the Claimant's occupation and alleged damages is unclear.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for

[1] Email correspondence from Claimant to the NPFC dated 16 December 2010

profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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—

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- Email correspondence from Claimant to the NPFC dated 16 December 2010;
- Copy of Claimant's ID and Social Security Card;
- 2009 W-2 from [redacted] and
- Thirty-seven paystubs from [redacted] for 11 January 2010 through 28 September 2010.

Claimant seeks a total of $15,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 07 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $12,500 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 10 December 2010, his claim was denied by the GCCF.[2]

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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 Claimant.

[2] Claimant has a Final Payment claim under review at the GCCF.

On 30 December 2010, the NPFC mailed and emailed a request for additional information to the Claimant to obtain documentation to evaluate his claim. The NPFC requested written verification from Claimant's employer that the Claimant suffered a loss in hours due to the Deepwater Horizon incident. To date, no response has been received by the NPFC therefore there is no evidence showing that the Claimant's alleged financial loss is a result of the Deepwater Horizon incident.

The claim is denied because the Claimant has failed to meet his burden to demonstrate a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor [redacted] for

Date of Supervisor's Review: *2/18/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

1/6/11

VIA CERTIFIED MAIL
Number [redacted]

[redacted]

RE: Claim Number: N10036-0302

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0302.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	06 January 2011
Claim Number	N10036-0302
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$8,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 15 December 2010, [redacted] (Claimant) presented a lost profits & earnings capacity claim in the amount of $8,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant is asserting that she resigned from her position in order to complete a Hazwoper certification class in an effort to gain employment with the oil spill clean-up crew established by the company, Command Center Staffing. Claimant willingly left her primary employment at [redacted] in May of 2010 in order to pursue better paying employment arising from the Deepwater Horizon incident. Claimant asserts that but for the oil spill the decrease in hours and subsequently her desire to leave [redacted] to seek other employment would have never occurred. She is presently employed by [redacted]. but is seeking the sum certain amount totaling her perceived lost wages from her previous job.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support her claim, the Claimant presented the NPFC Optional OSLTF Claim Form dated December 14, 2010, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated November 30, 2010, pay stubs from [redacted] 2008 and 2009 W2 Wage and Tax Statements, Referral for Oil Spill Cleanup Worker for Command Center Staffing, Command Center 40-Hour Hazwoper Training certificate and a letter from the Claimant explaining her employment situation. The GCCF assigned claim identification [redacted] to Claimant's claim submission. On November 30, 2010, the GCCF issued a denial to Claimant stating that individual wages related to oil-spill cleanup efforts or business contracts involved in clean up or remediation efforts in response to the oil-spill are not compensable by the GCCF.[1]

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $8,000.00 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment and the Claimant's decision to leave her prior employment to work for the employer that subsequently ended her employment as a response worker.

Claim Supervisor: [redacted]

Date of Review: *1/6/11*

Supervisor's Comments: ***Denial approved***

[1] *See,* GCCF denial letter dated November 30, 2010.

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
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
5/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0303

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 N10036-0641 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]
U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 5/16/2011
Claim Number	: N10036-0303
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $14,000.00

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 December 15, 2010, [redacted] (Claimant) presented an Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $14,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

Claimant is an oyster fisherman in the State of Mississippi. The Claimant holds a Mississippi commercial boat license [redacted] The license indicates that the Claimant owns the vessel M/V [redacted] Documentation provided to the NPFC, asserted that the M/V [redacted] is an oyster dredging vessel that dredges Areas II, E, F, and G.

Claimant alleged that all oyster reefs were closed to dredging due to a decision made by the Mississippi Department of Marine Resources (DMR) brought on by the Deepwater Horizon incident.[1] The $14,000.00 claim represents her lost profits for the season.

The Claimant also stated that her vessel was used to participate in the Vessel of Opportunity (VOO) program under BP for 26 days but the Claimant has failed to provide that information associated with those wages earned as a result of the Deepwater Horizon incident for the period in which she is claiming damage.

On October 17, 2010, The Claimant stated she filed a claim for an Emergency Advance Payment with the GCCF for lost profits and earning capacity as a result of the Deepwater Horizon incident. The GCCF assigned claimant ID [redacted]. Based on a review of the GCCF Database, the Records show that BP compensated the Claimant a total of $7,508.00 on May 18, 2010. The NPFC assumes this information to be correct.

REQUEST FOR RECONSIDERATION:

On May 2, 2011, the Claimant faxed a request for reconsideration to the NPFC stating she would like the NPFC to reconsider her claim. The NPFC denied the claim originally on March 3, 2011

[1] Personal Narrative

because the Mississippi DMR decided to close oyster areas to dredging in order to conserve oyster resources in Mississippi. The evidence presented by the Claimant did not show that the Claimant's loss was due to the injury to, destruction of, or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil therefore this claim is denied. On reconsideration, the Claimant argued that she wanted her claim be reconsidered for 22 days based on the original recommendation made at the beginning of the October 19, 2010 Commission Meeting that the oyster season be limited to a maximum of 22 days for oyster dredging based on the reduction of the number of oysters.

The Claimant further asserted that the fishermen later spoke at the same meeting and it was later decided in order to preserve the precious resource that had already suffered decimation and also that opening the season later for limited harvest made the gathering and preparation of equipment and workers less cost effective. The Claimant stated that she asserts that if the oyster reefs were in such poor condition prior to the Deepwater Horizon incident, then harvest would have been restricted for such reasons prior to the end of the Spring 2010 season but since it wasn't, she feels that the Deepwater Horizon incident should be considered a factor in the reason why the oyster dredging season was closed. Lastly, the Claimant argued that if the fishermen had not made such a request (i.e., to close the oyster dredging season) at the October 19, 2010 meeting, she would have at least made money for 22 days maximum based on the beginning recommendation of the meeting.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via facsimile received by the NPFC on May 2, 2011. To support her request for reconsideration, the claimant provided an email statement making her reconsideration argument and a compressed transcript copy of the first ten pages of the Commission on Marine Resources for the October 19, 2010 meeting.

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

The NPFC performed a complete review of the documentation presented by the Claimant including the compressed transcript of the October 19, 2010 Commission meeting. While the NPFC understands the Claimant's argument on reconsideration, the transcript of the meeting does not prove her alleged damage as a result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil. The Claimant has failed to provide any contradictory evidence that would demonstrate the oyster dredging season was closed in whole or in part due to the Deepwater Horizon incident. The transcript clearly discusses the concerns over the resource population which was the focus and ultimate rationale by the Commission to close the oyster dredging season.

The NPFC again denies the claim because the Claimant has failed to demonstrate that her alleged loss of profits was a result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil and not due to the preservation of the resource.

This claim is denied upon reconsideration.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***5/17/11***

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

5890
3/3/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0303

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0303 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0303.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 1, 2011
Claim Number	: N10036-0303
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $14,000.00

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. 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 August 23, 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 December 15, 2010, [redacted] (Claimant) presented an Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $14,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

Claimant is an oyster fisherman in the State of Mississippi. The Claimant holds a Mississippi commercial boat license [redacted]. The license indicates that the Claimant owns the vessel [redacted]. Documentation provided to the NPFC, asserted that the [redacted] is an oyster dredging vessel that dredges Areas II, E, F, and G.

Claimant alleged that all oyster reefs were closed to dredging due to a decision made by the Mississippi Department of Marine Resources (DMR) brought on by the Deepwater Horizon incident.[1] The $14,000.00 claim represents her lost profits for the season.

The Claimant also stated that her vessel was used to participate in the Vessel of Opportunity (VOO) program under BP for 26 days but the Claimant has failed to provide that information associated with those wages earned as a result of the Deepwater Horizon incident for the period in which she is claiming damage.

On October 17, 2010, The Claimant stated she filed a claim for an Emergency Advance Payment with the GCCF for lost profits and earning capacity as a result of the Deepwater Horizon incident. The GCCF assigned claimant ID [redacted]. Based on a review of the GCCF Database, the Records show that BP compensated the Claimant a total of $7,508.00 on May 18, 2010. The NPFC assumes this information to be correct.

APPLICABLE LAW

[1] Personal Narrative

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, Claimant presented the following documentation:

- OSLTF Claim From dated December 15, 2010;
- 2007, 2008, & 2009 Income Tax Return (no attachments);
- 2007 & 2008 IRS Profit and Loss Statements;
- Mississippi Dept. of Wildlife, Fisheries and Parks Boat Registration Certificate;
- Oyster Dredging License expiration date April 30, 2011;
- Crab License for Shrimpers expiration date April 30, 2010;
- Shrimp/Captain license expiration date April 30, 2010;
- Eight Trip Tickets from Mississippi Dept. of Marine Resources dated from 06 January 2010 through 22 January 2010;
- Document from DMR totaling the amount of sacks harvested from September 1, 2009 to April 30, 2010. The total amount was 178 sacks;
- Handwritten list of expenses for the [redacted] for 2010.

NPFC Determination

The claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of providing to NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Although the Claimant has established that she suffered an economic loss from the closure of oyster areas to dredging,[2] she does not provide evidence to support the allegation that the loss was reduced as a consequence of injury to, destruction of, or loss of property or natural resources.

In an official new release, the Mississippi Department of Marine Resources (Mississippi DMR) explained the reason for the closure of oyster areas during the 2010-2011 oyster season to dredging:

> "In response to requests from commercial oyster dredgers attending the Oct. 19, 2010, meeting of the Mississippi Commission on Marine Resources [redacted], the [redacted] recommended that the [redacted] Executive Director open the 2010-2011 oyster season to tonging only, and not dredging, in an effort to conserve the oyster resource in Mississippi waters."

The decision by the Mississippi DMR to close oyster areas to dredging was done to conserve oyster resources in Mississippi. The evidence presented does not show that that the Claimant's loss was due to the injury to, destruction of, or loss of property or natural resources therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Review: *3/3/11*

Supervisor's Comments: ***Denial approved***

[2] On 01 November 2010, the Mississippi Department of Marine Resources issued News Release [redacted], which announced the opening of the Mississippi oyster season to tonging only on 08 November, 2010 only in Areas II "A," "B," and "C". In other words, no dredging was permitted in these areas.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]00
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0304
07 March 2011

[redacted]

RE: Claim Number: N10036-0304

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 N10036-0304 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0304.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11

FOIA2011-3380-00001196

CLAIM SUMMARY / DETERMINATION FORM

Date	: 28 February 2011
Claim Number	: N10036-0304
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $8,000.00

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 15 December 2010, [redacted] Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $8,000.00 in loss of profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant works for a [redacted] supermarket in New Orleans, LA. Claimant stated that the store where he was employed lost profits due to the Deepwater Horizon oil-spill. Because of the store's decreased revenue, Claimant indicated that his hours were reduced and all raises were halted.[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

a) That real or personal property or natural resources have been injured, destroyed, or lost.

b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] OSLTF claim form.

09/14/11 FOIA2011-3380-00001197

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
c) Potential income from alternative employment or business not undertake, but reasonably available;
d) Any saved overhead or normal expenses not incurred as a result of the incident; and
e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form dated 13 December 2010;
- Copy of Louisiana State commercial license and Social Security Card;
- Letter from Claimant's employer to "Whom It May Concern," undated;
- Earnings statements from [redacted] or 23 April 2010 through 28 April 2010 and 3 June 2010 through 9 June 2010; and
- Payroll records for Claimant's earnings at [redacted] om 20 August 2009 through 8 December 2010

Claimant seeks a total of $8,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 13 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $8,000.00 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID # [redacted] and Claim [redacted]. This claim was denied by the GCCF.[2]

NPFC Determination

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 injury or 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,

[2] This information is assumed to be accurate by the NPFC.

information, and documentation deemed necessary by the Director, NPFC, to support the claim. The NPFC considered all documentation presented by the Claimant.

The claim is denied because the alleged loss in the amount of $8,000.00 is 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.

The evidence presented does not support the allegation that the Claimant suffered a reduction in earnings as a result of the Deepwater Horizon oil-spill. Claimant provided an unsigned letter from his employer that indicated the store suffered an economic loss due to the Deepwater Horizon oil-spill. This loss precipitated a reduction in hours for employees and, consequently, those employees have had to use their vacation and sick hours to make up for the lost wages.[3]

On 29 December 2010, the NPFC attempted to verify that the Claimant had suffered a loss due to the Deepwater Horizon oil-spill. The NPFC requested, among other things, that the Claimant provide earnings statements that indicate the amount of hours worked and vacation time used. Additionally, the NPFC requested that Claimant provide copies of his work schedule, which would show a decline in his scheduled hours. To date, no response has been received from the Claimant.

The claim is denied because the alleged loss in the amount of $8,000.00 is 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 and because the Claimant failed to meet his burden to provide sufficient evidence as requested by the NPFC.

Claim Supervisor [redacted]

Date of Supervisor's Review: *3/5/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Letter from Claimant's employer to "Whom it May Concern," undated. On 28 February 2011, the NPFC contacted [redacted] store director referenced in said letter, to verify the veracity of the letter and [redacted] advised that he had no recollection of the letter. The NPFC questioned [redacted] about the [redacted] stamp on the letter and he said that anyone can get a hold of a [redacted] stamp.

FOIA2011-3380-00001199

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
Claim # N10036-0305
12 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0305

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0305 involving Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0046.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12 January 2011
Claim Number	: N10036-0305
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $4,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 15 December 2010, [redacted] Claimant) presented an Oil Spill Trust Fund (OSLTF) claim form seeking $4,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident. The Claimant is an employee of [redacted] in New Orleans. [1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] Claimant's OSLTF Claim Form Submission dated 15 December 2010.

09/14/2011 ENCLOSURE FOIA2011-3380-00001201

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R.§ 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the following documentation: [redacted] Pay stubs for the Claimant for the periods May 1, 2010 through November 12, 2010 which total $15,095 and averages $1,078 per pay period; tax Returns with W-2 Forms for 2008 and 2009; social security card and Louisiana identification card for Claimant; and, a letter to GCCF from the Claimant dated 20 November 2010

The Claimant filed for an Emergency Advance Payment with the GCCF and received GCCF Claimant I[redacted] and GCCF Clain[redacted] On 02 November 2010 she was denied by the GCCF.

Claimant asserts that she is a "commissioned sales person" and that her hours and commissions have decreased as a result of the Deepwater Horizon incident.

NPFC Determination

The claim is denied. 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. Under 33 C.F.R. § 136.233 a claimant must establish that the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction. The NPFC reviewed all documentation presented by the Claimant.

The claim is denied because the Claimant has not provided sufficient evidence to prove that her alleged loss is a consequence of the Deepwater Horizon incident. The NPFC notes that the Claimant may have incurred some decrease in her average monthly salary through November 2010 over the previous year, but that her current income is still above her 2008 levels. However,

without evidence to support her assertion that the small decrease she has incurred is a consequence of injury to, destruction of, or loss of property or natural resources, the claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 1/12/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
202-493-6937

5890
18 January 2011

VIA CERTIFIED MAIL
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0306

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0306 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0306.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001204

CLAIM SUMMARY / DETERMINATION FORM

Date	17 January 2011
Claim Number	N10036-0306
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$20,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010[1]. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants continue.

CLAIM AND CLAIMANT

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

09/14/11 FOIA2011-3380-00001205

On 15 December 2010, [redacted] (Claimant) presented a lost profits & earnings capacity claim in the amount of $20,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that due to the oil-spill, he was furloughed from his position at [redacted] Louisiana based company which provides design and fabrication services for production equipment utilized by the offshore oil and gas industry. [redacted] was furloughed on 23 July 2010 and was recalled to work on 13 December 2010. His claim is for the lost wages incurred during this time period which he calculates at "approx 15,000 dollars" though claims the sum certain amount of $20,000.00.[2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;

[2] See, NPFC Optional OSLTF Claim Form, Page 1 of 2 Question #3 and Page 2 of 2 Question #9.

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(b) All income from alternative employment or business undertaken;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, Claimant presented the NPFC Optional OSLTF Claim Form dated 09 December 2010, tax return documents from 2006-2009, pay stubs from 2003-2005 and 2010, earnings statement from 2010, an LWC 77 Separation Notice for date 23 July 2010, a typed undated letter explaining [redacted] situation and a copy of the GCCF denial letter with assigned claim identification numbe[redacted]

NPFC Determination

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 claim is denied because the alleged loss in the amount of $20,000.00 is 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. Accordingly, conversations with [redacted] Office Manager at [redacted]., revealed that all employees were given a letter to present to the GCCF documenting that the drilling moratorium resulting from the BP Macondo blowout has adversely affected the company and resulted in pay cuts and layoffs.[3] This letter explains the impact on the company as a result of the moratorium and was typed and signed by the president of [redacted] Therefore, the NPFC was able to determine that Claimant's GCCF Claimant identification number is [redacted] and Claimant was denied citing ineligibility with an accompanying referral for the Claimant to contact the GCRPF. The NPFC has determined that the Claimant has failed to meet his burden of proof and his claimed losses are found to be the result of the moratorium on drilling, not the Deepwater Horizon incident, and therefore not compensable under OPA.

Claim Supervisor: [redacted]

Date of Review: *1/18/11*

Supervisor's Comments: ***Denial approved***

[3] See, [redacted] letter provided by fax by [redacted] on 12 January 2011
[4] See, [redacted] letter provided by fax by [redacted] on 12 January 2011

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100

[redacted]

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0307
22 February 2011

[redacted]

RE: Claim Number: N10036-0307

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0307 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0307.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001208

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0307
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,805.00

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 17 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $12,805 in loss of profits and earning capacity. Claimant asserted that he suffered a loss in hours due to the Deepwater Horizon incident.

Claimant works as a Server/Steward/Barback for [redacted] Inc. in Tampa, FL.[1] Claimant states that he was working an average of 40-50 hours per week before the Deepwater Horizon incident and after the incident, his hours were reduced to 20-25 hours per week. This reduction in hours led to a decrease in earnings from $2,000 per month down to around $500 per week.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

a) That real or personal property or natural resources have been injured, destroyed, or lost.

b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] [redacted] Inc. [redacted], [redacted], [redacted], and [redacted] Sports Bar

[2] Letter of explanation from Claimant dated 10 December 2010

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c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
c) Potential income from alternative employment or business not undertake, but reasonably available;
d) Any saved overhead or normal expenses not incurred as a result of the incident; and
e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- OSLTF claim form dated 10 December 2010;
- Letter of explanation from Claimant dated 10 December 2010;
- Letter of explanation from Claimant to GCCF dated 04 December 2010;
- Denial letter from GCCF dated 04 December 2010;
- Copies of paycheck stubs from GMRI Inc. for the periods worked during 01 February 2010 through 05 December 2010

Claimant seeks a total of $12,805 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 29 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $15,000 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID [redacted] and Claim [redacted]. On 4 December 2010, his claim was denied by the GCCF.[3]

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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

[3] Claimant has an Interim claim under review at the GCCF.

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or impairment of earning capacity. The NPFC considered all the documentation submitted by Claimant.

The evidence presented by the Claimant does not support the allegation that the Claimant suffered a reduction in earnings as a direct result of the Deepwater Horizon incident. The Claimant submitted pay stubs from both before and after the Deepwater Horizon incident in order to substantiate his loss. To further evaluate the claim, the NPFC send the Claimant a letter, dated 03 January 2011, requesting written confirmation from his employer verifying that his hours were reduced as a result of the Deepwater Horizon incident. The Claimant has not provided additional documentation as requested to support his claim in order to demonstrate he has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted] for

Date of Supervisor's Review: ***2/22/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
4200 Wilson Blvd., Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0308
08 March 2011

[redacted]

Re: Claim Number: N10036-0308

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 N10036-0308 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0308.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosures: (l) Claim Summary/Determination Form
(2) Summary of Documentation Provided by Claimant

Enclosure (2)

Summary of Documentation Provided by Claimant N10036-0308

1. Optional OSLTF Claim Form.
2. Fax cover letter dated 16 December 2010.
3. Claim letter to NPFC dated 16 December 2010.
4. Denial letter from GCCF dated 03 December 2010.
5. Summary explanation of claim for the period of April through December 2010.
6. IRS notification of assigned employer identification dated 10 February 2010.
7. Minutes of a Meeting of Members of [redacted] dated 10 February 2010.
8. Articles of Organization.
9. Certificate of Authority.
10. A copy of [redacted] business plan.
11. Annual earnings projections for the years 2010 through 2013.
12. Various client invoices with names redacted.
13. Email from travel agents and affiliates with names redacted.
14. Summary spreadsheet of bookings reserved in February and April 2010.
15. Emails from various marketing affiliates.
16. Summary of Travel Industry Accreditation requirements.
17. IATAN Accreditation application.
18. U.S. Travel Association Travel Forecasts.
19. Letter from Claimant dated 20 January 2011.
20. Claimant's bank statements for the period of 11 February 2010 through 31 December 2010.
21. PayPal statements for the month of February 2010 and for the period of 01 February though 31 December 2010.
22. Two redacted documents confirming hotel stays for unknown persons in March of 2010.
23. Redacted invoices dated 10 February 2010 and 10 March 2010.
24. Florida Department of State acknowledgment of registration of a fictitious name on 25 February 2005.
25. Claimant's Nondisclosure Agreement (blank copy).
26. 16 July 2010 earnings statement.

CLAIM SUMMARY/DETERMINATION FORM

Date	04 March 2011
Claim Number	N10036-0308
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$237,224.00

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 21 December 2010, [redacted] on behalf of [redacted] (Claimant), presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $237,224.00 in lost profits and earnings allegedly resulting from the Deepwater Horizon oil-spill.

Claimant operates as a romantic planning and travel concierge service in Panama City Beach, Florida. Claimant has been operating the subject business since February 2010. Claimant asserted that as a result of the Deepwater Horizon oil-spill, the business sustained several cancellations and an overall loss of business totaling $237,224.00.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

The documentation submitted by Claimant in support of her claim to the NPFC is listed in Enclosure (2).

As noted, the Claimant seeks $237,224.00 in lost profits allegedly resulting from the impact of the Deepwater Horizon oil-spill on her business.

On 13 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $100,000.00 with the GCCF. She was issued Claimant ID [redacted] and Claim [redacted] On 03 December 2010, her claim was denied by the GCCF. [1]

NPFC Determination

This claim for lost profits and earnings capacity is denied. 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. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

[1] GCCF Denial Letter, dated 03 December 2010.

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Although Claimant alleged that her business suffered romance package cancellations, no documentation was provided that would support any deposits made by the customers/clients or to confirm travel arrangements made by the Claimant on behalf of the customers/clients (i.e. flight itineraries, hotel reservations, cruise travel otherwise). It appears that no such documentation is available as the trips were in preliminary planning stages, per Claimant's admission[2], and therefore no deposits were ever received and no bank transactions were recorded.

Additionally, no correspondence was provided from the Claimant's customers/clients confirming that romance packages were canceled as a result of the Deepwater Horizon oil-spill. The Claimant noted that all cancellations were made via telephone and she kept no call logs of these phone calls.[3] Claimant further asserted that due to the nondisclosure agreement in place with her customers, the Claimant is unable to provide the names, email addresses, telephone numbers or other personally identifiable information (PII) which may permit correspondence between the NPFC and the customers/clients who allegedly canceled.[4]

Furthermore, the Claimant's alleged lost fees from gift cards is not supported by any history or documentation and no support was provided for the alleged lost commissions from the affiliate programs. The expected sales amounts from each affiliate, reviewed on an individual basis, are established only by the Claimant's estimates and calculations. Claimant provided several emails from the affiliates that show the commission percentages used in the claim computations, but they only suggest prospective earnings capacity rather than actual earned income.

The aforementioned concerns were addressed with the Claimant on several occasions via telephone conversations.[5] The Claimant was made aware of the prospective nature of the affiliate program losses and the burden to substantiate and validate the alleged cancelled package losses. The Claimant advised that due to the nondisclosure agreement, she would be unable to provide any supporting documentation beyond her own affirmations and the self-generated invoices or she could risk liability to her business.

The Claimant has failed to meet her burden of proof to establish her alleged losses resulting from the Deepwater Horizon oil-spill. The claim is denied because the alleged loss in the amount of $237,224.00 is 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 and has not been substantiated by an appropriate level of documentation.

Claim Supervisc [redacted]

Date of Review: ***3/8/11***

Supervisor's Actions: ***Denial approved***

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[2] PHONECON between NPFC and Claimant on 26 February 11.
[3] PHONECON between NPFC and Claimant on 26 February 11.
[4] Claimant's website offers testimonials which are not validated by the bank account data provided or in any other type of available correspondence.
[5] PHONECON between NPFC and Claimant 0n 26 February & 01 March 11.

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

5890/DWHZ
Claim # N10036-0309
18 February 2011

[redacted]

RE: Claim Number: N10036-0309

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0309 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0309.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0309
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $5,600.00

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 20 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $5,600 in loss of profits and earning capacity as a result of the Deepwater Horizon incident.

Claimant works for [redacted]e in New Orleans, LA. The restaurant is located within the Harrah's New Orleans Hotel & Casino. Claimant asserted that he suffered a loss in hours due to the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

a) That real or personal property or natural resources have been injured, destroyed, or lost.

b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
c) Potential income from alternative employment or business not undertake, but reasonably available;
d) Any saved overhead or normal expenses not incurred as a result of the incident; and
e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- Optional OSLTF claim form dated 15 December 2010;
- Letter of explanation from Claimant dated 15 December 2010;
- Earnings statements from Claimant's employment a [redacted] for the following pay periods: 29 March 2010 through 18 April 2010 and 24 May 2010 through 06 June 2010

Claimant seeks a total of $5,600 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 22 September 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $30,000 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] This claim was denied by the GCCF.[1]

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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 Claimant.

The evidence presented does not support the Claimant's allegation that he suffered a reduction in earnings as a result of the Deepwater Horizon oil-spill. The Claimant submitted 5 weekly earnings statements from both before and after the Deepwater Horizon oil-spill in order to

[1] Claimant has Final and Full Review Final claims under review at the GCCF.

substantiate his claim. On 29 December 2010, the NPFC requested additional information from the Claimant. The NPFC requested that the Claimant provide written confirmation from the Claimant's employer regarding the reason for the Claimant's reduction in work hours and whether Claimant's employer has filed a claim relating to the Deepwater Horizon event to the GCCF. To date, no response has been received by the NPFC from the Claimant.

The claim is denied because the alleged loss in the amount of $5,600.00 is 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. Additionally, the Claimant has not provided the additional information requested to support his claim. Therefore, this claim is denied because the Claimant has failed to meet his burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number [redacted]

5890/DWHZ
Claim# N10036-0310
07 March 2011

[redacted]

RE: Claim Number: N10036-0310

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 N10036-0310 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0310.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	24 February 2011
Claim Number	N10036-0310
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$1,503.22

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 20 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC seeking $1,503.22 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant works as a salesperson with an independently owned [redacted] distributing company, [redacted] His sales territory is in Gulf Shores, Alabama. Claimant earns commission at a rate of $.01 for every dollar in sales.[1] Claimant maintains that the Deepwater Horizon oil-spill has adversely impacted tourism in Gulf Shores, and this impact led to reduced sales and commissions for the Claimant for June, July and August 2010.[2] The Claimant estimates his total loss in commission for that period to be $1,503.22.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] PHONECON between the NPFC and [redacted], human resources, [redacted]
[2] Claimant letter explaining his loss, dated 10 December 2010.

FOIA2011-3380-00001222

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted his OSLTF claim form, signed 10 December 2010; his weekly pay report for 2009 and 2010 from [redacted] letter from [redacted], dated 10 December 2010; and a letter from the Claimant explaining his loss, dated 10 December 2010.

As noted, Claimant seeks $1,503.22 in lost commission from reduced sales allegedly as a result of the Deepwater Horizon oil-spill.

On 23 August 2010, Claimant filed a six-month Emergency Advance Payment claim for $6,000.00 in lost earnings with the GCCF. He was issued GCCF Claimant ID [redacted] and Clai[redacted] His claim was denied by the GCCF.[3]

NPFC Determination

The claim is denied because the alleged loss in the amount of $1,503.22 is 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.

[3] The NPFC assumes this information is accurate. Claimant has an Interim Claim under review at the GCCF.

09/14/11 FOIA2011-3380-00001223

Claimant alleged that he lost $1,503.22 in commissions from June through August 2010. A comparative analysis of Claimant's commissions in 2010 versus 2009 reveals that he earned $1,503.22 less from June through August 2010 vice the same period in 2009. Although this evidence corroborates the Claimant's allegation that he earned less in 2010 than 2009, in order to be compensated from the OSLTF, the Claimant must prove that his income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources.

Claimant provided a letter from [redacted], dated 10 December 2010. This letter stated that "[Claimant] lost wages due to the oil spill." To verify the letter, the NPFC contacted [redacted] who confirmed writing the letter.[4] She explained that the Claimant worked on a commission basis so the more sales he made, the higher his paid commission is. She also indicated that the Claimant was not able to make as much commission after the Deepwater Horizon oil-spill because there was reduced tourism in the Gulf Shores area, Claimant's sales territory, which resulted in reduced demand for the Claimant's products.

Although [redacted] referenced the Deepwater Horizon oil-spill as the cause of the Claimant's reduced commissions, the Claimant's employer merely paid the Claimant according to his sales figures. Additionally, it is important to note that the NPFC made an official request for additional information to the Claimant on 05 January 2011 in order to further evaluate his claim. The letter was delivered on 12 January 2011. On 02 February 2011, the Claimant stated that the NPFC had sufficient information from him to make a determination. The Claimant instructed the NPFC to proceed with a determination based on the information it had.

The NPFC has determined that the Claimant has failed to meet his burden to demonstrate a loss of profits 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.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***3/4/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[4] PHONECON between the NPFC and [redacted] on 02 March 2011.

FOIA2011-3380-00001224

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
2/1/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0311

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0311 involving Deepwater Horizon. Please see the attached Claim Summary / determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0311.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/1/2011
Claim Number	: N10036-0311
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $2,750,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 14 December 2010, [redacted] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $750,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident and $900,000.00 in real or personal property damage as a result of the Deepwater Horizon incident. [redacted] provided no supporting documentation with her claim submission. The NPFC sent [redacted] a Request for Additional Information dated December 22, 2010 whereby the NPDC requested any and supporting documents for her claim. The NPFC gave [redacted] ten (10) days in which to respond or request an extension of time to submit the support for her claim.

[redacted] submitted a claim to the GCCF and was assigned claimant identification [redacted], with a claim number of [redacted]. [redacted] requested $340,000.00 for an emergency six month payment to the GCCF which the GCCF has confirmed that her claim has been denied.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the NPFC Optional OSLTF Claim Form on 14 December 2010.

Claimant submitted a claim with the GCCF on 24 August 2010 for an Emergency Six-Month payment in the amount of $340,000.00, Claimant ID [redacted], Claim [redacted] which was denied.

Claimant asserted that she owns a business entitled "[redacted]". [redacted] states no one is buying from her company because she uses seafood from Louisiana and Mississippi. Claimant stated her business is a processing and shipping seafood company.

NPFC Determination

The claim is denied. 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 injury or 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 his claim.

The NPFC requested additional information from the Claimant which to date [redacted] has not responded to. This claim is denied because the Claimant has failed to meet her burden in establishing she has a loss of profits and earnings as a direct result of the Deepwater Horizon incident. The Claimant has also failed to produce sufficient support for her claim therefore she has failed to prove she has damages.

Claim Supervisor: [redacted]

Date of Supervisor's review: *2/1/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
12/22/2010

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0312

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0312 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0312.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/22/2010
Claim Number	: N10036-0312
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $15,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 06 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $15,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that she experienced losses due to the decline in tourism as a result of the Deepwater Horizon oil-spill incident. Specifically, the Claimant states that her losses resulted from the decline in attendance to the New Orleans [redacted] Festival that took place on or about April 23, 2010 through May 2, 2010. Claimant states that she had anticipated making at least half of her lease term revenue which ultimately she allegedly did not make the anticipated profit she had hoped for. It is important to note that the Claimant's business was a new business and the Grand Opening for this location took place on April 23, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 6, 2010, a copy of a letter to the Gulf Coast Claims Facility (GCCF) dated December 6, 2010, a copy of shop photos, a copy of her sign permit, a copy of her driver's license and social security card, a copy of news media articles, a copy of miscellaneous business receipts, a copy of Louisiana Taxpayer Access Point document showing estimated taxes for the business, a copy of her insurance policy for the business, a copy of her Articles of Incorporation for the business, a copy of the six month lease for the building where the shop operated, and miscellaneous supporting documents. The GCCF assigned claim identification [redacted] to [redacted] claim submission.

NPFC Determination

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 claimant has failed to meet their burden by the preponderance of the evidence that she experienced a loss as a direct result of the Deepwater Horizon oil-spill incident.

Claim Supervisor [redacted]

Date of Supervisor's review: 12/22/10

Supervisor Action: Denial approved

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
12/23/2010

VIA MAIL:

[redacted]

RE: Claim Number: N10036-0313

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0313 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0313.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/23/2010
Claim Number	: N10036-0313
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $60,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 13 December 2010, [redacted] Claimant), presented a lost profits & earnings claim in the amount of $60,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was released from his job through [redacted] causing him to have to sell his dump truck for his company and seek other employment. The Claimant has not proven what he sold his truck for nor has [redacted] explained exactly why his employment with [redacted] ended.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 13, 2010, a personal statement that explains his circumstances related to his losing employment with Associated Concrete resulting in the sale of his dump truck and forcing him to find alternative employment.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $60,000.00 is 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. Claimant's alleged loss of profits is the result of his employment with Associated Concrete ending.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/23/10

Supervisor Action: Approved.

Supervisor's Comments: Claim is denied.

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
[redacted]
Fax: 202-493-6937

22 December 2010

VIA US MAIL AND EMAIL: [redacted]

[redacted]

Re: Claim Number: N10036-0314

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0314.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager

Encl: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	22 December 2010
Claim Number	N10036-0314
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$9,500.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 6 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $9,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that her income was reduced because people were not spending money on personal services because the Deepwater Horizon incident.

The Claimant worked at [redacted] and [redacted] in Metairie, LA during the Deepwater Horizon incident.[1] [redacted] states because business was down, she moved to Texas on or about 1 September 2010 in order to start over. [redacted] has not produced sufficient financial records and information to corroborate her allegation that business was down as a direct result of the Deepwater Horizon oil-spill incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

[1] See OSLTF Claim Form dated 6 December 2010.

09/14/11 FOIA2011-3380-00001238

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant presented the NPFC OSLTF Claim Form dated December 6, 2010, miscellaneous bank deposits, a copy of the first page of her 2009 Form 1040 Form, a copy of her driver's license and social security card, a personal statement, and a copy of her one month apartment rental lease in Texas for the month of September 2010. The GCCF assigned claimant identification [redacted] to [redacted] claim submission.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $9,500 is 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. Claimant has failed to establish that her reduction of clientele in the cosmetology business was a direct result of the Deepwater Horizon oil-spill incident. Additionally, the decision to move from Louisiana to Texas in order to start over was a personal decision.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Comments: Denial affirmed

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
[redacted]

Fax: 202-493-6937

22 December 2010

VIA US MAIL AND EMAIL: [redacted]

[redacted]

Re: Claim Number: N10036-0315

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0315.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager

Encl: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	22 December 2010
Claim Number	N10036-0315
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 7 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was laid off from his position with [redacted] in September 2010 because of the Deepwater Horizon incident.

[redacted] maintains that his employer released him because of the Deepwater Horizon oil-spill. After being released from [redacted] he attempted to obtain Louisiana unemployment insurance but was denied because he had not earned enough wages in his base period to qualify him for unemployment insurance benefits. The Claimant provided a copy of his 2009 W-2 for [redacted] which indicates for 2009 that the Claimant had only made $6,000.00 with that employer during the year.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant presented the NPFC OSLTF Claim Form dated December 7, 2010, provided copies of miscellaneous bank deposits, a copy of his wage and income transcript for 2009, a copy of his driver's license and social security card, a personal statement, and a copy of her one month apartment rental lease in Texas for the month of September 2010. The GCCF assigned claimant identification [redacted] to [redacted] claim submission.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $10,000 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Comments: DENIAL APPROVED

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
[redacted]
Fax: 202-493-6937

22 December 2010

VIA US MAIL AND EMAIL: [redacted]

[redacted]

Re: Claim Number: N10036-0316

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0316.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager

Encl: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001245

CLAIM SUMMARY / DETERMINATION FORM

Date	22 December 2010
Claim Number	N10036-0316
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 16 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that she was terminated from her position as Alabama State Administrator for the Vessels of Opportunity program for [redacted] because the Deepwater Horizon incident ended.

The Claimant worked at [redacted] in Gulfport, MS previous to the Deepwater Horizon incident.[1] [redacted] has not stated why she left her employment with [redacted] on May 14, 2010. [redacted] maintains that her employer released her because the Deepwater Horizon oil-spill ended. After being released from [redacted] she attempted to find another job but states she has not been able to find adequate employment in the area due to the loss of revenue which has affected the entire area.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

[1] Letter from Claimant to DHS dated 16 November 2010.

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by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant presented the NPFC OSLTF Claim Form dated November 16, 2010, miscellaneous payroll documents, a copy of her denial letter from GCCF dated November 10, 2010, miscellaneous tax records, a copy of her driver's license and social security card, a personal statement, and a statement from [redacted] that states she was a Supervisor with the casino from November 17, 2009 until May 14, 2010 (reason for departure not referenced). The GCCF assigned claimant identification [redacted] to [redacted] claim submission.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $10,000 is 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. Claimant's alleged loss of profits is the result of her employer's business decision to terminate her employment.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Comments: Denial affirmed

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
[redacted]
Fax: 202-493-6937

22 December 2010

VIA US MAIL:

[redacted]

Re: Claim Number: N10036-0317

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0317.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager

Encl: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	22 December 2010
Claim Number	N10036-0317
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 November 2010 [redacted] Claimant), presented a lost profits & earnings claim in the amount of $10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was terminated from his position as a response contractor for [redacted] because the Deepwater Horizon incident ended.

The Claimant worked at [redacted] in Mobile, AL previous to the Deepwater Horizon incident.[1] He asserts that he was promised employment with [redacted] as a response contractor for at least eighteen months to two years. [redacted] maintains that his employer released her because the Deepwater Horizon oil-spill ended. [redacted] states that he left his previous employer, [redacted] in order to make better money working on for a response contractor on the Deepwater Horizon oil-spill incident. After being released from [redacted], he attempted to get hired back at [redacted] but was told there were no openings.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the

[1] Letter from Claimant to BP dated 28 October2010.

FOIA2011-3380-00001250

responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant presented the NPFC OSLTF Claim Form dated November 30, 2010, miscellaneous payroll documents, a copy of a letter to GCF dated October 28, 2010, miscellaneous tax records, a copy of contractor identification card, a personal statement, work comp initial doctor visit form for insect bites, and miscellaneous supporting documents. The GCCF assigned claimant identification [redacted] to [redacted] claim submission.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $10,000 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Comments: DENIAL AFFIRMED

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 202-493-6839
E-mail: [redacted]

12/21/2010

VIA EMAIL [redacted]

[redacted]

RE: Claim Number: N10036-0318

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0318 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0069.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/21/2010
Claim Number	: N10036-0318
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $15,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 16 December 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $15,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that she is out of work because the company that she worked for [redacted] closed down as a result of the Deepwater Horizon oil-spill incident. [redacted] states in her submission that she has received a payment from the GCCF in the amount of $3,800.00 but desires an additional $15,000.00 to cover an additional five (5) month period. [redacted] further states in her submission that she has been working as a deck hand on her husband's boat and he pays her $100.00 a day from his check.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS:

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 16, 2010, a copy of [redacted] W-2 for 2008, a copy of a pay stub from her previous employer, [redacted] for the period of March 19, 2010 – March 25, 2010, which shows she made $307.85 for one week of pay, a statement from [redacted] stating he employed the Claimant and was paying her $100.00 a day although the statement does not state for what period in time he was paying her, a copy of a Alabama Boat Registration Certificate that she states belongs to her husband's boat, and a copy of the last page of Form 1040 for 2009 (10 other pages appear to be missing as the copy provided shows the page is page 9 of 11). The Claimant's submission states she received $3,800.00 from the GCCF but she has not provided additional details in support of what time period that payment covers and for what purpose the payment was made.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $15,000 is 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. Claimant's alleged loss of profits is the result of her previous employer's business decision to close down. The Claimant has also failed to provide sufficient evidence that the business closure was a direct result of the Deepwater Horizon oil-spill nor has the Claimant provided sufficient financial records to support the loss she is claiming.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/20/10

Supervisor Action: Denial Affirmed

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0319
08 March 2011

[redacted]

Re: Claim Number: N10036-0319

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 N10036-0319 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0319.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Date	: 07 March 2011
Claim Number	: N10036-0319
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $22,000.00

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 18 October 2010, [redacted] (Claimant) presented a lost profits and earnings claim to the RP in the amount of $22,000.00, with assigned Claimant Identification Number; [redacted] That claim was denied. Claimant subsequently presented a claim to the National Pollution Funds Center (NPFC) for $22,000.00 on 17 December 2010.

Claimant works in the business of remodeling and repairing high rise condos on the beach. The Claimant asserted that due to the Deepwater Horizon oil-spill, condo owners have been unable to rent out their units and therefore they are unable to earn money to afford paying for repairs and upgrades.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted various tax documents, examples of invoices, personal letter detailing his claim and a lease to demonstrate residency.

Claimant also presented the NPFC Optional OSLTF Claim Form, dated 09 December 2010 and received by the NPFC on 17 December 2010. The Claimant responded to a request for additional information by providing answers to some questions without providing any of the additional requested documentation.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to the injury or 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 Claimant.

Claimant failed to demonstrate that his alleged financial loss was a direct result of the Deepwater Horizon oil-spill, either through documentation or other means. The claim is denied because the Claimant failed to meet his burden to demonstrate that his alleged loss in the amount of $22,000.00 is 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

Claim Supervisor: [redacted]

Date of Review: ***3/8/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0320
22 February 2011

[redacted]

Re: Claim Number: N10036-0320

Dear [redacted]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0320 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0320.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager

Enclosures: Claim Summary/Determination Form
(1-3) Earning Calculations

CLAIM SUMMARY / DETERMINATION FORM

Date	: 17 February 2011
Claim Number	: N10036-0320
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 17 December 2010, [redacted] (Claimant) presented a letter to the National Pollution Funds Center (NPFC) seeking $6,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant was employed as a server with the [redacted] (formerly [redacted] in Clearwater, Florida, from August 2008 to 08 June 2010. Claimant asserted that after the Deepwater Horizon oil-spill, business at the [redacted] slowed, which ultimately resulted in the business closing down and termination of the Claimant's employment in early June 2010.

Claimant remained unemployed until 28 June 2010, at which time he began working as a server for [redacted] The amount requested by Claimant reflects lost wages during his three week period of unemployment, plus a general decrease in monthly earnings (including tips) during the month of May, and also from July to the date of the claim. Claimant did file for unemployment compensation and received $1,200 in benefits between 08 June and 14 July 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost;

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

In support of his claim, Claimant presented the following documentation to the NPFC:

- Handwritten letter from Claimant describing claim, undated (original submission);
- Handwritten letter in response to request for additional information, dated 11 January 2011;
- Paystubs from The [redacted]. from 31 October 2008 to 28 May 2010;
- Paystubs from [redacted] from 23 July 2010 to 07 January 2011;
- GCCF claim submission;
- Wage Transcript and Determination form from the Florida Unemployment Compensation Program;
- GCCF denial letter, dated 04 December 2010;
- Letter from Claimant explaining the nature of his loss and requesting assistance from BP, dated 24 August 2010;
- 2009 W-2s from First Financial Employee Leasing.

On 25 August 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $6,000 in lost earnings with the GCCF. He was assigned GCCF Claimant ID #[redacted] and

Claim # [redacted], 04 December 2010, Claim # [redacted] was denied. The NPFC verified this information.[1]

NPFC Determination

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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

Based on the financial documentation presented, there is no indication that the Claimant's 2010 earnings have been reduced as a direct result of the Deepwater Horizon incident. While it is clear that the Claimant was unemployed for three weeks between 08 June and 28 June 2010, Claimant received unemployment benefits exceeding his average past earnings over a comparable period of time (see Exhibits 1 - 3). Additionally, the Claimant's alleged financial loss that was attributed to his loss of employment with the [redacted] is a direct result of the employer's business decision to close down the establishment. As for the remaining alleged financial loss, the Claimant has failed to meet his burden to demonstrate a loss of profits and earnings as a direct result of the Deepwater Horizon incident. The Claimant has not provided evidence that his reduced earnings in May 2010 and July 2010 until the time of his claim filing, were a result of the Deepwater Horizon incident as opposed to other economic or business factors.

Claim Supervisor: [redacted] for

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[1] The Claimant has an Interim Payment claim under review at the GCCF.

FOIA2011-3380-00001263

CALCULATION OF POTENTIAL LOST EARNINGS

Exhibit 1

Period			Projected Payroll From Exhibit 2	Less Actual	Lost Payroll	
06/07/10	-	06/20/10	$ 1,043	$ -	$ 1,043	
06/21/10	-	07/04/10	1,043	1,528	-	(A)
Total Potential Lost Earnings			2,085	1,528	1,043	
Less Estimated Unemployment Compensation					1,200	(B)
Total Loss					$ -	

Notes:

(A) Although the claimant was apparently hired on June 28, 2010 by [redacted] Restaurant, based on available documentation, it appears the claimant earned $1,528 during the two week pay period ended July 4, 2010.

(B) According to the claimant, he collected unemployment compensation totaling $1,200 subsequent to his termination from the [redacted] No supporting documentation was provided by the claimant.

CALCULATION OF AVERAGE BIWEEKLY EARNINGS

Exhibit 2

Period			Current Period Wages	Tips	Total
10/12/09	-	10/25/09	$ 276.64	$ 684.96	$ 961.60
10/26/09	-	11/08/09	257.31	662.62	919.93
11/09/09	-	11/22/09	351.16	869.51	1,220.67
11/23/09	-	12/06/09	344.66	693.58	1,038.24
12/07/09	-	12/20/09	303.31	873.75	1,177.06
12/21/09	-	01/03/10	281.51	746.68	1,028.19
01/04/10	-	01/17/10	298.84	910.96	1,209.80
01/18/10	-	01/31/10	264.59	678.24	942.83
02/01/10	-	02/14/10	314.70	1,024.23	1,338.93
02/15/10	-	02/28/10	293.92	708.13	1,002.05
03/01/10	-	03/14/10	259.64	943.79	1,203.43
03/15/10	-	03/28/10	242.68	863.17	1,105.85
03/29/10	-	04/11/10	117.97	287.35	405.32
Average			$ 277.46	$ 765.15	**$ 1,042.61**
					To Exhibit 1

ANALYSIS OF BIWEEKLY PAYROLL *Exhibit 3*

Period			Current Period Wages	Current Period Tips	Current Period Other	Current Period Total	Year to Date Wages	Year to Date Tips	Year to Date Other	Year to Date Total	
[redacted]											
10/13/08	-	10/26/08	$ 161.73	$ 449.68	$ -	$ 611.41	$ 1,409.98	$ 2,384.54	$ 7.90	$ 3,802.42	
10/27/08	-	11/09/08	231.86	457.61	-	689.47	1,641.84	2,842.15	7.90	4,491.89	
11/10/08	-	11/23/08	204.33	553.22	-	757.55	1,846.17	3,395.37	7.90	5,249.44	
11/24/08	-	12/07/08	203.20	315.74	-	518.94	2,049.37	3,711.11	7.90	5,768.38	
12/08/08	-	12/21/08	226.20	402.38	-	628.58	2,275.57	4,113.49	7.90	6,396.96	
12/22/08	-	01/04/09	261.04	657.40	-	918.44	261.04	657.40	-	918.44	
01/05/09	-	01/18/09	213.69	451.09	-	664.78	474.73	1,108.49	-	1,583.22	
01/19/09	-	02/01/09	284.92	502.24	-	787.16	759.65	1,610.73	-	2,370.38	
02/02/09	-	02/15/09	200.28	468.60	-	668.88	959.93	2,079.33	-	3,039.26	
02/16/09	-	03/01/09	231.71	580.93	-	812.64	1,191.64	2,660.26		3,851.90	(A)
03/02/09	-	03/15/09	235.48	488.38	-	723.86	1,427.12	3,148.64	-	4,575.76	
03/16/09		03/29/09	248.05	597.49	-	845.54	1,675.17	3,746.13	-	5,421.30	(A)
03/30/09		04/12/09	248.05	597.49	-	845.54	1,923.21	4,343.61	-	6,266.82	(A)
04/13/09	-	04/26/09	209.50	511.32	-	720.82	2,132.71	4,854.93	-	6,987.64	
04/27/09	-	05/10/09	219.14	419.29	-	638.43	2,351.85	5,274.22	-	7,626.07	
05/11/09	-	05/24/09	229.61	268.32	-	497.93	2,581.46	5,542.54	-	8,124.00	
05/25/09	-	06/07/09	196.51	426.26	-	622.77	2,777.97	5,968.80	-	8,746.77	
06/08/09	-	06/21/09	244.28	644.15	-	888.43	3,022.25	6,612.95	-	9,635.20	
06/22/09	-	07/05/09	174.30	239.60	-	413.90	3,196.55	6,852.55	-	10,049.10	
07/06/09	-	07/19/09	179.33	431.36	-	610.69	3,375.88	7,283.91	-	10,659.79	
07/20/09	-	08/02/09	179.78	429.10	-	608.88	3,555.66	7,713.01	-	11,268.67	
08/21/09	-	08/16/09	182.74	336.36	-	519.10	3,738.40	8,049.37	-	11,787.77	
08/17/09	-	08/30/09	223.34	366.76	-	590.10	3,961.74	8,416.13	-	12,377.87	
08/31/09	-	09/13/09	219.92	506.08	-	726.00	4,181.66	8,922.21	-	13,103.87	
09/14/09	-	09/27/09	237.30	401.66	-	638.96	4,418.96	9,323.87	-	13,742.83	
09/28/09	-	10/11/09	146.36	388.26	-	534.62	4,565.32	9,712.32	-	14,277.64	
[redacted]											
[redacted]	-	10/11/09	77.87	232.28	-	310.15	77.87	232.28	-	310.15	
10/12/09	-	10/25/09	276.64	684.96	-	961.60	354.51	917.24	-	1,271.75	
10/26/09	-	11/08/09	257.31	662.62	-	919.93	611.82	1,579.86	-	2,191.68	
11/09/09	-	11/22/09	351.16	869.51	-	1,220.67	962.98	2,449.37	-	3,412.35	
11/23/09	-	12/06/09	344.66	693.58	-	1,038.24	1,307.64	3,142.95	-	4,450.59	
12/07/09	-	12/20/09	303.31	873.75	-	1,177.06	1,610.95	4,016.70	-	5,627.65	
12/21/09	-	01/03/10	281.51	746.68	-	1,028.19	281.51	746.68	-	1,028.19	
01/04/10	-	01/17/10	298.84	910.96	-	1,209.80	580.35	1,657.64	-	2,237.99	
01/18/10	-	01/31/10	264.59	678.24	-	942.83	844.94	2,335.88	-	3,180.82	
02/01/10	-	02/14/10	314.70	1,024.23	-	1,338.93	1,159.64	3,360.11	-	4,519.75	
02/15/10	-	02/28/10	293.92	708.13	-	1,002.05	1,453.56	4,068.24	-	5,521.80	
03/01/10	-	03/14/10	259.64	943.79	-	1,203.43	1,713.20	5,012.03	-	6,725.23	
03/15/10	-	03/28/10	242.68	863.17	-	1,105.85	1,955.88	5,875.20	-	7,831.08	
03/29/10	-	04/11/10	117.97	287.35	-	405.32	2,073.85	6,162.55	-	8,236.40	
04/12/10	-	04/25/10	254.39	787.57	-	1,041.96	2,328.39	6,950.12	-	9,278.51	
04/26/10	-	05/09/10	254.98	587.86	-	842.84	2,583.22	7,537.98	-	10,121.20	
05/10/10	-	05/23/10	203.25	647.39	-	850.64	2,786.47	8,185.37		10,971.84	
05/24/10	-	06/06/10									(B)
06/07/10		06/20/10									(C)
[redacted]											
06/21/10	-	07/04/10	408.04	989.79	130.50	1,528.33	408.04	989.79	130.50	1,528.33	(A)
07/05/10	-	07/18/10	287.64	751.52	-	1,039.16	695.68	1,741.31	130.50	2,567.49	
07/19/10	-	08/01/10	245.34	708.60	-	953.94	941.02	2,449.91	130.50	3,521.43	
08/02/10	-	08/15/10	263.32	594.00	-	857.32	1,204.34	3,043.91	130.50	4,378.75	
08/16/10	-	08/29/10	266.49	776.72	-	1,043.21	1,470.83	3,820.63	130.50	5,421.96	
08/30/10	-	09/12/10	248.51	573.56	-	822.07	1,719.34	4,394.19	130.50	6,244.03	
09/13/10	-	09/26/10	219.96	673.13		893.09	1,939.30	5,067.32	130.50	7,137.12	
09/27/10	-	10/10/10	255.92	570.52	-	826.44	2,195.22	5,637.84	130.50	7,963.56	
10/11/10	-	10/24/10	276.01	653.09	-	929.10	2,471.23	6,290.93	130.50	8,892.66	
10/25/10		11/07/10	263.32	771.98	-	1,035.30	2,734.55	7,062.91	130.50	9,927.96	
11/08/10	-	11/21/10	245.34	867.30	-	1,112.64	2,979.89	7,930.21	130.50	11,040.60	
11/22/10	-	12/05/10	251.69	754.53	-	1,006.22	3,231.58	8,684.74	130.50	12,046.82	
12/06/10	-	12/19/10	231.59	646.06	-	877.65	3,463.17	9,330.80	130.50	12,924.47	
12/20/10	-	1/2/2011	358.22	1,339.80	-	1,698.02	358.22	1,339.80	-	1,698.02	

Notes:

(A) Missing data interpolated based on available year to date information.

(B) Missing information.

(C) Apparently, the claimant was terminated from the [redacted] on June 8, 2010.

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
1/6/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0321

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0229 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0321.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	January 6, 2011
Claim Number	N10036-0321
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$13,000.00

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 30, 2010, [redacted] Claimant), provided correspondence to the NPFC requesting compensation for lost profits & earnings as a result of the Deepwater Horizon incident. On December 14, 2010, the Claimant provided an email to the NPFC asserting that he sustained lost wages and earning capacity of $13,000 due to the Deepwater Horizon incident.

The Claimant did not provide an explanation of his claim or why believes he was impacted by the Deepwater Horizon incident. Based on the limited information provided, it is assumed that the Claimant is making a claim related to lost wages and earning capacity rather than other forms of potential damages. Claimant did not explain his primary form of employment or trade, but did provide a summary of unemployment benefits indicating that he has been continuously unemployed since April 2009.[1] Claimant has received weekly unemployment benefits from the Texas Workforce Commission from April 26, 2009 through at least November 20, 2010.

The Claimant filed an initial claim with the GCCF and was issued identification [redacted]. The Claimant's claim with the GCCF was subsequently denied.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

[1] "Payment Summary List" provided by Claimant for unemployment benefits received from [redacted] 09/14/11 for the covered period of April 26, 2009 through November 20, 2010.

FOIA2011-3380-00001267

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

A. Claimant's Submission

To support his claim, the Claimant provided the following documentation:

- Email stating his sum certain.
- Copy of FL driver's license and social security card.
- Screenshot from the GCCF website showing the denial.
- Summary of unemployment benefits covering from April 2009 to November 2010.
- 2009 Individual Income Tax Return filing.
- 2009 1099-G Information Form

The Claimant has not provided any documentation to support his work history or primary form of employment or a statement explaining the basis for his claim.

B. NPFC Determination

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 Claimant has been unemployed since at least April 2009, the month in which he started receiving unemployment benefits and has continued to receive unemployment benefits through at least November 2010. The Claimant has not provided any evidence indicating a loss in wages or earning capacity due to the Deepwater Horizon incident.

The claim is denied because the alleged loss in the amount of $13,000 is 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. The Claimant was unemployed at the time of the Deepwater Horizon incident and had been without work for at least the 12 months prior.

Claim Supervisor: [redacted]

Date of Review: *1/6/11*

Supervisor's Comments: ***Denial approved***

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail: [redacted]
Fax: 202-493-6937
5890
1/7/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

[redacted]
Luling, LA 70070

RE: Claim Number: N10036-0322

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0322.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/2011

FOIA2011-3380-00001270

CLAIM SUMMARY / DETERMINATION FORM

Date	January 6, 2011
Claim Number	N10036-0322
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$50,000.00

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.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010[1]. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

CLAIM AND CLAIMANT

On December 9, 2010 the claimant, [redacted] presented a loss of profits and impairment of earning capacity claim in the amount of $50,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant is asserting that he was terminated from his work assignment with [redacted] Services because of the Deepwater Horizon incident.

The Claimant was employed through [redacted] Services, a staffing agency that provides staffing for support vessels that service the oil industry in the Gulf of Mexico. [redacted] Services trains and assigns riggers, cooks and galley hands. The Claimant was a cook aboard the offshore supply vessel [redacted]. The Claimant stated the [redacted] was providing support services to a drilling rig called the [redacted] at the time of the Deepwater Horizon

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

09/14/11 FOIA2011-3380-00001271

incident. The Claimant began working for [redacted] Services on December 2, 2009 and was ultimately terminated on June 7, 2010. The Claimant asserts that due the moratorium, his employer's services were no longer being requested by customers which led to his termination.

The Claimant filed an initial claim with the GCCF on October 13, 2010 and, as per the Claimant, was subsequently denied on October 28, 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines and the exclusive economic zone. Damages include damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, person property, or natural resources, Section 2702(b)(2)(E) of OPA.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. 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 claims regulations at 33 C.F.R. §136.231 and .235 provide the additional requirements for a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. 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;

(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

A. Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 9, 2010.
- Claim correspondence with GCCF.
- Application for unemployment benefits dated September 27, 2010.
- 2009 Tax Return filing and a summary of total historical earnings with [redacted] Services.
- Separation notice from [redacted] Services dated June 7, 2010
- The Claimant provided his Individual Income Tax Return filing from 2009 which indicates total earnings of $3,118. Claimant's earnings from January through June 2010, prior to his termination from [redacted] ervices, total $15,082. Claimant did not explain how he calculated his claimed losses of $50,000.

B. NPFC Determination

Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of profits resulted from the injury to, or destruction of, real or personal property or a natural resource. As indicated on the documentation provided by the Claimant, his primary form of employment at the time of the Deepwater Horizon incident was working aboard an offshore supply vessel as a cook. The offshore supply vessel the Claimant worked aboard, serviced drilling rigs located in the Gulf of Mexico. He asserts that he lost his job because of the moratorium. Thus, his loss of profits was allegedly the result of the moratorium, a directive issued by the Department of the Interior to suspend permitting and drilling activities on the Outer Continental Shelf in order that safety regulations could be implemented, and not the result of the Deepwater Horizon incident.

Further, and more importantly, the Claimant misrepresented to the NPFC that he lost his job because of the moratorium. The NPFC concluded after a discussion with Mr. [redacted] of [redacted] Services, that the Claimant was not terminated from his employment because of the Deepwater Horizon incident or the moratorium, but rather because he was arrested by the [redacted] Harbor Police for outstanding warrants[2].

[2] Email from Mr. [redacted] to [redacted] of 05JAN11

FOIA2011-3380-00001273

Mr. [redacted] also provided a Separation Notice Alleging Disqualification dated June 7, 2010, stating that the Claimant was terminated due to his arrest[3]. When comparing the separation notice provided by the Claimant to the one provided by Mr. [redacted] it is clear that the separation notice submitted by the Claimant has been altered.[4] It appears the Claimant used correction fluid and altered the block titled "Other" in Section 6 and then checked "Lack of Work (RIF)." Also, it appears the Claimant used correction fluid to hide the explanation paragraph of the notice. The separation notice provided by the Claimant states, "[redacted] was a cook onboard for our customer's vessel, the [redacted] for the offshore workers. [redacted] worked on the vessel as a cook; not on the rig." The separation notice provided by [redacted] Services states, "[redacted] was arrested and taken into custody by [redacted] Harbor Police while onboard our customer's vessel, the [redacted]."

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 altered document in conjunction with his claim submission for which the NPFC was able to obtain from Claimant's previous employer, an unaltered copy of said document.[5]

Claim Supervisor: [redacted]

Date of Review: *1/7/11*

Supervisor's Comments: ***Denial approved***

[3]Separation Notice Alleging Disqualification provided by Mr. [redacted] of 07JUN10

[4] Separation Notice Alleging Disqualification provided by Claimant.

09/14/11 FOIA2011-3380-00001274

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0323
23 March 2011

[redacted]

Re: Claim Number: N10036-0323

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 N10036-0323 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0323.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

FOIA2011-3380-00001275

CLAIM SUMMARY / DETERMINATION FORM

Date	21 March 2011
Claim Number	N10036-0323
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$350,000.00

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 21 December 2010 [redacted] (Owner) on behalf of [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC). The OSLTF claim form alleged $350,000.00 in loss of profits and earning capacity resulting from the Deepwater Horizon oil spill.

The Owner operates a small vacation/fishing resort in Marathon, Florida (Claimant/business). The resort has 12 suites, 14 fishing boats and 2 charter boats.[1] The Owner asserted that, as a result of media coverage and public perception that the Deepwater Horizon oil spill would affect the Florida Keys, the resort sustained cancelled reservations and a loss of profits.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

a. That real or personal property or natural resources have been injured, destroyed, or lost.

b. That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] Answers to questions 1 through 10 from the NPFC's Request for Additional Information from 7 January 2011.
[2] OSLTF claim form.

FOIA2011-3380-00001276

c. The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

d. Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
c. Potential income from alternative employment or business not undertake, but reasonably available;
d. Any saved overhead or normal expenses not incurred as a result of the incident; and
e. State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support the claim, the Owner on behalf of [redacted] submitted the following documentation:

- OSLTF claim form, dated 05 December 2010;
- Fax cover letter to the NPFC, dated 21 December 2010;
- Monthly profit and loss statements for the period of January 2007 through December 2010.
- Copies of reservation confirmations that were subsequently canceled;
- Email correspondence from customers canceling their reservations;
- Copies of credit card drafts confirming deposits for reservations and the subsequent cancellation;
- Claim Form from the GCCF;
- U.S. Federal Tax Returns (1120S) for the years 2007, 2008 and 2009;
- Bank Statements for the months of January 2009 through December 2010;
- Florida Sales and Use Tax Returns (from both lodging and boat rentals) for November 2009, January 2010, and May 2010;
- Answers to questions 1 through 10 from the NPFC's Request for Additional Information from 7 January 2011
- Partially legible handwritten Reservation Logs for 27 December 2008 through 24 December 2009;
- Payroll Registers from 29 March 2009 through 11 January 2011; and
- Reservation Logs for January of 2009 through December of 2010.

Claimant seeks $350,000.00 in loss of profits and earnings capacity allegedly resulting from the Deepwater Horizon incident.

Prior to the GCCF, Claimant received payment of at least $29,595.00 from the RP.[3] On 27 August 2010, the Owner filed an Emergency Advance Payment (EAP) claim for $22,087.00 in lost profits and earnings with the GCCF. She was assigned GCCF Claimant ID [redacted] and Claim [redacted]. This claim was denied on 29 November 2010. The Owner then filed two additional EAP supplemental claims for lost profits and earnings with the GCCF. She was assigned Claim [redacted] and Claim [redacted] respectfully. Both claims were for $58,571.00 and were later denied by the GCCF. The GCCF later re-considered the Claimant's EAP claims and issued total payment in the amount of $194,200.00.[4]

NPFC Determination

This claim is denied. 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 U.S.C § 2713 and 33 C.F.R. § 136.103, a claimant may elect to present a claim to the OSLTF if that claim was first submitted to the responsible party.

Based on a review of the documentation provided and the Owner's admissions, the NPFC concludes that the Claimant has been compensated by the RP for all potential losses sustained. The GCCF paid the Claimant $194,200.00 and the Claimant received at least another $29,595.00 from the RP prior to the establishment of the GCCF. This compensation, amounting to a total of at least $223,795.00, exceeds the potential losses for the Claimant as calculated by the NPFC and based on the documentation presented to the NPFC for consideration.

There is an additional issue with this claim; the Claimant's three EAP claims to the GCCF total $139,229.00. However, the Claimant presented a claim to the NPFC for $350,000; thus, proper presentment pursuant to 33 C.F.R. § 136.103 has not been demonstrated. If the Claimant decides to return to the NPFC on reconsideration, this discrepancy in value will have to be addressed and the Claimant must be able to provide evidence to the NPFC that proper presentment of the total amount requested of $350,000.00 had been presented to the RP prior to presenting its claim to the NPFC. Based on the preceding analysis, this claim is denied because (1) the NPFC had determined that the Claimant has been fully compensated by the RP and (2) Claimant has failed to demonstrate that the claim in the sum of $350,000.00 has been properly presented to the RP.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***3/23/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Claimant confirmed this amount via PHONECON with the NPFC on 25 February 2011.
[4] Claimant confirmed the receipt of $194,200.00 from the GCCF via PHONECON with the NPFC on 25 February 2011.

FOIA2011-3380-00001278

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
1/10/2011

BY MAIL AND EMAIL

[redacted]

[redacted]

RE: Claim Number: N10036-0324

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0324 involving the Deepwater Horizon oil spill. Please see attached Claim Summary/Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0324.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 7, 2011
Claim Number	: N10036-0324
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $37,500.00

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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 7, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $37,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant is asserting that he was terminated from his work assignment as a Manager at [redacted] restaurant in Jacksonville, Florida because of the Deepwater Horizon incident.

The Claimant stated that he has been a Manager at the restaurant for the past 12 years collecting an annual salary on $52,000.00. The Claimant provided pay stubs showing full-time employment at [redacted] through August 27, 2010. At that time, the Claimant states the restaurant was forced to shut down due to the oil spill pushing him to file for unemployment with the State of Florida. The Claimant received unemployment benefits on September 20, 2010 in the amount of $275.00 and increased to $550.00 for each subsequent check through the date of the Claimant's submission to the NPFC.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the

09/14/11 FOIA2011-3380-00001280

responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 7, 2010
- Claim correspondence with GCCF
- Unemployment compensation benefit records from September 11, 2010 through December 11, 2010
- Check stubs from January 8, 2010 through August 27, 2010
- Various applications the Claimant submitted to potential employers
- Personal narrative by Claimant to the GCCF
- Letter from [redacted] signed and dated by the Claimant. The Claimant lists himself as the owner on the document and provides his telephone number for contact

NPFC Determination

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 claim is denied because the Claimant's alleged loss is a result of his employer closing down the business and not a direct result of the Deepwater Horizon oil spill.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/7/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
2/16/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0325

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0325 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0325.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 16, 2011
Claim Number	: N10036-0325
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 21, 2010, [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $6,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that businesses on the Causeway and along the Florida Gulf Coast were not ordering therefore his hours were cut. The Claimant does not mention the name of his employer nor the product they sell along the Gulf Coast.

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF on October 27, 2010 and was subsequently denied on November 23, 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 13, 2010.
- Undated letter from Claimant to the GCCF regarding claim.
- Income Tax Return Form 1040A for 2009.
- 2009 W-2s for Dees Paper CO Inc.
- Earning Statements from May 2, 2010 through August 12, 2010.

NPFC Determination

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.

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that her loss of income was due to injury or 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.

Based on the documentation provided from Claimant, he indicated that his income was reduced due to no one ordering the product he delivers along the Gulf Coast as a result of the Deepwater Horizon incident.

On January 10, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain the necessary information to adjudicate the claim. The documentation requested consisted of the following:

- Income Tax Returns for 2008, including all attachments, W-2's and form 1099's.
- Provide all pay checks, pay stubs or earnings statements for any other employment held from 2009 through the current period.
- Written confirmation from your employer verifying that your work hours were reduced because of reduced business as a result of the Deepwater Horizon incident.
- Provide documentation supporting any unemployment benefits received during 2009 and 2010.

The NPFC also requested the Claimant answer the following questions:

- Provide a detailed description for the basis of the claimed amount of $8,000 along with any accompanying schedules or calculations.
- Describe how the Deepwater Horizon incident affected your employment a[redacted]
- Describe your duties and nature of your employment a[redacted]
- Describe your employment history starting from 2008 through the current period stating the approximate start and end dates, locations and names.
- At any time during 2010, did you move to other geographical areas to seek employment?
- Identify all jobs that you applied for during 2010. Provide the name of the company, the type of business and what type of position you applied for.
- Identify any period(s) of time during 2009 and 2010 when you were not working.
- Have you filed for unemployment benefits at any time from 2008 through the present period? If so, provide your statement of benefits and identify the total amounts received.
- Describe any other sources of employment that was available to you in 2010.
- Describe your current employment/ work status

The Claimant has not provided additional documents nor answered any of the questions to support his claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden demonstrating that he has a loss of profits and earnings and that it was the direct result of the Deepwater Horizon incident.

Claim Supervisor: *I*[redacted]

Date of Supervisor's review: ***February 16, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
2/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0326

[redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0326 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0326.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 24, 2011
Claim Number	: N10036-0326
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $8,000.00

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. 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 August 23, 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 December 21, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $8,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her job as an in-home daycare worker in New Orleans, Louisiana as a result of the Deepwater Horizon incident. Claimant stated that the parents of the children she provided daycare service for, lost their jobs as a result of the Deepwater Horizon incident therefore there was no need to use the Claimant's daycare service any longer.

The Claimant filed an Emergency Advance Payment claim with the GCCF on October 7, 2010 and was given claim [redacted]. She was subsequently denied on December 7, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 13, 2010;
- Letter from GCCF dated 7 December 2010 regarding claim;
- Letter from Claimant undated regarding claim;
- US Individual Income Tax Return Form 1040 Schedule C for 2008 and 2009;
- Monthly bank statements from [redacted] from April 3, 2010 through October 3, 2010;
- Reimbursement voucher for meals forms from [redacted] for October 2009 through July 2010.

NPFC Determination

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.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon incident. On January 10, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain the necessary information in order to be able to adjudicate the claim. The documentation requested consisted of the following:

1. Revenue reports on a monthly basis for 2009 through the present.
2. Provide description of services provided and rates per week for services.
3. Letters from your former clients stating the reason why they are no longer using your day care services.
4. Provide documentation supporting any unemployment benefits received during 2009 and 2010.

The NPFC also requested the Claimant answer the following questions:

1. Provide a detailed description for the basis of the claimed amount of $8,000 along with any accompanying schedules and/or calculations.
2. Describe your employment history starting from 2008 through the current period stating the approximate start and end dates, locations and names.
3. At any time during 2010, did you move to other geographical areas to seek employment?
4. Identify all jobs that you applied for during 2010. Provide the name of the company, the type of business and what type of position you applied for.
5. Identify any period(s) of time during 2009 and 2010 when you were not working.
6. Have you filed for unemployment benefits at any time from 2008 through the present period? If so, provide your statement of benefits and identify the total amounts received.
7. Describe any other sources of employment that was available to you in 2010.
8. Describe your current employment / work status.

The Claimant provided no additional documents nor answered any of the questions to support her claim in order to demonstrate she had a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/24/11***

Supervisor Action: ***Denial approved***

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS-7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
2/28/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0327

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0327 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0327.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/28/2011
Claim Number	: N10036-0327
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,400.00

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 December 21, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $20,400.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost her employment at a [redacted] as a result of the Deepwater Horizon incident.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for

FOIA2011-3380-00001292

profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, December 21, 2010;
- Undated Letter 1 from Claimant regarding claim;
- Undated Letter 2 from Claimant regarding claim;
- Claimant's Florida state drivers license;
- Claimant's health insurance card;
- US Individual Income Tax return Form 1040 for 2008 and 2009;
- Check stubs from April 2010 through August 2, 2010.

NPFC Determination

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.

Based on the documentation provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon incident. On January 10, 2011, the NPFC emailed and sent via certified mail, a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim. To date, the Claimant has failed to respond to the request for additional information in support of her claim.

Since the Claimant has not provided additional documentation as requested by the NPFC nor has she answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings, the claim is denied. The Claimant has failed to meet her burden of establishing a loss of profits and earnings demonstrating that her income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/28/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
2/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0328

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0328 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0328.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001295

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 24, 2011
Claim Number	: N10036-0328
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $37,282.00

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. 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 August 23, 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 December 17, 2010, [redacted], on behalf of [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $37,282.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost profits & earnings from his home remodeling business due to losing business customers and due to cancelled jobs in Mobile, Alabama as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment claim with the GCCF and was given claim [redacted]. He was subsequently denied on December 6, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

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(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

1. NPFC OSLTF Claim Form dated December 16, 2010;
2. Letter from GCCF dated 6 December 2010 regarding claim;
3. Letter from Claimant dated November 15, 2010 regarding claim;
4. Claimant's Alabama state driver's licenses;
5. US Individual Income Tax Return Form 1040 for 2009;
6. Monthly profit and loss statements for February 2010 through November 2010;
7. Illegible contractor invoices for worked preformed at site 3382215;
8. State of Alabama bond information.

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon incident. On January 10, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain the necessary information in order to be able to adjudicate the claim. The documentation requested consisted of the following:

1. Monthly profit and loss statements for January 2009 through January 2010.
2. US Individual Income Tax Return Form 1040 and all accompanying schedules for 2008.
3. Legible contractor invoices for worked preformed at site 3382215.
4. All cancelled contracts from January 2009 through the present along with a description of why each contract was cancelled.
5. Letters from your former clients regarding reasons for cancelled contract that resulted from the incident.
6. Provide documentation supporting any unemployment benefits received during 2009 and 2010.

The NPFC also requested the Claimant answer the following questions:

1. Provide a detailed description for the basis of the claimed amount of $37,282 along with any accompanying schedules and/or calculations.
2. Describe your employment history starting from 2008 through the current period stating the approximate start and end dates, locations and names.
3. At any time during 2010, did you move to other geographical areas to seek employment?
4. Identify all jobs that you applied for during 2010. Provide the name of the company, the type of business and what type of position you applied for.
5. Identify any period(s) of time during 2009 and 2010 when you were not working.
6. Have you filed for unemployment benefits at any time from 2008 through the present period? If so, provide your statement of benefits and identify the total amounts received.
7. Describe any other sources of employment that was available to you in 2010.
8. Describe your current employment/ work status.

The Claimant provided no additional documentation as requested by the NPFC nor answered any of the questions to support his claim in order to demonstrate he had a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: *2/24/11*

Supervisor Action: ***Denial approved***

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0329
24 March 2011

[redacted]

RE: Claim Number: N10036-0329

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 N10036-0329 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0329.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	23 March 2011
Claim Number	N10036-0329
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$35,000.00

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 certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT

On 20 December 201[redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC). The OSLTF claim form alleged $35,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon oil spill.

Claimant asserted that he worked as a Class "A" Hazardous Materials (HAZMAT) driver in Reserve, Louisiana, for [redacted] He further asserted that as a result of the Deepwater Horizon oil spill, "there has been a slow down and . . . [he is] not driving . . . [as of the date of his claim presentment to the NPFC]."[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] Typewritten statement from Claimant providing brief explanation of nature of employment and loss, undated.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

In support of his claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form, unsigned and undated;
- Typewritten statement from Claimant providing brief explanation of nature of employment and loss, undated;
- 2008 W-2 from [redacted]nd
- 2009 W-2 from [redacted] Inc.

Claimant seeks $35,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil spill.

On 18 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $24,000.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted] and Claim [redacted].[2] On 29 November 2010, his claim was denied by the GCCF.[3]

NPFC Determination

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

[2] GCCF Claimant status webpage for GCCF Claimant ID [redacted]
[3] GCCF denial letter Re: Claimant's Emergency Advance Payment claim dated 29 November 2010.

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impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the Claimant has not provided evidence demonstrating his $35,000.00 loss as claimed and that this alleged loss is 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.

Specifically, Claimant has not provided monthly earnings and wage statements that establish what his income was, both prior and subsequent to the oil spill, as required by 33 C.F.R. § 136.233 (c). Additionally, a human resource representative from [redacted] (Claimant's employer) stated during a phone interview on 13 January 2011 with the NPFC that the Deepwater Horizon did not impact [redacted] In light of this statement and the lack of contrary documentation from Claimant, the NPFC concludes that Claimant has not met his evidentiary burden under 33 CFR § 136.105(a).[4]

For the foregoing reasons, the claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***3/24/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[4] On 24 February 2011, the NPFC dispatched a letter to Claimant requesting additional information concerning the nature of Claimant's employment and asserted loss. That letter stipulated that if the NPFC did not receive the requested information within 14 days, the claim would proceed to be adjudicated without it. As of the date of this determination, NPFC's request remains unanswered.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

5890
12/22/2010

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0330

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0330 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0330.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/22/2010
Claim Number	: N10036-0330
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $139,316.26

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 15 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $139,316.26 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was unable to find employment due to the Deepwater Horizon oil-spill incident. The Claimant was unemployed at the time of the incident and had been on unemployment until May 2010 according to his personal statement dated December 15, 2010. The Claimant was in a Federal Unemployment and State of Florida Unemployment Training Program in order to learn a trade building ships. He attended the program from January 18, 2010 until his graduation June 2010. After graduation, the Claimant states he was unable to obtain employment in his field of training which he states the average annual salary is $50,000.00 a year. The Claimant is requesting compensation for a year of wages with an estimated annual salary of $50,000.00 a year; $5,000.00 for the tuition costs of the ship building class; and Claimant is requesting $84,316.26 for the loss of his home to foreclosure. Claimant alleges he lost his home because BP and GCCF stalled in processing and paying his claim.

APPLICABLE LAW:

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form undated, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated October 29, 2010, a copy of a letter from the claimant dated December 15, 2010 which explains his circumstances related to his unemployment, 2008 and 2009 Tax Returns, a copy of the foreclosure package on Claimant's home. The foreclosure package shows the home had been in default since 2008 therefore the Claimant's foreclosure was not a result of the Deepwater Horizon oil-spill but rather a result of the home remaining in default for over two years. The GCCF assigned claim identification # [redacted] to [redacted] claim submission. To date, the Claimant has not received payment or denial of his claim.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $139,316.26 is 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. Claimant's alleged loss of profits is the result of his inability to obtain employment in his field of training. The Claimant had been unemployed and in a Federal Training Program for ship building since January 2010, long before the Deepwater Horizon oil-spill. Additionally, the Claimant is alleging the loss of his home through foreclosure because GCCF stalled in the processing of his claim although the foreclosure documents provided in his claim package demonstrates that the Claimant's home had been in default since 2008 therefore the foreclosure resulted from failure to make scheduled mortgage payments over an extended period of time resulting in the final foreclosure of the home due to default.

Finally, the Claimant is requesting to be paid a year of wages based on the average annual salary he researched on line in the amount of $50,000.00. The Claimant was not employed for the entire 2010 year and has not met his burden to establish how he is entitled to such compensation.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/22/10

Supervisor Action: DENIAL AFFIRMED

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0331
02 March 2011

[redacted]

Re: Claim Number: N10036-0331

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 N10036-0331 involving the Deepwater Horizon oil-spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0331.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Date	02 March 2011
Claim Number	N10036-0331
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity/Loss of Subsistence Use
Claim Manager	[redacted]
Amount Requested	$57,000.00

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 15 September 2010, [redacted] on behalf of [redacted] (Claimant) presented an Emergency Advance Payment claim in for the amount of $57,000.00 to the RP. That claim, with assigned Claimant Identification Number: [redacted] per the Claimant, was denied. The Claimant subsequently presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking $57,000.00 in lost profits & earnings capacity on 15 December 2010.

On the Optional OSLTF Claim Form, [redacted] asserted that his business was impacted by tourist cancellations and fear of water pollution.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the lost profits and earnings capacity claim, the Claimant provided the following documents:

1. Optional OSLTF Claim Form dated 07 December 2010

NPFC Determination – Lost Profits and Earnings Capacity

This claim for lost profits and earnings capacity is denied. 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. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Based on the documentation and information presented to the NPFC, which consisted only of the Optional OSLTF Claim Form, the Claimant has not established that any loss of profits or earnings capacity occurred 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. Therefore the Claimant has failed to meet the burden of proof in demonstrating a loss of profits and earnings and this claim is denied.

Claim Supervisor: [redacted]

Date of Review: ***3/2/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
1/24/2011

BY MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0332

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0332 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0332.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 24, 2011
Claim Number	: N10036-0332
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $27,200.00

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 December 21, 2010, [redacted] Claimant) presented a lost profits & earnings claim in the amount of $27,200.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her work assignment as a District Sales Manager at [redacted] in Pensacola, Florida as a result of the Deepwater Horizon incident.

A letter from [redacted], President of [redacted] stated that the Claimant has a flexible work schedule and primarily works in the evenings and on weekends. He goes on to say that as a salaried employee, the company pays the Claimant based on the workload and responsibility of being a sales trainer for four stores. Lastly, the [redacted] eported that the Claimant's pay increases with the opening of each new store.

[redacted] Human Resources Director of [redacted] provided a letter that stated the Claimant had a significant reduction in salary due to the drastic decrease in sales at the company. [redacted] provided this letter after questions were raised by the NPFC pertaining to the Claimant's earnings statements. The earnings statements showed a loss in weekly income but a forty hour work week was maintained.

The GCCF assigned Claimant identificatio[redacted]. The Claimant provided the GCCF denial later dated November 29, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury.

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destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 21, 2010
- U.S. Individual Income Tax Return, Form 1040 for 2007, 2008 and 2009
- Weekly Payroll Summary report from [redacted] from 1/1/09 to 12/17/10
- Correspondence from [redacted] in Pensacola, FL dated 19 October 2010

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- Correspondence from claimant, no date
- GCCF claim denial letter dated 29 November 2010
- Personal narrative by Claimant to the GCCF
- W-2 Wage and Tax Statement for 2007, 2008 and 2009
- 2009 commission statements from employment as an independent beauty consultant with [redacted]
- Justification of work schedule letter from employer
- Confirmation from employer's HR director confirming reduction of hours
- Weekly payroll amounts for January 2010 through April 2010

NPFC Determination

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.

Based on consideration of all documents and information presented as well as correspondence with the employer, Claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. As such, this claim for lost profits and earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***1/24/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
12/22/2010

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0333

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0333 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0069.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11

FOIA2011-3380-00001315

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/22/2010
Claim Number	: N10036-0333
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $26,400.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 21 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $26,400.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was dismissed from his oil-spill response work only three months after beginning his employment when he alleges that he was promised employment until at least around June 2011. [redacted] is requesting $1,100.00 a week (which is what he was making prior to reduced hours and then dismissal) for six months.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

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(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form which is undated although received by our office on December 21, 2010, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated November 2, 2010, a copy of Claimant's certificate of training, a copy of his employee response badge, a copy of his driver's license and social security card, a copy of a letter from the claimant which explains the basis for his claim, a copy of his Notice of Termination/Separation from Employment with [redacted] and copies of his pay stubs. The GCCF assigned claim identification [redacted] to [redacted] claim submission. On November 2, 2010, the GCCF issued a letter to [redacted] stating that his submission was missing information therefore they could not proceed with the processing of the claim. There is no confirmation that additional information was sent and received by the GCCF.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $26,400.00 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Comments: Denial affirmed

1U.S. Department
of Homeland
Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0334
22 February 2011

[redacted]

RE: Claim Number: N10036-0334

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0334 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0334.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	19 February 2011
Claim Number	N10036-0334
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$4,676.94

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 21 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $4,676.94 in lost profits and earning capacity to the National Pollution Fund Center (NPFC) alleging damages resulting from the Deepwater Horizon incident.

The Claimant works with the [redacted] in medical records. Due to the Deepwater Horizon incident, the Claimant asserted that the patients do not have their co-pays or the gas monies to drive to their appointment(s). Since the patients have cancelled their appointments, the doctors cut back the hours of the office staff.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the OSLTF Claim Form signed 21 December 2010, a copy of GCCF Notice dated 01 December 2010, copies of her 2008 and 2009 US Individual Income Tax Return and Alabama State Income Tax Returns, a W-2 for 2009, a letter to BP concerning her claim dated 11 November 2010 and statements from [redacted]

On 10 January 2011, the NPFC sent a letter to the Claimant requesting additional information in order to obtain the necessary information to adjudicate the claim. The Claimant did not respond to the NPFC's request for information. The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered to the claimant on 18 January 2011.

Claimant is alleging lost earnings and wages in the amount of $4,676.94.

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID [redacted] and Claim [redacted] On 03 December 2010 GCCF denied her claim. This information was verified by the NPFC.

NPFC Determination

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. Under 33 C.F.R. § 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 claim is denied because the evidence presented by the Claimant does not prove that her alleged loss is due to the Deepwater Horizon incident. On 10 January 2011 NPFC sent a letter to the claimant requesting additional information so the claim could be further reviewed. The Claimant did not respond to the request. The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered to the claimant on 18 January 2011. Since the Claimant has not respond to the request for additional information, the Claimant has failed to meet her burden in demonstrating that her alleged loss of income resulted from the Deepwater Horizon incident therefore this claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/19/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0335
18 February 2011

[redacted]

RE: Claim Number: N10036-0335

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0335 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0335.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date:	15 February 2011
Claim Number:	N10036-0335
Claimant:	[redacted].
Type of Claimant:	Corporate (US)
Type of Claim:	Loss of Profits and Earning Capacity
Claim Manager:	[redacted]
Amount Requested:	$10,000.00

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 14 December 2010 [redacted] as corporate agents for [redacted] Inc. (Claimant), presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC), seeking $10,000 in lost profits and earning capacity as a result of the Deepwater Horizon incident.[1]

The Claimant did not provide any information about the nature of its business or claimed loss beyond the amount requested.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] Claimant's original submission did not contain a requested sum. Claimant followed-up with a fax on 21 December 2010 presenting an amended OSLTF with a sum certain of $10,000.

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returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

In support of the claim, Claimants presented an OSLTF Claim Form, a 2009 S-Corporation tax return (with schedules), a copy of a balance sheet from 31 August 2010, and profit and loss statements for April through July 2010.

The Claimant seeks $10,000 in lost profits allegedly as a result of the Deepwater Horizon incident.

On 10 November 2010, the Claimant filed a six-month Emergency Advance Payment claim for $8,000.00 in lost profits with the GCCF. The Claimant was assigned Claimant ID [redacted] and Claim [redacted]. On 10 December 2010, the claim was denied. The NPFC verified this information.[2]

NPFC Determination

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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation presented by the Claimant.

[2] On 04 January 2010, the Claimant filed a Final Payment claim with the GCCF. This claim is still under review.

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On 10 January 2011, NPFC sent a letter to the Claimant requesting additional information regarding the nature of its business and claimed loss. In that letter, the NPFC informed the Claimant that if the information requested was not received within 14 days, the NPFC would proceed with adjudication based on the documentation presented. The NPFC verified this letter was delivered via Certified Mail to Sal Seidito on 15 January 2011. As of the date of this determination, the Claimant has not responded to NPFC's request.

The Claimant has not provided additional documentation to support the claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet the burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0336
09 March 2011

[redacted]

Re: Claim Number: N10036-0336

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.) and associated regulations at 33 C.F.R. Part 136, denies payment on the claim number N10036-0336 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0336.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/2/2011
Claim Number	: N10036-0336
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $9,500.00

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 21 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $9,500.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

Since March 2010, the Claimant worked full-time at the [redacted] in Picayune, MS. Claimant indicated that as a result of Deepwater Horizon oil-spill's impact on Gulf tourism, the [redacted] occupancy rate dropped below 50%, which lead to payroll cuts and the reduction of the Claimant's hours.[1] As of December 2010, the Claimant indicated that she was down to 20 hours a week because of these payroll cuts.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] Claimant's hardship letter, undated.
[2] *Id*

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(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form dated 10 Oct 2010 - page one only;
- Letters from GCCF dated 23 Oct 2010, 09 Nov 2010 and 08 Dec 2010;
- Unsigned, 'To Whom it May Concern' letter from [redacted] Picayune, MS, dated 20 Dec 2010;
- 2008 Form W-2 from [redacted]
- 2009 Form W-2 from [redacted]
- "Deposit Advice" from [redacted] covering pay periods 11 Jan 2010 through 24 Jan 2010, 25 Jan 10 through 07 Feb 10, 22 Feb 2010 through 07 Mar 2010 and 08 Mar 2010 through 21 Mar 2010;
- Various weekly pay stubs from [redacted] with pay dates ranging from 26 Mar 2010 to 22 Oct 2010, not all pay periods submitted;
- Claimant's Mississippi Individual Income Tax Declaration, 2008;
- Claimant's 2008 Federal Tax Form 1040, with attachments;
- Claimant's 2009 Federal Tax Form 1040A;
- Claimant's hardship letter, undated;
- Claimant's birth certificate;

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- Claimant's Mississippi Driver's License;
- Claimant's 2009 Form 1099-G from Mississippi Department of Unemployment Security;
- Unsigned, undated cover letter 'To Whom My Claim Adjuster';
- Handwritten fax cover letter dated 20 December 2010 'To Whom it May Concern', with attachments of duplicate 'Deposit Advice' from Shoney's and [redacted] pay stubs.

On 19 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $5,000.00 in lost earnings with the GCCF. She was assigned GCCF Claimant ID [redacted] and Claim[redacted]. On 09 November 2010, this claim was denied by the GCCF.[3]

NPFC Determination

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. Under 33 C.F.R. § 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 Claimant provided a letter from the front desk manager at the [redacted] confirming her reduction in hours in light of occupancy and budget cuts.[4] In connection with the review of this claim, the NPFC contacted the hotel manager to verify that the Claimant's reduction in hours resulted from the Deepwater Horizon oil-spill. The hotel manager stated that the Claimant's reduction in hours resulted from a management decision to improve profits for the hotel in December 2010, not because of the Deepwater Horizon oil-spill.[5]

The claim is denied because the Claimant has failed to demonstrate that her alleged loss in the amount of $9,500.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/9/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[3] GCCF denial letter dated 09 November 2010. Claimant has two separate Final Payment claims under review with the GCCF.
[4] Unsigned letter, from [redacted] dated 20 December 2010 'To Whom it May Concern'.
[5] Telephone conversation between the NPFC and [redacted] Manager of the H[redacted] Picayune, Mississippi, on 03 February 2011. The manager indicated that the Claimant left the [redacted] for better paying opportunities.

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U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
12/23/2010

VIA MAIL:

[redacted]

RE: Claim Number: N10036-0337

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0337 involving Deepwater Horizon. Please see the attached summary for the details and rationale associated with this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0337.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001331

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/23/2010
Claim Number	: N10036-0337
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $2,320.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On December 20, 2010, the Claimant, [redacted] presented a lost profits & earnings claim in the amount of $2,320.00 to the National Pollution Funds Center (NPFC) for reimbursement of his vacation cancellation that was scheduled to be taken from July 16 – 28, 2010 for planned travels to the Southern United States.[1] The claim consists of an Oil Spill Liability Trust Fund (OSLTF) Claim Form, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated November 12,, 2010, a copy of cancellation letter from [redacted] dated June 23, 2010, a statement describing breakdown of claim amount requested, a copy of the original travel schedule and airfare schedule for August 2010.

The GCCF assigned claimant identification [redacted] to [redacted] claim submission. On November 12, 2010, the GCCF issued a denial to [redacted] stating the Claimant did not provide proof of damage for the claim presented.[2]

[redacted] is claiming increased expenses associated with changing his summer travel plans from Canada to the Southern United States. [redacted] who resides in Canada, had a reservation to travel from 16 July 2010 through 28 July 2010. Subsequent to the Deepwater Horizon incident, [redacted] decided to cancel his reservations due to uncertainties about the impacts of the incident to the Southern United States locations. [redacted] cancelled his original hotel reservations on or about June 23, 2010 and was able to receive a hotel credit certificate to be used at a later date[3]. [redacted] later re-scheduled his summer travels for August 20-28, 2010 from Canada to Los Angeles, CA. The cost of his airfare for himself and family came to $2,580.00.[4] [redacted]s requesting compensation for the airfare in the

[1] *See,* OSLTF Claim Form dated December 20, 2010.
[2] *See,* GCCF denial letter dated November 12, 2010.
[3] *See,* [redacted] letter dated June 23, 2010.
[4] *See,* [redacted] confirmation letter dated August 10, 2010.

amount of $2,580.00 less $260.00 giving credit for his previously anticipated fuel transportation costs based on mileage from Canada to Pensacola, FL bringing the total travel request to $2,320.00. [redacted] has submitted a claim to the NPFC in the amount of $2,320.00.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS:

NPFC Determination

The claim is denied 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. The alleged loss is due to personal decisions made by the Claimant. Such a loss as the one claimed in this case, is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/23/10

Supervisor Action: Approved; Claim is denied.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
1/18/2011

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0338

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0338 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation of this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0338.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enc: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/14/2011
Claim Number	: N10036-0338
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $21,502.00

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 December 22, 2010, [redacted](Claimant), presented a lost profits & earnings claim in the amount of $21,502.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant has only provided an Oil Spill Liability Trust Fund (OSLTF) claim form. The Claimant's submission fails to support the amount requested nor does the claim submission have any explanations and rationale on what the Claimant is seeking and why.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

NPFC Determination

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 claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/18/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/31/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0339

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0339 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0339.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001337

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 31, 2011
Claim Number	: N10036-0339
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $2,500.00

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 December 13, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $2,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her work assignment as a babysitter in Mobile, Alabama as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to her claim with the GCCF, but stated her claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 13, 2010
- Personal hardship letter
- Hardship letter from [redacted]
- Handwritten summary of check stubs
- Photocopy of Driver's License
- Handwritten response to NPFC's request for additional information

NPFC Determination

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.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced due to her employer, [redacted] (Fisherman), being directly affected by the Deepwater Horizon Incident. In the Claimant's response to the NPFC, she stated that she has never filed taxes before and that her employer writes her a check for $300.00 every Friday for watching his children while he is underway fishing. The Claimant has not provided additional documents to support that she experienced a financial loss as a direct result of the Deepwater Horizon Incident. Therefore, this claim is denied because the Claimant has failed to meet her burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/31/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/31/2011

BY MAIL AND EMAIL
[redacted]

RE: Claim Number: N10036-0340

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0340 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0340.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 31, 2011
Claim Number	: N10036-0340
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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 December 13, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $12,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his work assignment at [redacted] in New Orleans, Louisiana as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form received December 22, 2010
- Personal hardship letter dated December 22, 2010
- Hardship letter from [redacted] Inc.
- Photocopy of Driver's License and Social Security Card
- [redacted] Pay Summary from January 20, 2009 through December 14, 2010
- W-2 Wage and Tax Statement for 2009
- Six (6) Earnings Statements from [redacted]

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon Incident. The NPFC faxed a request for additional information to the Claimant to assist in the adjudication of the claim on January 4, 2011. The documentation requested consisted of the following:

1. Income Tax Return Filings for 2008 and 2009 including all attachments, Schedule C's, W-2's and form 1099's;
2. Provide copies of pay stubs, pay checks and earnings statements for all employment held for the following period: 2009 and 1 January 2010 - 5 May 2010, 20 May 2010 - 2 June 2010, 17 June 2010 - 14 July 2010, 22 July 2010 - 28 July 2010, and 5 August 2010 – Present;
3. Copies of your work schedules prior to and after the Deepwater Horizon incident to show a decline in scheduled hours;
4. If you have received unemployment benefits, provide copies of payments received and statements of benefits from 2009 through the present.

The NPFC also requested the Claimant answer the following questions:

1. Describe your employment history from 2008 through the current period.
    a. Include a list of your employers with start and end dates.
    b. Include a description of dates worked, your position held and job duties.
2. Have you been able to find alternative employment since your hours were reduced? If so, describe the jobs and positions held.
3. Identify all jobs that you applied for during 2010. Provide the name of the company, the type of business and what type of position you applied for.
4. Describe your compensation with your employer:
    a. How often are you paid?
    b. How do you receive your compensation?
    c. If paid based on hours worked, how much are you paid per hour?
5. Since you are claiming a reduction in hours, describe your work schedule prior to and after the Deepwater Horizon incident.
6. Identify your position, job title and responsibilities for your employment position that you believe was impacted by the Deepwater Horizon incident.
7. Describe why you believe your wages were negatively impacted by the Deepwater Horizon incident.
8. If you have received unemployment benefits, identify the periods of time when you received benefits and the amounts received during 2009 and 2010.
9. Has your employer or former employer filed a claim related to the Deepwater Horizon incident? If so, describe the outcome of your employer's claim.
10. Describe your current employment/ work status.
11. Describe your primary form of employment and trade skills.
12. Describe how you computed your claimed lost earnings.

The Claimant has not provided additional documents nor answered any of the questions to support his claim and associated loss. Therefore, this claim is denied because the Claimant has failed to meet his burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor [redacted]

Date of Supervisor's review: *1/31/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0341
14 February 2011

[redacted]

RE: Claim Number: N10036-0341

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0341 involving the Deepwater Horizon incident. Please see the attached Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0341.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Enclosure: (1) Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 14 February 2011
Claim Number	: N10036-0341
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claims Manager	: [redacted]
Amount Requested	: $18,200.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 22 December 2010, [redacted], on behalf of [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $18,200.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted he has a loss of profits and earnings capacity due to the "non renewal of contracts that were active at the time of the Deepwater Horizon oil-spill incident" as contracts for services were cancelled and no new customers were forthcoming. Claimant was forced to close the business.[1] Claimant resides in Kentucky and advised that he was the sole employee of the business.[2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

[1] See, NPFC Optional OSLTF Claim Form signed and dated 21 December 2011
[2] See, [illegible] information provided on 19 January 2011

09/14/2011 FOIA2011-3380-000134
ENCLOSURE
ENCLOSURE

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant presented the NPFC Optional OSLTF Claim Form on 22 December 2010, various tax returns, income statements, and contracts alleged to have been cancelled subsequent to the oil-spill. Claimant also provided a letter dated 01 May 2010, eleven days after the initial explosion, wherein a [redacted] the Property Management Coordinator for [redacted] advised that the BP oil-spill had created issues with business and tourism. Claimant filed a claim with the GCCF on 21 November 2010 for the amount of $15,600.00, Claimant ID [redacted] and was denied.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $18,200.00 is 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. Additionally, a conversation with [redacted] the Property Management Coordinator for [redacted] revealed that the letter written wasn't entirely forthcoming as to the exact reason for non-renewal. She advised that the economy played the major role in the decision as she had to make cutbacks for savings from the accounting perspective and the maintenance contract was therefore not renewed.[3] The Claimant has failed to meet the burden of proof by providing evidence and information to support his claim demonstrating he has experienced lost profits and earnings as a direct result of the Deepwater Horizon incident, therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/14/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[3] Phone conversation between [redacted] 04 February 2011

09/14/11 FOIA2011-3380-00001349

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
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail: [redacted]
Fax: 202-493-6937

5890

1/4/2011

VIA MAIL and EMAIL: [redacted]@gmail.com

[redacted]
Parsippany, NJ 07054

RE: Claim Number: N10036-0342

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0342 involving the Deepwater Horizon incident. Compensation is denied because your claimed loss is not caused by the oil-pollution incident.

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: Determination Form

CLAIM SUMMARY / DETERMINATION ON RECONSIDERATION FORM

Date	: 1/4/2011
Claim Number	: N10036-0342
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $1,700.00

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:

Claimant presented a claim of $1,700.00 to the NPFC for lost earnings. [redacted] is claiming cancellation fees associated with vacation travel that was scheduled for 17 people to travel from New York to Orlando, FL, and return travel from Ft. Myers, FL to New York. [redacted] who resides in Parsippany, NJ, had flight reservations to Florida on 3 August 2010 and returning to New York on 10 August 2010. The claim documentation provided shows flight reservations made between 9 April 2010 and 17 April 2010. Subsequent to the Deepwater Horizon incident, [redacted] decided to cancel his reservations due to the impacts of the incident to the Florida area. The terms of the flight arrangements (as provided by the Claimant) state that for JetBlue Nonrefundable Fares, changes or cancellations may be made prior to scheduled departure for a fee of $100.00 per person plus any applicable difference in airfare[1]. [redacted] did not provide the date in which he cancelled the reservations although Claimant states that a fee of $100.00 per reservation was charged to cancel flight reservations for 17 people.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

[1] *See,* JetBlue 'Changing or Canceling your Reservation' as provided by Claimant.

09/14/11 FOIA2011-3380-00001351

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS:

To support his claim, the Claimant submitted an electronic copy of an undated NPFC OSLTF Claim Form, a copy of JetBlue's cancellation policy for non-refundable flight reservations, copies of roundtrip flight itineraries and e-ticket receipts, credit card statement(s), and a copy of the claimant's driver's license. There is no documentation showing the cancellations or payment of cancellation charges totaling $1700.00. Additionally, the Claimant's submission to the NPFC states that a claim was made to the GCCF and was denied although the Claimant has not provided a copy of the denial letter or any other correspondence with the GCCF.

The NPFC initially denied this claim on December 28, 2010. The claimant requested reconsideration via email on December 29, 2010. To support his request the claimant provided internet links to news articles, and argues that he had no choice but to cancel the flight reservations and incur the cancellation fees.

NPFC Determination

The NPFC once again must deny the claim. The claim is denied 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. The alleged loss, if any, was caused by personal decisions made by the Claimant to (1) purchase non-refundable round trip airfares and (2) to cancel the scheduled travel to Florida with return travel from Ft. Myers. Such a loss is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/5/11

Supervisor Action: Denial Approved

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]
Fax: 202-493-6937
5890
12/28/2010

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0342

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0342 involving Deepwater Horizon. Compensation is denied for the reasons stated in the enclosed Claim Summary / Determination Form. Please see the attached summary for the details and rationale associated with this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0342.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form undated, a copy of cancellation policy for JetBlue on non-refundable flight reservations, a copy of round trip flight itineraries dated 9 April 2010 and 17 April 2010, credit card statement(s), and a copy of the claimant's drivers license. The Claimant's submission to the NPFC states a claim was made to the GCCF and was denied although the Claimant has not provided a copy of the denial letter.

NPFC Determination

The claim is denied 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. The alleged loss is due to personal decision made by the Claimant to (1) purchase non-refundable round trip airfare and (2) to cancel the scheduled vacation to Orlando, FL. Such a loss as the one claimed in this case, is not a damage that may be compensated from the OSLTF.

Claim Supervisor [redacted]

Date of Review: 12/29/10

Supervisor's Comments: [redacted]

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/28/2010
Claim Number	: N10036-0342
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $1,700.00

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:

Claimant presented a claim of $1,700.00 to the NPFC for lost earnings. [redacted] is claiming cancellation fees associated with vacation travel that was scheduled for 17 people to travel from New York to Orlando, FL. [redacted] who resides in Parsippany, NJ, had flight reservations to Orlando, FL from 3 August 2010 through 10 August 2010. The claim documentation provided shows flight reservations made between 9 April 2010 and 17 April 2010. Subsequent to the Deepwater Horizon incident, [redacted] decided to cancel his reservations due to the impacts of the incident to the Florida area. The terms of the flight arrangements (as provided by the Claimant) state that for JetBlue Nonrefundable Fares, changes or cancellations may be made prior to scheduled departure for a fee of $100.oo per person plus any applicable difference in airfare[1]. [redacted] did not provide the date in which he cancelled the reservations although Claimant states fee of $100.00 per reservation was charged to cancel flight reservations for 17 people.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

[1] *See,* JetBlue 'Changing or Canceling your Reservation' as provided by Claimant.

09/14/11 FOIA2011-3380-00001355

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/10/2011

BY MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0343

Dea[redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0343 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary / Determination for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0343.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	January 11, 2011
Claim Number	N10036-0343
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$26,400.00

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 December 21, 2010, [redacted] (Claimant) presented a loss of profits & earnings claim in the amount of $26,400.00 to the National Pollution Funds Center (NPFC). The Claimant is asserting that he was dismissed from his oil-spill response work on October 3, 2010 and alleges that he was guaranteed employment through at least June 2011.

The Claimant was employed by [redacted] and performed various oil-spill response activities such as, the cleaning of booms, vessels, and barges. After the Deepwater Horizon incident, the Claimant was initially hired by another company to perform oil-spill cleanup work but was released after two weeks. The Claimant's claim is solely based on his expectation of being employed as an oil-spill responder through June 2011.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

A. Claimant's Submission

To support his claim, the Claimant submitted the following documentation

- NPFC OSLTF Claim Form on December 21, 2010
- Copy of the denial letter from the GCCF dated November 24, 2010
- Copy of a letter from the claimant explaining the loss
- Earnings statements from 2010
- Photocopy of Alabama driver's license and social security card
- Photocopy of HAZWOPER training certificate and OSRO scan badge

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $26,400 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Review: *1/11/11*

Supervisor's Comments: ***Denial approved***

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
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail: [redacted]
Fax: 202-493-6937

5890
3/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]
Mobile, AL 36607

RE: Claim Number: N10036-0344

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 N10036-0344 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	: 3/12/2011
Claim Number	: N10036-0344
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,400.00

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. 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 August 23, 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 December 16, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $10,400.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost profits & earnings due to his hours being cut as a result of the Deepwater Horizon incident but never provided an explanation or information on his place of employment. In a letter dated January 10, 2011, the NPFC requested that the Claimant provide additional information to support his claim. Based on the W-2's provided by the Claimant, it appears as though he was employed by [redacted], LLC in Coden, Alabama in 2010 but no further information was provided.

The Claimant stated that he filed an Emergency Advance Payment claim with the GCCF and was subsequently denied. The NPFC verified this information with the GCCF. Claimant was provided Claimant ID # [redacted] and Claim [redacted] which was in fact denied by the GCCF.

The NPFC denied the claim on February 24, 2011, on the basis that the Claimant failed to provide the additional requested information to support his claim and establish that he had suffered a loss of profits.

REQUEST FOR RECONSIDERATION:

On March 7, 2011, the Claimant sent a request for reconsideration via facsimile dated March 7, 2010 to [redacted] stating he would like the NPFC to reconsider his claim. The Claimant provided hand written answers to the questions the NPFC posed in its official request for additional information dated January 10, 2011. The Claimant provided copies of his 2007 W2 earnings statement from [redacted] LLC, an illegible copy of his 2008 Wage and Income Transcript from the IRS, and a copy of his 2009 and 2010 W2s from [redacted] LLC. It is important to note that the Claimant did not provide any of his income tax returns for 2007, 2008, and 2009 including all attachments, Schedule C's as requested by the NPFC.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via facsimile on March 7, 2011. To support his request for reconsideration, the claimant provided hand written answers to the questions the NPFC posed in its official request for additional information dated January 10, 2011, copies of his 2007 W2 earnings statement from [redacted] LLC, an illegible copy of his 2008 Wage and Income Transcript from the IRS, and a copy of his 2009 and 2010 W2s from [redacted] LLC. It is important to note that the Claimant did not provide any of his income tax returns for 2007, 2008, and 2009 including all attachments, Schedule C's as requested by the NPFC. The Claimant was concrete truck driver for [redacted] LLC and requests $10,400.00 in loss of profits and earnings. When the NPFC requested that he describe how he calculated his lost earnings, the Claimant's reply on reconsideration was "...the lost of 40 hours + no overtime because no major jobs were going to build anything in this area until thing get better on the coast area." Based on that explanation, the NPFC still is unable to determine how the Claimant derived at his sum certain.

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. A 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. The NPFC considered all the documentation submitted by the Claimant.

The NPFC performed another analysis of the financial information the Claimant did provide in his claim submission. Below is a table which identifies the Claimant's pre-spill earnings and the Claimant's post-spill earnings.

TABLE 1: Earnings by Year and Employer

YEAR	EMPLOYER	GROSS EARNINGS BASED ON W2 INFORMATION
2010	[redacted]	$35,666.14
2009		$6,606.40
2009		$21,885.60
2008		$36,524.00
2007		$33,087.12

Based on the preceding table, the NPFC has determined that the Claimant's earnings were overall better after the Deepwater Horizon incident than prior to the incident. 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 (1) 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 and (2) the Claimant has failed to demonstrate a loss of profits and earnings. Therefore this claim is denied upon reconsideration.

Claim Supervisor: [redacted]

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

Supervisor Action: ***Denial on reconsideration approved***

U.S. Department
of Homeland Security

United States
Coast Guard

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
[redacted]

16480

8 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0345

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 C.F.R. Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

You submitted a request for a six month Emergency Advanced Payment of $4,735 to the GCCF for loss of subsistence use of natural resources following the Deepwater Horizon incident, which was denied on 23 October 2010. On 27 December 2010, you presented your claim to the NPFC. You seek $4,735 as damages for lost subsistence use of fish, shrimp, and crabs that you claim you would have caught and used for subsistence food.

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages

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include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 27 December 2010 included the following supporting documents: Optional OSLTF Claim Form; a letter to the GCCF dated 5 August 2010 seeking an Emergency Advanced Payment of $4,735 for lost subsistence use of natural resources during the May – August period; a letter to the GCCF dated 16 September 2010 also seeking an Emergency Advanced Payment of $4,735 for lost subsistence use of natural resources, but for the May – September period.

NPFC Determination

The NPFC finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you have:

(1) not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and

consumption that you and/or your family relied upon to meet the minimum necessities of life). You have also not provided a valid fishing license, or proof that you are 65 years of age or older and not required to have a license in the state of Alabama, either of which would demonstrate that you are legally entitled to catch fish in the state;

(2) not provided any documentation of costs you incurred to replace the resources you claim for subsistence use. Your claim form and letters to the GCCF indicate that you seek $4,735 for subsistence use damages, but you submit no evidence that these costs were actually incurred;

(3) claimed for losses incurred by individuals that are outside of your household. Your letter to the GCCF states that your claim includes losses incurred by your children and their households. Under OPA, a claimant is only entitled to the actual cost to replace subsistence food for themselves and his/her household.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0345) to: Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at 202-493-6856.

Sincerely,

[redacted]

U.S. Coast Guard

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]

5890
2/28/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0346

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0346 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0346.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/28/2011
Claim Number	: N10036-0346
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,000.00

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 December 27, 2010, [redacted] Claimant) presented a lost profits & earnings claim in the amount of $10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he wages as an independent cab driver for [redacted] as a result of the Deepwater Horizon incident.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for

09/14/11 FOIA2011-3380-00001368

profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, December 03, 2010;
- "Record of Changes" indicating handwritten income amounts for what appears to be January through September 2010;
- Declaration letter prepared by Claimant dated November 10, 2010;
- Individual Income Tax Return filings for 2008 and 2009;
- "Self-Employment Cash For Services Business and Expenses Calculation" for January through October 2010;
- Monthly Profit and Loss statements for January through October 2010.

NPFC Determination

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.

Based on the documentation provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon incident. On February 10, 2011, the NPFC spoke with, faxed per the Claimant's request, and sent via certified mail, a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate

the claim. To date, the Claimant has failed to respond to the request for additional information in support of his claim.

Since the Claimant has not provided additional documentation as requested by the NPFC nor has he answered any of the questions to support his claim in order to demonstrate he has a loss of profits and earnings, the claim is denied. The Claimant has failed to meet his burden of establishing a loss of profits and earnings demonstrating that his income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/28/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
3/23/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0347

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 N10036-0347 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0347.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 22, 2011
Claim Number	: N10036-0347
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $7,050.00

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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $7,050.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her business, [redacted], in Thibodaux, Louisiana as a result of the Deepwater Horizon incident.

The Claimant stated that the she provided monthly accounting and bookkeeping services to her clients. The majority of her clients are in Plaquemines Parish, LA and their businesses are primarily seafood industry related. The Claimant asserted that her clients who own and operate seafood processing docks have been closed due the oil spill, which subsequently affected her income.

The Claimant provided a GCCF emergency advance payment denial letter (claim [redacted]) dated November 18, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, dated 09 Dec 2010;
- Letter dated 18 Nov 2010 from GCCF notifying claimant their claim was denied for Emergency Advance Payment and lists the reasons why;
- Letter dated 09 Nov 2010 from claimant to the GCCF stating the circumstances surrounding her claim;
- Spreadsheet submitted by claimant showing her clients affected by the incident, her monthly income before the incident, and her monthly income after the incident. Calculation provided supports the claim submitted;
- Schedule C for Form 1040 for claimant's business for tax year ended 2008 and 2009;
- Copies of (10) 1099's for claimant's business for tax year ended 2009 and 2010.

NPFC Determination

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 Claimant operates an accounting and bookkeeping company in Thibodaux, LA. The Claimant's cliental consists mostly of seafood processing docks. The Claimant provided a spreadsheet showing her clients that were affected by the incident, her monthly income before the incident, and her monthly income after the incident. While 1099s provided by the Claimant show a decline from 2009 to 2010, the NPFC is unaware of any contractual agreements between the Claimant and her clients documenting how much she is paid for her service. It is not clear the frequency in which she gets paid and basis for the amount paid by each of her clients therefore the Claimant has failed to demonstrate that any reduction from 2009 to 2010 was a direct result of the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of discharge of oil.

Furthermore, as shown in the spreadsheet provided by the Claimant in her submission to the NPFC, we understand that the Claimant is employed by seafood processing companies in Plaquemines Parish, LA. However, the Claimant has not provided documentation proving that her clients were impacted due to the injury, destruction or loss of real property, personal property, or natural resources.

Based on the documents and information presented, the Claimant has not demonstrated a loss of profits and earnings that were due to the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of discharge of oil therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/23/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
3/17/2011

VIA ELECTRONIC MAIL AND REGULAR MAIL
[redacted]

[redacted]

RE: Claim Number: N10036-0348

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 N10036-0348 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0348.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	March 16, 2010
Claim Number	N10036-0348
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Earning Capacity and Subsistence Use
Claim Manager	[redacted]
Amount Requested	$11,000.00

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 December 23, 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $10,000.00 in loss of profits and earnings, as well as $1,000.00 for loss of subsistence use of natural resources that resulted from the Deepwater Horizon oil-spill. His combined loss is $11,000.00.

With respect to his alleged loss of $10,000.00 in lost profits and earnings, the Claimant asserted that he was promised a job at [redacted] in Pensacola Beach, Florida, to start around the "end of April." The Claimant provided a letter from [redacted] of [redacted] stating that "due to the oil spill I could not hire him at this time."[1] The letter also states that "this year's sales were down and I could only pay my winter staff through this summer." The Claimant seeks the lost earnings he would have made if he was hired and worked 40 hours per week at $15 per hour.

With respect to his alleged subsistence loss of $1,000.00, the Claimant asserted that "[he] would catch all types of sea life to eat. I would feed myself four or five times a week this way."[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

Loss of Profits or Impairment of Earning Capacity

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims

[1] [redacted] handwritten letter undated.
[2] Claimant letter answering NPFC questions.

FOIA2011-3380-00001376

for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §136.231 is a claim for loss of profits or impairment of earning capacity due to injury to or destruction or loss of natural resources or real or personal property.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

Loss of Subsistence Use

Another damage is for loss of subsistence use of natural resources recoverable by any claimant who uses the resources that have been injured, destroyed or lost. The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

(a) Be for lost subsistence use and submitted by an eligible claimant;
(b) Identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
(c) Describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
(d) Describe efforts to mitigate the subsistence use loss; and
(e) Be based on the reasonable cost to replace the lost subsistence use of natural resources.

NPFC interprets subsistence use to mean direct use to maintain the minimum necessities of life such as food clothing or medicines.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim form, dated 16 Dec 2010
- Letter dated 06 Dec 2010 from the GCCF to claimant notifying them that their claim for an emergency advance payment was denied.
- Copy of 2009 W-2
- Undated letter from a potential employer stating the claimant applied for a kitchen position, but due to a decrease in sales resulting from the Deepwater Horizon Incident, he could not hire the claimant.
- Form 1040 EZ filed by claimant for tax year ended 2009.
- Tax Return Transcript. Copy provided is cut off. Tax period illegible.
- Print out of unemployment compensation paid to claimant from March through October of 2010.
- Direct deposit statements

Claimant seeks $10,000.00 in lost profits and earnings and $1,000.00 in loss of subsistence use of natural resources for a total loss of $11,000.00, allegedly resulting from the Deepwater Horizon incident.

NPFC Determination

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 submitted by the Claimant.

Loss of Profits or Impairment of Earning Capacity

The Claimant asserted that he was promised employment by [redacted] Because he was never employed as promised, the Claimant seeks the earnings he would have made had he been employed full time during the spill period.

The claim is denied because the evidence presented by the Claimant does not demonstrate that the Claimant's loss was a result of injury destruction or loss of natural resources or real or personal property. It appears as though [redacted] made a business decision not to bring on additional kitchen help for the summer due to the year's sales being down.

Loss of Subsistence Use

The NPFC finds that the Claimant has not met his burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136) therefore this part of his claim is denied. Specifically, he has not:

(1) demonstrated that he is a subsistence user. He has not provided sufficient supporting information to prove his subsistence use, such as statements or affidavits that address the

frequency and amount of subsistence catch and consumption that he and/or his family relied upon to meet the minimum necessities of life, or a valid fishing license that would demonstrate that he is legally entitled to catch fish in the state of Florida, or

(2) provided any documentation to support the dollar amount of subsistence use claimed. The NPFC cannot determine the period of claimed loss or actual costs incurred to replace the fish that he would have caught and eaten if the spill had not occurred.

The claim is denied.

Claim Supervisor [redacted]

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

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

United States
Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0349
22 February 2011

Re: Claim Number: N10036-0349

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0349 involving Deepwater Horizon. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0349.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001380

CLAIM SUMMARY / DETERMINATION FORM

Date	: 19 February 2011
Claim Number	: N10036-0349
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $18,980.00

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 28 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund Claim Form (OSLTF) to the National Pollution Funds Center (NPFC) seeking $18,980.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant previously worked for [redacted] as a mechanic and deckhand. Prior to working for [redacted], the Claimant was employed by [redacted] since May 2009. [redacted] subsequently bought [redacted] and kept the Claimant on staff as an employee until June 2010, when he was terminated. Claimant asserted that he was "laid off and couldn't find a job due to the Oil Spill."[1]

Claimant initially presented a claim for $17,193.00 to GCCF on 13 October 2010. Claimant was assigned Claimant [redacted] and Claim [redacted] This claim was denied on 04 December 2010. NPFC verified this information.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost;

[1] OSLTF Claim Form dated 06 January 2010, signed by Claimant.

09/14/11 FOIA2011-3380-00001381

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the following:

- OSLTF Claim Form, dated 06 December 2010;
- Paystubs from [redacted] for the months of May and June 2010;
- Paystub from [redacted] for December 2010;
- Three (3) personal checks from [redacted]
- Handwritten, undated letter in response to NPFC's request for Additional Information;
- Federal tax returns for 2008 and 2009; and
- Letter from [redacted] describing the reason for Claimant's termination.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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 Claimant.

The documentation presented by the Claimant indicated his loss of employment stemmed directly from the Deepwater Horizon incident by way of a letter from [redacted] at [redacted]

[redacted] dated 06 December 2010.[2] NPFC contacted [redacted] who provided an original copy of this document. The original version, dated 15 October 2010, made no mention of the oil-spill, but rather that the Claimant was terminated "because work had slowed down."

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 altered 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. This claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's review: ***2/19/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[2] The letter provided by Claimant stated he worked for the company until 17 May 2010, and that he was terminated "because work had slowed down due to the BP Oil Spill."

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
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
5/11/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0350

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 N10036-0350 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,

[redacted]

U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 5/9/2011
Claim Number	: N10036-0350
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $140,683.00

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. 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 August 23, 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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $140,683.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant is asserting that she lost rental income from three (3) rental properties because of the Deepwater Horizon incident. The Claimant provided authorization for her son, [redacted] to act on her behalf on all dealings related with the claim.

The Claimant owns three (3) rental properties along Gulf Shores, Alabama.[1] The rental properties are listed by the Claimant as Condo [redacted] She asserted that her propensity to earn rental income has diminished as a result of the Deepwater Horizon incident. Her ability to rent out these properties depends on the tourism trade enjoyed by Gulf Shores particularly in the summer months. The Claimant maintained that her rental royalties were affected both by renters who cancelled existing reservations as well as the lost rental income resulting from decreased tourism as a result of the Deepwater Horizon incident.

The Claimant filed a claim with BP and was compensated $44,810.00 on or about May 10, 2010. When the GCCF started accepting claims on behalf of BP, the Claimant was compensated an Emergency Advance Payment in the amount of $4,300.00 for an overall total compensated of $49,110.00 from the RP.

Based on the documentation provided by the Claimant the NPFC determined that the Claimant lost $38,585.00 in lost rentals for the three rental properties. The NPFC denied the claim on the grounds that the Claimant did not demonstrate a loss greater than the amount she had already been compensated by the RP in the total amount of $49,110.00.

REQUEST FOR RECONSIDERATION:

[1] NPFC OSLTF Claim form filed by claimant

On May 6, 2011, the NPFC received a one page undated request for reconsideration letter from the Claimant, [redacted] stating she would like the NPFC to reconsider her claim. The Claimant argued on reconsideration that her [redacted] condo was foreclosed on June 21, 2010 because BP and GCCF…"was not making payments as promised". She further stated that they put that condo on the rental program in January 2010 and was booking well. In closing, the Claimant argued that…"When the condo was purchase, we put 20% down. We lost the $300,000.00. Please consider this claim for $300,000.00 for the loss".

The Claimant provided no new factual information or legal basis for reconsideration of the initial claim for $140,683.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via mail and it was received by the NPFC on May 6, 2011. To support her request for reconsideration, the claimant provided no new information.

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. A 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. The NPFC considered all the documentation submitted by the Claimant.

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

The NPFC confirmed with the GCCF that the Claimant has only presented a claim for $140,683.00 to the GCCF, which is adjudicating claims for the Responsible Party. The Claimant has not presented a claim to the GCCF associated with the foreclosure of her condo. It is unclear whether the sum certain associated with the foreclosure noted in the request for reconsideration reflects an additional $300,000 or whether it is for the difference between the $300,000 and $140,683, or $159,317. Additionally, this alleged loss associated with the foreclosure is a different theory for reimbursement from the alleged loss of profits for lost rental income.

The NPFC denies the request for reconsideration of the claim for $140,683 on the basis that the Claimant provided no new facts or legal argument to support the request for reconsideration. As to the request for $300,000, the NPFC cannot consider this claim for alleged loss of profits because the Claimant has not made proper presentment of the claim to the Responsible Party (RP) as required by the Oil Pollution Act of 1990 at 33 U.S.C. § 2713(a) and the claims regulations at 33 C.F.R. § 136.103(a), which state that all claims for removal costs and damages must be presented first to the Responsible Party or guarantor. If the claim is not settled by payment by any person within 90 days the Claimant may present the claim to the NPFC.

The claim in the amount of $140,683.00 is denied upon reconsideration. The claim for either $300,000 or $159,317.00 is not under consideration by the NPFC because it has not met the presentment requirement to the Responsible Party.

Claim Supervisor: [redacted]

Date of Supervisor's review: *5/11/11*

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
1/6/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0351

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0351 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0351.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/6/2011
Claim Number	: N10036-0351
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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 28 December 2010, [redacted] Claimant), presented a lost profits & earnings claim in the amount of $2,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] asserts that his reduction in pay and commissions while employed by [redacted] was due to the Deepwater Horizon oil spill.

[redacted] has been working for [redacted] located in Biloxi, MS since October 2009. [redacted] has indicated he is a sales associate with his employer, but states that he received a reduction of his hourly rate because of his reduced commissions. On Claimant's Optional OSLTF claim form he indicated that he has been unable to keep up his sales quota due to reduced sales as a result of the Deepwater Horizon incident. Based on the statements he has provided from fellow sales associates, Claimant is requesting compensation for reduced income from his employment at [redacted]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the NPFC Optional OSLTF Claim Form undated, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF), a copy of his social security card and MS Driver's license, a copy of a print out from his employer dated October 29, 2010 that shows his position as a sales associate with an employment start date of October 13, 2009, a copy of two statements from fellow sales associates, several personal statements written by the Claimant, a copy of various pay stubs for the time period of January 2010 through October 2010. Claimant filed an initial claim with GCCF and was assigned claimant identification [redacted] On 23 November 2010, the GCCF issued a denial to Claimant stating that he has not demonstrated a loss of profits or income as a direct result of the oil-spill.[1]

B. NPFC Determination

[1] *See* GCCF denial letter dated 23 November 2010.

09/14/11 FOIA2011-3380-00001390

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 and has determined that Claimant has not proven his claimed losses.

Claimant's documentation demonstrates that his hourly wage is linked to his sales quota although the Claimant has failed to demonstrate that the reduction in sales is directly a result of the Deepwater Horizon incident therefore the Claimant has not met his burden of proof that he sustained a reduction in wages resulting from the Deepwater Horizon incident but rather received reduced wages because he has failed to meet a Company imposed sales quota and is denied.

Claim Supervisor: [redacted]

Date of Review: 1/6/11

Supervisor's Comments: Denial Affirmed

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0352

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0352 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0352.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/24/2011
Claim Number	: N10036-0352
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $40,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 28 December 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $40,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] asserted that she left her prior employment with [redacted] to make more money working for [redacted] but due to the economy, [redacted] was forced to lay people off which ultimately affected her. [redacted] provided a letter in support of her claim that asserted if the Deepwater Horizon incident had not occurred, she would have made $40,000.00 between May 2010 and October 2010 although that statement is not supported by the record.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 15, 2010, a copy of a handwritten personal statement, a copy of a handwritten letter from [redacted] dated December 15, 2010, a copy of W-2 from [redacted] for 2008 showing annual wages of $18,729.71 and a W-2 for 2009 from [redacted] with annual wages of $22,500.00. Claimant provided GCCF claimant identification # [redacted] which she states she was denied.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $40,000 is 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. Claimant's alleged loss of profits is the result of her employer's business decision to terminate her employment. Additionally, [redacted] has failed to meet her burden in quantifying her alleged loss of profits and earnings.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/24/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/3/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0353

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0353 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation of your denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0353.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/30/2010
Claim Number	: N10036-0353
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $30,030.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANTS:

On 28 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $30,030.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was laid off from his position because of the Deepwater Horizon incident.

Based on documentation provided by the Claimant, it is not clear what employment [redacted] had prior to the Deepwater Horizon incident nor is there information on whether he left employment to voluntarily work as a response contractor for the Deepwater Horizon incident.[1] [redacted] submission asserts that he was laid off with no further explanation as to how he has derived at the amount he is requesting, what period it covers, and how it constitutes lost profits and earnings.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90

[1] Letter from Claimant to NPFC dated 23 November 2010.

days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 17, 2010, a letter dated November 23, 2010 whereby [redacted] provides a listing of three employers, a copy of his Louisiana driver's license, a copy of his social security card, a copy of employee identification cards, and miscellaneous payroll stubs from August 16, 2010 through October 1, 2010. The GCCF assigned claimant identification [redacted] to [redacted] claim submission. [redacted] has not provided a copy of a denial from the GCCF although his OSLTF claim form states he was denied.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $30,030.00 is 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. Claimant's termination from employment and alleged financial losses are the result of business decisions made by his employer, and not the result of the Deepwater Horizon incident. Such a loss as the one claimed in this case, is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/3/11

Supervisor Action: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
1/6/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0354

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0354 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0354.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/5/2011
Claim Number	: N10036-0354
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $25,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 28 December 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $25,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he was dismissed from [redacted] where he was employed as a field technician for only two months when he alleges that he was guaranteed two years of employment. [redacted] states he is also a business owner whereby he produces albums. He states the name of his business is "[redacted]. [redacted] asserts that as a business owner, he could not produce albums for his upcoming artists due to his voluntary acceptance of the job with [redacted] as a response worker during the Deepwater Horizon incident and subsequently he had a breach of contract with his artist(s).

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 27, 2010, a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated December 8, 2010, a copy of a written statement from the claimant dated October 20, 2010 which explains his circumstances related to his employment as a response worker as well as how the spill has affected him as a business owner, a copy of AL driver's license, a copy of his 2009 1040 Income Tax Return, a copy of a contract statement associated with Claimant's business, and a copy of IRS Tax Transcripts for 2009 and 2008. The GCCF assigned claim identification # [redacted] to [redacted] claim submission. On December 8, 2010, the GCCF issued a denial to [redacted] stating that his claim did not demonstrate he lost profits as a direct result of the Deepwater Horizon incident.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $25,000 is 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. Claimant's alleged loss of profits is the result of his personal decision to take alternative employment and the subsequent loss of that employment as a response contractor resulted from his employer's business decision to terminate his employment early. Additionally, the Claimant's alleged business loss and breach of contract resulted from his personal decision to take employment as a response contractor which caused his alleged business losses.

Claim Supervisor [redacted]

Date of Review: 1/5/11

Supervisor's Comments: Denial affirmed

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

5890
24 January 2011

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0355

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0355 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0355.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 January 2011
Claim Number	: N10036-0355
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $8,260.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010[1]. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants continue.

CLAIM AND CLAIMANT:

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See, Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also, U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010.

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On 04 November 2010, [redacted] (Claimant), presented a claim to the responsible party, BP/GCCF with Claimant Identification Number [redacted]. That original claim was denied. Claimant presented a subsequent claim to the Oil Spill Liability Trust Fund (OSLTF) seeking an unspecified amount for lost profits and earning capacity resulting from the Deepwater Horizon oil spill. On review, the claims adjudicator determined that the amount of the claim was $8,260.00. That claim was submitted on 09 December 2010.

Claimant worked as a Diving Operations Assistant for [redacted] during 2008, 2009 and 2010. Claimant earned a regular pay rate of $17.00 per hour at that employer, $25.50 for overtime.

Claimant was laid off from her position at [redacted] on 31 October 2010. Correspondence dated 01 November 2010 from the Human Resource Director at [redacted] confirmed the termination. According to that letter, the reduction in force was due to the economy and the impact of the BP incident.

APPLICABLE LAW:

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support the claim, the Claimant submitted the following documents.

1. Optional OSLTF Claim Form, 09 December 2010
2. Correspondence from [redacted] dated 01 November 2010.
3. Unemployment compensation benefit payment listing for claimant, 11/13/10-12/4/10.
4. W-2 Wage and Tax Statements for 2008 and 2009
5. U.S. Individual Tax Return, Form 1040EZ, 2008 and 2009
6. Louisiana State Resident income tax form, 2008 and 2009

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7. GCCF Claim denial letter dated 02 December 2010
8. Correspondence from NPFC dated 09 December 2010
9. ADP Earnings Statements, 2010
10. Various email correspondence between claimant and NPFC

NPFC Determination

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 as a direct result of the Deepwater Horizon Incident. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because Claimant failed to demonstrate a loss of profits or impairment of earnings capacity as a direct result of the Deepwater Horizon Incident.

As mentioned above, Claimant was laid off from her position at [redacted] on October 31, 2010. Correspondence dated 01 November 2010 from the Human Resource Director at [redacted] confirmed the termination as a result of a reduction in force.

We contacted the Human Resource Department at [redacted] on 13 January 2011. During that discussion, it was explained to us that a number of other reasons led to the reduction in force at [redacted] including: recent tax law modifications, newly instituted regulations regarding deepwater and shallow water drilling, the federally mandated moratorium on drilling, and permitting process delays. The company representative further indicated that general uncertainty in the industry has continued to date and many organizations are leaving the Gulf of Mexico for other countries.[2]

Based on consideration of all documents and information presented as well as correspondence with the employer, Claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. As such, this claim for lost profits and earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/24/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[2] Conversation between [redacted] Human Resources and [redacted] 13 January 2011

09/14/11 FOIA2011-3380-00001407

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
2/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0356

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0356 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0356.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 24, 2011
Claim Number	: N10036-0356
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $25,000.00

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. 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 August 23, 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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $25,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost profits & earnings from his job as a deckhand on the [redacted] and the [redacted] in Bayou La Batre, Alabama as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment claim with the GCCF and was given claim [redacted]. He was subsequently denied on November 23, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost

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(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

1. NPFC OSLTF Claim form, undated;
2. Letter dated 23 Nov 2010 from GCCF to claimant stating his claim for emergency advance payment has been denied;
3. Letter dated 06 July 2010 from claimant's employer stating claimant has been working for him on two separate boats;
4. Letter dated 11 Oct 2010 from claimant stating he submitted his information under the wrong claim number, and is providing the correct one;
5. Copy of claimant's social security number card;
6. Copy of business license in Alabama for claimant's employer;
7. (2) Copies of 2010 sales receipts;
8. (2) Copies of Alabama Conservation License for claimant's employer for shrimping and oyster catcher. Expires 30 April 2011;
9. Letter dated 16 June 2010 from ESIS to claimant stating his file was misplaced and needs to be rebuilt;
10. (1) Copy of 2009 W-2;
11. Handwritten note stating the following are a small portion of claimant's trip tickets. (4) Copies of handwritten trip tickets are provided for 2008, 2009, and 2010;
12. Letter to claimant dated 18 Aug 2010. Notice of Non-renewal of Master Vessel Charter;

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13. Handwritten letter stating claimant is submitting an invoice that was not included in the mail package;
14. Invoice from claimant to Vessels of Opportunity dated 22 June 2010;
15. Copies of receipts to support trip ticket.

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon incident. On January 12, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain the necessary information in order to be able to adjudicate the claim. The documentation requested consisted of the following:

1. Income Tax Return Filings for 2007, 2008 and 2009 including all attachments, Schedule C's, W-2's and form 1099's.
    a. If relevant income and expenses recorded through a corporation, provide Corporate Tax Return Filings for 2007, 2008 and 2009.
2. If a deckhand or boat captain, provide copies of all pay checks, pay stubs or earnings statements received for employment during 2009 through the current period in addition to the paystubs already provided.
3. For boat captains or vessel owners provide:
    a. Settlement Sheets providing a detailed breakdown of owner's share of proceeds, compensation to boat captain, payments to deckhands and payment of expenses.
    b. Trip Ticket Landing Data from State Authority to listing all trip tickets from 2007 through the present period.
    c. If the above is not available, provide the actual Trip Tickets/ Catch Records/ Dealer Receipt Forms for the same period.
4. For vessel "Free At Last" listed on the Notice of Non-renewal of Master Vessel Charter dated 18 August 2010:
    a. Provide registration, licensing and title documents.
    b. Trip Ticket Landing Data from State Authority to listing all trip tickets from 2007 through the present period.
    c. Provide a detailed sales ledger for 2009 and 2010

The NPFC also requested the Claimant answer the following questions:

1. How was your business/ fishing activity impacted by the Deepwater Horizon incident?
2. Describe the type of fishing activity you are involved with (i.e. fish, crabs, oysters, shrimp, etc…)
3. Describe your method of fishing for each type of seafood product caught. (i.e. fishing nets, fishing with long lines, oyster dredging, etc…)
4. Identify the areas where you normally fish.
    a. Include any alternative areas you have considered if your normal areas have been closed.
    b. If applicable, identify any closures that affected that your fishing operations.
5. Describe your compensation agreement and how you are compensated.

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6. Provide the names of all deckhands, boat captain and boat owner.
7. Have other individuals related to your fishing employment (deckhands/ boat captain/ vessel owner) filed claims with BP/ GCCF? If so, identify the status of their claims and if they have been considered for payment.
8. Identify the expenses that you are responsible for and pay out of pocket.
9. If your fishing activity includes a wholesale/ dealer business, identify the following:
    a. Type of products sold/ delivered
    b. Your main customers base
    c. Identify if your business activity provides distribution and delivery
    d. Identify what assets are owned to facilitate your wholesale business.
10. Describe your employment history starting from 2008 through the current period.
11. Have you been unemployed for any period of time from 2008 through the current period? If so indentify the specific dates you were unemployed and describe the reason for your unemployment.
12. Describe your current employment/ work status.
13. If you are a boat captain or a vessel owner, identify if you have participated in the Vessel of Opportunity program for response to the Deepwater Horizon incident.
14. Explain how the claimed lost profits were estimated.

The Claimant has not provided additional documents as requested by the NPFC nor answered any of the questions to support his claim in order to demonstrate he had a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/24/11***

Supervisor Action: ***Denial approved***

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
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

5890
3/31/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0357

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 CFR Part 136, denies payment on claim number N10036-0357 involving the Deepwater Horizon oil spill. Please see the attached 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]

U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/31/2011
Claim Number	: N10036-0357
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 28 December 2010, Ginger Farve (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $6,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

The Claimant works in the meat department of [redacted] a supermarket located in Westwego, LA. Claimant alleged that as a result of the Deepwater Horizon oil-spill, customers were not buying seafood therefore her hours were cut.[1] NPFC contacted [redacted] who clarified that none of his employees suffered a reduction of hours as a result of the oil spill. The NPFC denied the claim on March 7, 2011 on the basis that the Claimant had not established that her loss of profits was due to the oil spill.

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

REQUEST FOR RECONSIDERATION:

On March 29, 2011, the Claimant sent a facsimile request for reconsideration to the NPFC stating she would like the NPFC to reconsider her claim. It is important to note that the Claimant has not provided any new information in support of her claim for reconsideration. The Claimant argues that three employees employed within the same Department were paid by GCCF therefore she feels she should be paid.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via facsimile on March 29, 2011. To support her request for reconsideration, the claimant provided no new information. The Claimant originally

[1] Letter of explanation from Claimant dated 16 December 2010.

requested compensation for lost wages resulting from a reduction in hours as an employee of the meat department within the local [redacted] grocery store.

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 information the Claimant did provide in her original claim submission along with another printout of her hours with [redacted] The Claimant's basis for reconsideration is simply that because three employees at the [redacted] filed claims with the GCCF and were paid therefore she feels she is entitled to payment as well. As identified in the NPFC's original determination, the NPFC spoke with [redacted] owner of [redacted], who told the NPFC that the Claimant nor any other employee of his has suffered a reduction in hours as a result of the Deepwater Horizon incident.

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: [redacted]

Date of Supervisor's review: *3/31/11*

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0357
07 March 2011

[redacted]

RE: Claim Number: N10036-0357

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 CFR Part 136, denies payment on claim number N10036-0357 involving the Deepwater Horizon oil spill. Please see the attached Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0357.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 February 2011
Claim Number	N10036-0357
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$6,000.00

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 28 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $6,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

The Claimant works in the meat department of [redacted], a supermarket located in Westwego, LA. Claimant alleged that as a result of the Deepwater Horizon oil-spill, customers were not buying seafood therefore her hours were cut.[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines and the exclusive economic zone. Damages include damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, person property, or natural resources, Section 2702(b)(2)(E) of OPA.

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. 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 claims regulations at 33 C.F.R. §136.231 and .235 provide the additional requirements for a claim for loss of profits or impairment of earning capacity due to injury to or destruction of natural resources.

Under 33 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] Letter of explanation from Claimant dated 16 December 2010.

09/14/11 FOIA2011-3380-00001417

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, the Claimant submitted the following documentation to the NPFC:

- OSLTF Claim Form dated December 16, 2010;
- Letter of explanation from Claimant dated 16 December 2010;
- GCCF claim Denial Letter dated 2 November 2010;
- 2008 W-2 from [redacted]
- 2009 W-2 from [redacted] and
- Various weekly paystubs from [redacted] during the period of 8 January 2010 through 12 November 2010.

Claimant seeks a total of $6,000.00 in lost wages allegedly resulting from the Deepwater Horizon incident.

On 05 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) for loss of subsistence use of natural resources with the GCCF. The GCCF assigned her Claimant ID # [redacted] and Claim # [redacted]. Claimant indicated that she tried to change her subsistence claim to a lost profits claim with the GCCF, but she was not able to.[2] On 02 November 2010, the GCCF denied the claim.

[2] PHONECON between the NPFC and Claimant on 04 January 2011.

09/14/11 FOIA2011-3380-00001418

NPFC Determination

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 injury or 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 documentation presented by the Claimant.

Claimant alleged that her hours were cut as a result of the Deepwater Horizon oil spill. In connection with a review of her claim, the NPFC contacted [redacted] of [redacted] in order to verify the Claimant's allegation. [redacted] denied that Claimant or any other employee of his has suffered a reduction in hours as a result of the Deepwater Horizon oil-spill.[3]

Under 33 C.F.R. § 136.9, 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 NPFC has determined that based on a conversation with [redacted] that the Claimant's hours were not reduced as a consequence of the Deepwater Horizon incident therefore the claim is denied because the Claimant failed to meet her burden in demonstrating a loss of profits and earnings due to the injury or 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.[4]

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/4/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Phone Conversation between the NPFC and [redacted] of [redacted] on 11February 11.

[4] The NPFC notes that another basis for denial is that a comparison of Claimant's paystubs from before and after the Deepwater Horizon oil-spill does not demonstrate a loss in hours.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0358
18 February 2011

[redacted]

RE: Claim Number: N10036-0358

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on your claim, # N10036-0358. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0358.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	16 February 2011
Claim Number	N10036-0358
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$24,000.00

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 28 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $24,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

The Claimant asserted that she was employed full-time at [redacted] in Key West, Florida [redacted], as a bartender and a server from 09 June 2010 through 11 July 2010. On 11 July 2010, [redacted] shut down and the Claimant lost her job. The Claimant alleged that "[redacted] shut down because there was no business because of the threat of oil in Key West."[1]

The Claimant stated that she still has no job. She seeks lost earnings from the closure of [redacted], her layoff and unemployment.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] Claimant letter of explanation, undated.

09/14/11 FOIA2011-3380-00001421

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

— OSLTF claim form;
— Claimant letter of explanation, undated;
— Denial letter from GCCF dated 06 December 2010;
— Claimant letter to BP, undated;
— 2010 W-2 for Claimant from [redacted]
— 2009 W-2 for Claimant from [redacted]
— 2009 W-2 for Claimant from [redacted]
— 2009 1099 MISC for Claimant;
— 2008 1040 with schedules; and
— GCCF claim application.

Claimant seeks $24,000.00 in lost earnings and wages from her unemployment, which she attributes to the Deepwater Horizon incidednt.

On 22 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) for $24,000.00 in lost profits and earnings with the GCCF. She was assigned GCCF Claimant ID

[redacted] and Claim [redacted]. On 06 December 2010, her claim was denied. This information was verified by the NPFC.

NPFC Determination

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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation submitted by the Claimant.

On 14 January 2011, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate the claim.[2] NPFC records show that the Claimant spoke to a claims adjuster at the NPFC on 27 January 2011. She said she had received the letter requesting additional information and asked for more time to respond. The adjuster gave the Claimant 14 more days from 27 January 2011. To date, no response has been received.

The claim is denied because the Claimant has failed to meet her burden in demonstrating her loss is a direct result of the Deepwater Horizon incident by providing the appropriate documentation to support her claim.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[2] The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered 24 January 2011.

FOIA2011-3380-00001423

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0359
28 February 2011

[redacted]

RE: Claim Number: N10036-0359

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 N10036-0359 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0359.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	17 February 2011
Claim Number	N10036-0359
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$60,000

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 28 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $60,000 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon incident.

Claimant asserted that it is a wholesale seafood distributor. Claimant alleged that as a result of the Deepwater Horizon oil-spill, fishing areas were closed and "seafood was not available to purchase from fishermen."[1] Claimant further alleged that "when fishing areas re-opened the seafood was limited and prices have tripled."[2]

APPLICABLE LAW

General Requirements

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages.

Under the claims regulations at 33 C.F.R. § 136.105, 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. Additionally, each claim must be in writing for a sum certain for compensation for each category of uncompensated damages or removal costs. If at any time

[1] OSLTF claim form.
[2] OSLTF claim form.

09/14/11 FOIA2011-3380-00001425

during the pendency of a claim against the OSLTF the Claimant receives any compensation for the claimed amounts, the claimant shall immediately amend the claim.

Pursuant to 33 C.F.R. § 136.113, a Claimant must include an accounting, including the source and value, of all other compensation received, applied for, or potentially available as a consequence of the incident out of which the claim arises including, but not limited to, monetary payments, goods or services, or other benefits.

Claims for Profits and Earning Capacity

One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following:

— NPFC OSLTF Claim form dated 16 December 2010;
— 2009 & 2008 1120S for Claimant with schedules and attachments; and
— 2008 Statement of income for Claimant.

On 10 September 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $60,000.00 in lost profits to the GCCF. The GCCF assigned the Claimant ID [redacted] and

Claim [redacted] to Claimant's EAP claim. On 25 September 2010, the GCCF approved this claim and paid the Claimant $60,000. Previously, Claimant received 5,000.00 from the responsible party, BP. Thus, to date, the Claimant has received a total of $65,000.00 from the RP.

In spite of his prior payments, Claimant submitted his claim because he believed that the "[GCCF] did not give [redacted] enough funds to cover their loss of income."[3] Claimant seeks $60,000.00 in lost profits allegedly resulting from the Deepwater Horizon incident's impact on its operations.

NPFC Determination

This claim is denied because the Claimant has been fully compensated for the $60,000.00 in lost profits he claims before the NPFC. As noted, Claimant filed a six-month Emergency Advance Payment claim with the GCCF for $60,000.00, and Claimant received $60,000.00 in compensation from the GCCF. Prior to this payment, Claimant also received $5,000.00 from the responsible party, BP. In all, Claimant has been compensated $65,000.00 for his claimed losses. This compensation exceeds his claimed loss of $60,000.00 before the NPFC.

Because the Claimant has been fully compensated for its losses, Claimant has not established a loss of profits under 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.[4]

In light of the foregoing, this claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/27/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] OSLTF Claim Form.

[4] In a phone conservation with the NPFC on 15 February 2011, Claimant admitted to filing a $60,000.00 lost profits claim with GCCF and receiving $60,000.00 in payment. Claimant also admitted to receiving $5,000.00 from BP. The NPFC independently verified the receipt of these payments via a spreadsheet provided by the GCCF.

09/14/11 FOIA2011-3380-00001427

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]

5890
31 January 2011

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0360

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0360 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0360.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	31 January 2011
Claim Number	N10036-0360
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$28,300.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 27 December 2010, [redacted] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $28,300.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant worked with [redacted] in Pascagoula, MS and asserted on his Claim Form that he "was laid off due to the oil spill" and that after being "out of work for a month…started working with P2S (oil-spill cleanup) and was guaranteed 2 year contract and the company shut down."[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] See, Optional OSLTF Claim Form description of the incident.

FOIA2011-3380-00001429

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the NPFC Optional OSLTF Claim Form on 27 December 2010; some pay stubs from [redacted] and P2S, and a copy of his GCCF Claim Submission packet.

Claimant submitted a claim with the GCCF on 27 September 2010 for an Emergency Six-Month payment in the amount of $28,300.00, Claimant ID [redacted], Claim [redacted], which was denied.

Claimant asserted that he was laid off due to the oil-spill, then lost a subsequent position with an oil-spill cleanup organization.

NPFC Determination

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 injury or 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 his claim.

The NPFC reviewed the evidence presented by the Claimant and interviewed a representative from [redacted], his former employer. After a phone conversation with [redacted] it was determined that Claimant was not laid off due to the oil-spill but rather terminated because of "driving recklessly in the company parking lot".[2] [redacted] advised that none of its employees faced a lay off as a result of the Deepwater Horizon Oil Spill. Claimant also benefitted from the oil-spill cleanup by gaining employment after his termination. The Claimant has failed to meet his burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident and Claimant misrepresented the rationale for the termination of his employment with [redacted] therefore his claim is denied.

[2] Telephone conversation between [redacted] and [redacted] which took place on 26 January 2011

09/14/11 FOIA2011-3380-00001430

Claim Supervisor: [redacted]

Date of Supervisor's Review: *1/31/11*

Supervisor's Action: ***Denial approved***

FOIA2011-3380-00001431

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0361
07 March 2011

[redacted]

RE: Claim Number: N10036-0361

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 N10036-0361 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0361.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	23 February 2011
Claim Number	N10036-0361
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$4,000.00

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 30 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $4,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that she works as a dealer at [redacted] in New Orleans, Louisiana [redacted] where she earns $5.41 an hour plus tokes.[1] She further asserted that as a result of the Deepwater Horizon oil-spil[redacted] reduced her hours from 28 to 30 hours a week down to 18 hours a week.[2] She indicated that she offered to work other employees' shifts to make up for her lost earnings. Claimant estimates that she lost between 25 to 30% of her wages as a result of her cutback in hours.[3]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

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[1] Tokes are tips.
[2] PHONECON of 04 February 2011 between the NPFC and Claimant as referenced in NPFC Email subject "N10036-0361 J" of same date.
[3] Claimant letter describing loss dated 22 Dec 2010.

09/14/11 FOIA2011-3380-00001433

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant submitted her OSLTF claim form, signed 22 December 2010; a copy of her GCCF denial notice, dated 12 November 2010; paystubs from [redacted] her letter describing her loss, dated 22 Dec 2010; her 2009 U.S. Individual Income Tax Return; and her 2008 W-2 from [redacted]

Claimant seeks $4,000.00 in lost earnings allegedly as a result of the Deepwater Horizon oil-spill.

On 22 September 2010, Claimant filed a six-month Emergency Advance Payment claim for $15,000.00 with the GCCF. She was issued GCCF Claimant ID [redacted] and Claim [redacted] On 12 November 2010, her claim was denied by the GCCF.[4]

NPFC Determination

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

[4] Claimant has an Interim Claim under review with the GCCF.

impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the alleged loss in the amount of $4,000.00 is 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. The Claimant alleged that her wages decreased 25 to 30% as a result of the Deepwater Horizon oil-spill although a review of Claimant's earning history indicates otherwise.

As shown in the table below, the Claimant earned total wages of $29,375.40 from 01 January 2010 through 16 September 2010. This translates into an average weekly pay rate of $793.93. At this weekly rate, projected annual wages for 2010 would be $41,284.35.

As further shown below, the Claimant earned total wages in 2008 and 2009 of $29,892.85 and $31,872.00, respectively. Actual wages earned during the 8.5 months ending on 9/16/10 were nearly at this level. As such, any projection of full year wages for 2010 would exceed historical annual earnings in 2008 and 2009. As such, the evidence submitted does not support the claimant's assertion that her wages decreased by 25 to 30% in 2010.

Period	Total Wages	
	Amount	Weekly Avg.
2008	$ 29,892.85	$ 574.86
2009	$ 31,872.00	$ 612.92
2010 - Actual thru 9/16/10	$ 29,375.40	$ 793.93
2010 - Annualized	$ 41,284.35	$ 793.93

Because the Claimant has failed to prove her damages, her claim for lost profits and earnings capacity is denied. On 14 January 2011, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate her claim. The letter was sent Certified Mail Return Receipt Requested. The Return Receipt showed the Claimant signed for the letter on 22 January 2011. To date, the NPFC has received no response to the letter. Additionally, the Claimant has failed to demonstrate that her alleged loss is 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/4/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100

[redacted]

5890
2/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0362

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0362 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0362.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001436

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 24, 2011
Claim Number	: N10036-0362
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,000.00

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. 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 August 23, 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 2, 2011, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $20,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his job as a 1st class welder at [redacted] in Panama City, Florida as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment claim with the GCCF and was given claim [redacted]. On December 6, 2011 the GCCF denied payment on his claim.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, dated December 24, 2010;
- 2008 and 2009 W-2 with [redacted]
- Payroll Summary with [redacted] for 1/3/10 to 10/24/10;
- Denial letter by GCCF dated December 6, 2010;
- Copy of Social Security Card and ID;
- Personal hardship letter to NPFC dated December 24, 2010;
- 2007, 2008, and 2009 Income tax returns.

NPFC Determination

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.

Claimant has not provided documentary evidence to prove his claim or that his claimed losses were directly resulting from the Deepwater Horizon incident. Claimant inferred that he was laid-off from his employment with [redacted] during October 2010 following the Deepwater Horizon incident. Claimant has not provided any documentation from his employer that stated the Claimant's employment was terminated due to the Deepwater Horizon incident. Claimant has not met the burden of proving how his employment was directly impacted by the Deepwater Horizon incident. Claimant asserted that contracts with [redacted] were cancelled due to the Deepwater Horizon incident. Claimant has not provided documentation to support this assertion.

Furthermore, the NPFC contacted [redacted]. and spoke with [redacted] of the Human Resource Department. [redacted] confirmed that the Claimant was previously employed by [redacted]. but stated he voluntarily left the job for another opportunity. [redacted] also stated that neither the Claimant's nor other employee's hours were reduced as a result of the Deepwater Horizon incident.

The claim is denied because the alleged loss in the amount of $20,000.00 is 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. Claimant's alleged loss of profits is the result of his personal decision to leave [redacted]. for employment elsewhere.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/24/11***

Supervisor Action: ***Denial approved***

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0363
15 February 2011

[redacted]

RE: Claim Number: N10036-0363

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0363 involving Deepwater Horizon. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0363.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/14/11 FOIA2011-3380-00001440

CLAIM SUMMARY / DETERMINATION FORM

Date	: 15 February 2011
Claim Number	: N10036-0363
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $8,465.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $8,465.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

The claimant owns two rental properties located in Panama City, Florida—one at the [redacted] Condominium and a second unit, #1605E, at the [redacted] Condominium. The Claimant purchased the [redacted] property sometime prior to 2008. The [redacted] condominium was purchased in July 2009.

Based on the records presented, it appears that the Claimant rents out both properties for purposes of obtaining rental income. The [redacted] condominium was rented throughout 2009. The Claimant began renting the [redacted] property in October 2009.

The claimant seeks an alleged loss of rental income related to the [redacted] property totaling $8,465 as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

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

09-4811 ENCLOSURE FOIA2011-3380-00001441

Under 33 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant presented the following documents:

- NPFC Optional OSLTF Claim Form dated 28 December 2010;
- Email correspondence from Claimant, dated 28 December 2010;
- Correspondence from Claimant explaining the claim, undated;
- Undated paragraph starting "We have two condos. . . ."
- Rental Income schedule for [redacted] 2010;
- Property Sales Tax report, [redacted] Unit 1605, October 2009 to September 2010;
- Claimant 2009 1040 with schedules and attachments;
- Claimant 2009 Georgia tax documentation (Form 4562);
- U.S. Individual Tax Return, 2009 for Claimant;
- Cancellation email from prospective [redacted] renter, dated 05 May 2010;
- Response to claimant solicitation for rental special, dated 05 June 2010;
- Correspondence from claimant dated 26 October 2010;
- Various rental property advertisements. Claimant included as [redacted] Resort 2010 Rates Samples 1-10.

Claimant seeks lost profits from reduced rental income associated with her [redacted] Resort unit allegedly as a result of the Deepwater Horizon incident.

BP paid Claimant $5,000.00 for her losses. On 21 October 2010, Claimant filed a 6-month Emergency Advance payment (EAP) claim for $4,135.00 in lost profits with the GCCF. The GCCF assigned her Claimant ID [redacted] and Claim # [redacted] to her EAP claim. On 09 November 2010, the GCCF requested additional information on the claim. On 14 December 2010, the GCCF denied her claim. This information was verified by the NPFC.[1]

NPFC Determination

The claim is denied. 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. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation presented by the Claimant.

The claimant owns two similar rental properties in Panama City, Florida—a unit at the [redacted] and another at the [redacted] Resort Condominiums. Only the [redacted] Resort property is included in this claim. The [redacted] rental property was purchased sometime prior to 2008 and earned total rental income of $17,997 in 2009.

The [redacted] property was purchased in July 2009 and was first rented in October 2009. From October 2009 to April 2010 (pre-incident), total rental income for the [redacted] condo was $4,986.00 or $164.55 per week. From May 2010 to September 2010 (post-incident), total rental income for the [redacted] property was $16,380.00 or $747.95 per week. For the 12 months of October 2009 to September 2010, the [redacted] condominium earned total rental income of $21,366, or 19% more than the claimant's similar rental property in Panama City, Florida which earned $17,997 in the 12 months of 2009.

In support of her loss, claimant presented various rental rate advertisements for properties similar to the property specified in the claim. These advertisements are not dispositive with regard to final contracted rates and occupancy percentages of other units in the building. It is likely that actual occupancy percentages would be less than 100 percent and actual rental rates earned would also be less than those advertised in many cases. As such, total actual rental income earned from the advertised properties presented by the claimant would likely be less than that advertised over a theoretical rental period. Claimant has not presented any more authoritative financial information to the contrary.

With regards to the evidence presented of two specific cancellations provided by the Claimant, one potential renter cited flooding in her basement as a result of flooding in the Nashville area as the primary basis for her cancellation. The second potential renter neither booked nor cancelled, but she did cite the Deepwater Horizon incident as a basis for not renting the unit for at the offered cost of $790.00 during the week of 12-19 June 2010. However, Claimant's [redacted] Revenue 2010 report indicates that her unit was rented to another party during this time period at a rate of $1,153.00 plus a 75.00 fee for a total of $1,228.00.

[1] After filing her claim for $8,465.00 in lost profits with the NPFC on 30 December 2010, Claimant filed an Interim Payment claim with the GCCF. This claim is under review with the GCCF. Claimant originally submitted a sum certain to the GCCF on her EAP claim $4,315.00. The NPFC will examine the merits of Claimant's claim nonetheless to determine whether she is compensable up to the amount for which she originally presented to the RP.

FOIA2011-3380-00001443

Based on the above, the claimant has not established that any loss of profits or earnings capacity occurred as a result of the Deepwater Horizon incident. As such, Claimant's claim for lost profits or earnings capacity (in the form of rental income) is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/16/11

Supervisor's Actions: Denial affirmed

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

5890
3/9/2011

BY ELECTRONIC MAIL AND REGULAR FIRST CLASS MAIL
[redacted]

RE: Claim Number: N10036-0364

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 N10036-0364 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0364.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,
[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 8, 2011
Claim Number	: N10036-0364
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $8,347.60

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. 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 August 23, 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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $8,347.60 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his job as a truck driver for [redacted] as a result of the Deepwater Horizon incident.

The Claimant stated that he is responsible for delivering products to local businesses from New Orleans, LA to Port St. Joe, FL. The Claimant never stated what type of product he delivers in his claim but research on [redacted] shows that they are the country's largest distributor of building products.

The Claimant filed a claim with the GCCF and was given claim # [redacted]. The Claimant provided a GCCF denial letter dated November 4, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- Optional OSLTF Claim Form dated 26 November 2010;
- Claimant's calculation of the claimed amount;
- Employment verification and confirmation of reduced worked hours by employer;
- Copy of Claimant's ID;
- GCCF Denial Letter, dated 4 November 2010;
- 2008 and 2009 W2;
- Payroll Register for 29 April 2010, 13 May 2010 - 27 May 2010, 23 July 2010, and 30 September 2010;
- Earning statements with [redacted] for 15 April 2010, 10 June 2010 - 8 July 2010, 5 August 2010 - 19 August 2010, and 16 September 2010 - 11 November 2010;
- [redacted] work schedule;
- 2007, 2008, & 2009 Income Tax Returns;
- Bank statements highlighting deposits made.

NPFC Determination

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.

Based on the documentation provided by the Claimant, the NPFC understands that the Claimant delivered building equipment for [redacted] along the I-10 corridor of the Gulf Coast beginning in March 2010. In early May 2010, the Claimant experienced a reduction in hours resulting in a loss of earnings. The Claimant provided earnings statements showing a reduction in hours but provided no proof that the reduction was due to the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of a discharge of oil.

This claim is denied because the Claimant has failed to demonstrate that his alleged loss was a consequence of the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of a discharge of oil and not other factors.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/9/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

5890
2/8/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0365

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0365 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0365.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 8, 2011
Claim Number	: N10036-0365
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $19,000.00

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 January 2, 2011, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $19,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his job as a deckhand on a crab boat in Grand Isle, Louisiana as a result of the Deepwater Horizon incident.

The Claimant filed a claim with the GCCF and was given claim [redacted]. He stated that he was denied but did not provide a denial letter.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

1. NPFC Optional OSLTF Claim Form, 13 December 2010
2. Hand-written receipts for the months of Jan-09 to Mar-09, from [redacted] for "Deckhand, claimant name", each in the amount of $2,400.00.
3. Correspondence from claimant to GCCF dated 12 October 2010
4. Correspondence from [redacted] (claimed employer), no date
5. Deckhand certification form dated 01 June 2010
6. Photocopy of Louisiana state driver's license
7. GCCF claim from, page 6, no date

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon Incident. On January 13, 2011, the NPFC sent, via email and first class mail, a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim. The documentation requested consisted of the following:

1. U.S. Income Tax Return Filings for 2007, 2008 and 2009 including all attachments, schedules, forms or statements.
2. W-2 Wage and Tax Statement for 2007, 2008 and 2009.
3. If a deckhand or boat captain, provide copies of all pay checks, pay stubs or earnings statements received for employment during 2009 and 2010.
    a. If these are not available, please provide monthly bank statements for the same periods indicating which deposits relate to monthly payroll.
    b. If your payroll amounts were not deposited into a bank account, please have your employer provide payroll tax or workers compensation documents for 2009 and 2010 demonstrating proof of employment and documenting your compensation amount.
4. Provide the name of the vessel working on, the name of the vessel owner a description of the vessel size and equipment.
5. Provide copies of boat registration, commercial license and vessel license for the vessels you were employed on in 2009 and 2010.
6. For deckhands, provide settlement sheets provided by the boat captain or vessel owner supporting your compensation/ share of earnings for 2009 and 2010.
7. If your claim is based on termination of employment, provide written confirmation from your employer describing in detail, the reason(s) for termination, as well as the termination or separation notice.
8. If you have received unemployment benefits from 2009 through the present, provide copies of payments received and statements of benefits.

The NPFC also requested the Claimant answer the following questions:

1. How was your employment / fishing activities impacted by the Deepwater Horizon incident?
2. Describe the type of fishing activity you are involved with (i.e., fish, crabs, oysters, shrimp, etc.)
3. Describe your method of fishing for each type of seafood product caught. (i.e., fishing nets, fishing with long lines, oyster dredging, etc…)
4. Identify the areas where you normally fish/crab.
    a. Include any alternative areas you have considered if your normal areas have been closed.
    b. If applicable, identify any closures that affected that your fishing operations.
5. Describe your compensation agreement and how you are compensated.
6. Provide the names of all deckhands, boat captain and boat owner.

7. Have other individuals related to your fishing employment (deckhands/ boat captain/ vessel owner) filed claims with BP/ GCCF? If so, identify the status of their claims and if they have been considered for payment.
8. Identify any expenses you are responsible for and pay out of pocket related to your employment as a deckhand.
9. If your fishing activity includes a wholesale/ dealer business, identify the following:
    a. Type of products sold/ delivered
    b. Your main customers base
    c. Identify if your business activity provides distribution and delivery
    d. Identify what assets are owned to facilitate your wholesale business.
10. Have you been unemployed for any period of time from 2008 through the current period? If so indentify the specific dates you were unemployed and describe the reason for your unemployment.
11. Describe your current employment/ work status.
12. Describe your employment history from 2008 through the current period.
    a. Include a description of dates worked, your position held and job duties.
13. Describe your primary form of employment and trade skills.
14. Describe how you computed your claimed lost earnings.

In response to the NPFC's request, the Claimant provided a handwritten letter from [redacted] stating that the Claimant was employed by him and that he paid him $2,400.00 a month cash. The Claimant provided no additional documents nor answered any of the questions to support his claim in order to demonstrate he had a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: *2/8/11*

Supervisor Action: ***Denial approved***

U.S. Department of
Homeland Security

United States
Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0366
23 February 2011

[redacted]

Re: Claim Number: N10036-0366

Dear [redacted]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0366 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0366.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001454

CLAIM SUMMARY / DETERMINATION FORM

Date	: 17 February 2011
Claim Number	: N10036-0366
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $25,000.00

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 28 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC), seeking $25,000 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

Claimant asserted that he worked for [redacted] an oilfield/petroleum contracting company, as a production operator and cook. He alleged that he lost wages and was laid off from his employment as a result of "[t]his whole Deepwater Horizon incident with associated Moratorium & New Federal Mandates."[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF, which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost;

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction;

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] Claimant response to NPFC letter requesting additional information.

FOIA2011-3380-00001455

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established;

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation to the NPFC:

- OSLTF claim form, dated 07 December 2010;
- Claimant response to NPFC letter requesting additional information;
- 2009 W-2 Wage and Tax statements from [redacted] and [redacted]
- 2007 W-2 from [redacted]
- 2007 and 2009 Federal income tax returns;
- Louisiana Form LWC 77 Separation Notice Alleging Disqualification;
- Paystub from [redacted] for the period ending 15 August 2010.

The Claimant seeks $25,000.00 in lost wages allegedly as a result of the Deepwater Horizon oil spill.

On 21 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for $25,000.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 09 November 2010, Claim [redacted] was denied by the GCCF. The NPFC verified this information.[2]

NPFC Determination

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. Under 33 CFR § 136.233, a claimant must establish loss of profits

[2] The Claimant has an Interim Payment claim under review at the GCCF.

09/14/11 FOIA2011-3380-00001456

or impairment of earnings capacity. The NPFC considered all of the documentation presented by the Claimant.

This evidence does not support the Claimant's allegation that he suffered an economic loss as a result of the Deepwater Horizon incident. The Claimant alleged that his employer, [redacted] laid him off as a result of the Deepwater Horizon incident and that he suffered lost wages. On 11 February 2011, the NPFC contacted [redacted] to verify the Claimant's allegation. [redacted] responded as follows:

> [The Claimant's] termination was in no way affiliated with the Deepwater Horizon oil spill. He was released due to "lack of work." Positions that required his skill have been historically sporadic. This trend has been present in the oil and gas industry way before the oil spill that he claims cost him his job.[3]

The claim is denied because the alleged loss is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Letter from [redacted] HR/Safety Manager at [redacted] undated received at NPFC on 16 February 2011 via fax.

FOIA2011-3380-00001457

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

3/02/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0367

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 N10036-0367 involving the Deepwater Horizon oil-spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0367.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/02/2011
Claim Number	: N10036-0367
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $6,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she experienced a loss of wages as a waitress in one restaurant ([redacted]) and lost her employment at another ([redacted]), as a direct result of the Deepwater Horizon incident.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

FOIA2011-3380-00001459

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, dated 14 Dec 2010;
- Various earnings statements from [redacted] dated 03 April 2010 through 02 Oct 2010;
- 2009 Form W-2 from [redacted]
- 2009 Form W-2 Wage and Tax Statement from [redacted]

On 12 October 2010, Claimant presented a six-month Emergency Advance Payment (EAP) claim for $6,000.00 in lost earnings to the GCCF. She was issued GCCF Claimant ID [redacted] and Claim [redacted] which the Claimant stated her claim was denied by the GCCF.

NPFC Determination

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.

Based on the documentation provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon incident. On January 13, 2011, the NPFC sent via certified mail a request for additional information to the Claimant in order to obtain the

necessary information to be able to adjudicate the claim.[1] To date, the Claimant has failed to respond to the request for additional information in support of her claim.

Since the Claimant has not provided additional documentation as requested by the NPFC nor has she answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings, the claim is denied. Furthermore, the Claimant has failed to meet her burden of establishing a loss of profits and earnings demonstrating that her income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

[redacted]

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/2/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[1] See USPS Certified Mail Receipt Numbe[redacted]

FOIA2011-3380-00001461

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

5890/DWHZ
Claim # N10036-0368
03 February 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

Claim Number: N10036-0368

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Pleased see the enclosed Claim Summary / Determination form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0368.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	03 February 2011
Claim Number	N10036-0368
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$39,200.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 28 December 2010, [redacted] (Claimant) presented a claim for lost earnings in the amount of $39,200.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserts he lost earnings because of the Deepwater Horizon incident.

On 06 May 2009, the Claimant sold his business, [redacted] a subsidiary of [redacted] in Pensacola, Florida, to [redacted]. The Claimant arranged to stay on with [redacted] as a consultant with a weekly fee via verbal agreement at a rate of $800 weekly. On 12 July 2010 the new owner and president of [redacted] informed the Claimant he could no longer retain his services and terminated him.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

09/24/2011 ENCLOSURE FOIA2011-3380-00001463

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant presented the NPFC OSLTF Claim Form dated 28 December 2010, a letter to NPFC dated 27 December 2010 from Claimant, a letter from [redacted] dated 03 August 2010 from the current owner, copies of cancelled checks from [redacted] payable to Claimant dated 31 December 2009 through 30 April 2010, Purchase and Sales Agreement dated 06 May 2009 for [redacted] and incorporation documentation for [redacted]

Claimant presented an Emergency Advance Payment (EAP) claim to the GCCF and was assigned Claimant Identification [redacted] and EAP Claim [redacted] On 04 December 2010, the GCCF issued a denial stating he did not provide sufficient documentation to support his claim.

NPFC Determination

The claim is denied. Under 33 C.F.R. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. 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 the documentation presented by the Claimant.

The claim is denied because the evidence presented does not prove that the Claimant's alleged loss is 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. Contrarily, based on the documentation presented, Claimant's alleged loss appears attributable to a business decision by [redacted] and his employer. Furthermore, the detrimental effect of Claimant's non-compete clause is not compensable under OPA.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/4/11

Supervisor's Actions: Denial of Claim

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937
5890
1/24/2011

BY MAIL AND EMAIL
[redacted]

[redacted]

RE: Claim Number: N10036-0369

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0369 involving Deepwater Horizon. Compensation is denied because

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0369.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 24, 2011
Claim Number	: N10036-0369
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $16,000.00

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 December 29, 2010, [redacted] (Claimant) presented a loss of profits & earnings claim in the amount of $16,000.00 to the National Pollution Funds Center (NPFC). The Claimant is asserting that he lost his job as a direct result of the Deepwater Horizon incident.

On January 5, 2011 the Claimant submitted a Quick Payment Final Claim to the GCCF. The Claimant was compensated $5,000.00 after signing the Quick Payment Final Claim and Release. The Claimant had previously been compensated $19,700.00 by the GCCF for the 6 month emergency payment.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c). Finally, payment of any claim from the Fund is subject to the

United States Government acquiring all rights of the claimant to recover from the responsible party. 33 U.S.C. § 2712(f).

DETERMINATION OF LOSS

In this case, the Claimant has settled the claim with GCCF, acting on behalf of the responsible party. Claimant has been compensated for its claim under the GCCF Quick Payment Final Claim process and has released its rights to recover further from the responsible party. The Fund is not available to pay any additional amount for the compensated claim and the claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***1/24/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
[redacted]00
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0370
25 March 2011

[redacted]

RE: Claim Number: N10036-0370

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 N10036-0370 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0370.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 March 2011
Claim Number	: N10036-0370
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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 29 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC). The OSLTF claim form alleged $12,000.00 in loss of profits and earnings capacity resulting from the Deepwater Horizon oil spill.

Claimant's submission indicated that she worked as a deckhand on Captain [redacted] boat, where she averaged $2,000.00 per month.[1] She alleged that she lost six months of income because the Deepwater Horizon oil spill prevented her from shrimping and/or crabbing.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

a) That real or personal property or natural resources have been injured, destroyed, or lost.

b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

[1] Letter from [redacted]
[2] OSLTF claim form.

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.

Under 33 C.F.R. § 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;
c) Potential income from alternative employment or business not undertake, but reasonably available;
d) Any saved overhead or normal expenses not incurred as a result of the incident; and
e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant submitted the following documentation:

- OSLTF claim form, dated 29 December 2010;
- Handwritten letter from [redacted] Boat Captain, fax dated 29 December 2010;
- Copy of Driver's License;
- Copy of Social Security Card; and
- Copy of Fresh Products License [redacted]

Claimant seeks $12,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon oil spill.

Claimant filed a claim with the RP, BP, and received $6,000.00.[3] Subsequently, on 23 August 2010, she filed a six month Emergency Advance Payment (EAP) claim for $100,000 with the GCCF.[4] She was assigned GCCF Claimant ID # [redacted] and Claim # [redacted]

On 29 December 2010, the Claimant presented her lost earnings claim for $12,000.00 to the NPFC and indicated that "[her claim] has been under reevaluation for over 90 days [with the GCCF]."[6]

On 31 January 2011, her EAP claim was denied by the GCCF.[7]

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to the injury or 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 Claimant.

This claim is denied because the evidence provided by the Claimant does not demonstrate her alleged loss of $12,000.00, as claimed, nor that this loss is 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.

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[3] GCCF filing report for Claimant.
[4] *Id*
[5] GCCF Claimant status webpage for GCCF Claimant ID # [redacted]
[6] OSLTF claim form.
[7] GCCF Claimant status webpage for GCCF Claimant ID # [redacted]

After an initial review of the claim submission, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate her claim. The letter requested, among other things, financial documentation for an accurate accounting of the Claimant's losses. It was sent on 22 February 2011. On 14 March 2011 and also on 22 March 2011, the NPFC attempted to contact the Claimant to follow up on the request for additional information. Despite these efforts, to date no response has been received by the NPFC.

Accordingly, the NPFC adjudicated the claim based upon the evidence the Claimant submitted. This evidence does not demonstrate that the Claimant lost $12,000.00 in earnings is a result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil therefore the claim is denied.

Claim Supervisor: [redacted] for

Date of Supervisor's Review: *3/25/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted] 5890

Claim # N10036-0371
18 January 2011

[redacted]

RE: Claim Number: N10036-0371

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0371 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0371.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 January 2011
Claim Number	: N10036-0371
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $32,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) claiming lost profits and earnings in the amount of $32,000.00. Claimant is a college student who was employed at [redacted] telesales in Saraland, Alabama through to 09 July 2010. Seeing an opportunity for higher pay working as a responder on the DWH incident, Claimant took a 40hr hazmat class at a cost of $150.00, received his certificate, and soon thereafter quit his job at [redacted] in anticipation of working as a responder. After about one month he was hired as a responder at the same rate of pay he had achieved at [redacted] ($10.00 per hour). Claimant was laid off after one week but was rehired, after one month of unemployment, by another response organization and continued to work until 01 November 2010. The claimant is asserting that he experienced losses as a result of the Deepwater Horizon incident. [1]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person

[1] Optional OSLTF claim form and supporting documentation submitted by the Claimant on 29 December 2010.

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by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- An undated, unendorsed NPFC OSLTF Claim Form stamped received at NPFC on 29 December 2010 for the Claimant.
- An undated typed explanation from the Claimant with GCCF Claim No. [redacted] handwritten in the upper right corner. [2]
- [redacted] Payroll Hours/Dollar History from 01/01/2010 to 11/01/2010 documenting pay end dates of 08/27/2010 to 12/31/2010 and a gross pay of $9,115.89.
- The Claimant's Social Security Card, Driver's License, and Disaster Recovery Solutions LLC 40-hour HAZWOPER Training Certificate of Completion Card dated 08 July 2010

[2] Optional OSLTF claim form received at NPFC on 29 December 2010

- [redacted] Notice of Termination/Separation to the Claimant dated 11/01/2010 with reduction in force as the stated reason.
- Disaster Recovery Solutions LLC 40-hour HAZWOPER Training Certificate of Completion dated 08 July 2010

The Claimant is claiming $32,000.00 in lost profits and earning capacity for not being fully employed by a response contractor for a longer period of time. The Claimant explains that he was told that "we would have a contract for two years."[3]

Claimant presented an Emergency Advance Payment claim to the GCCF and was assigned Claimant ID [redacted] and Claim [redacted]. On 07 December 2010, the GCCF denied his claim.[4]

NPFC Determination

This claim is denied. 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. Under 33 C.F.R. § 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 claim is denied because the alleged loss in the amount of $32,000.00 is not due to the injury, destruction, or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil. The Claimant's alleged loss is a result of personal decisions he made regarding his employment and actions he took to seek higher compensation as an oil-spill responder.

Claim Supervisor: [redacted]

Date of Supervisor's review: 18 January 2011

Supervisor Action: Denied Affirmed

Supervisor's Comments:

[3] OSLTF claim form received at NPFC on 29 December 2010
[4] GCCF letter to Claimant dated 07 December 2010.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100

[redacted]

5890
2/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0372

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0372 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0372.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 24, 2011
Claim Number	: N10036-0372
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $37,580.00

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. 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 August 23, 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 December 28, 2010, [redacted] on behalf of [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $37,580.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost profits & earnings from her trucking company that would deliver rocks to Hopedale, LA and unload barges on the Intracoastal Canal due to those businesses losing work as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment claim with the GCCF and was given claim #[redacted]. She was subsequently denied on December 6, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support the claim, the Claimant submitted the following documentation:

1. NPFC OSLTF Claim form, submitted 28 December 2010;
2. Invoices provided for January 2010 through April 2010, and June 2010 - December 2010;
3. Business license for period ending 28 February 2009;
4. 2008 Schedule C, and 2009 Income Tax Return;
5. Summary of estimated loss by month;
6. Copy of claimant's ID;
7. Maps;
8. Letters of explanation from claimant;
9. Denial letter from GCCF, dated 6 December 2010.

NPFC Determination

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.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon incident. On January 19, 2011, the NPFC sent, via electronic mail and regular 1st class mail, a request for additional information to the Claimant in order to obtain the necessary information in order to be able to adjudicate the claim. The documentation requested consisted of the following:

1. If applicable, provide service agreements with any regular or recurring customers from 2010.
2. Provide Sales invoices for May 2010.
3. Provide 2008, 2009 and 2010 monthly sales ledgers for [redacted]
4. If applicable, provide copies of cancelled orders due to the Gulf Oil Spill
5. Copies of applications for permits and licenses filed with the City, County and State applicable to your business. The license provided expired on 28 February 2009.
    a. If the above is not available, provide documentation stating the filing requirements and associated fees.
6. Provide monthly Profit and Loss statements for 2009 and 2010 for [redacted]
7. If you have received unemployment benefits from 2009 through the present, provide copies of payments received and statements of benefits.

The NPFC also requested the Claimant answer the following questions:

1. Describe the operation history of the business for 2008 through present.
2. Please explain trends of your business including any seasonality based on your customers' orders
3. Describe the following in regards to your business:
    a. Identify the type of legal business entity the business was formed as.
    b. Describe the nature of the business and the services performed.
    c. Describe how your business was impacted by the Deepwater Horizon Incident.
    d. Describe your client base.
    e. What are your business hours and days operating?
    f. Describe how your customers were affected by the Deepwater Horizon Incident.
    g. Name all employees and contractors who are employed by your business.
    h. Identify the various job functions within your business operations.
4. Describe the current status of your business and customer orders.
5. Describe all expenses involved with your business operations.
6. Identify any period(s) of time during 2009 and 2010 that your business was closed.
7. Explain the decrease in gross sales from 2008 to 2009 shown on the Schedule C of Income Tax Returns.
8. If you have received unemployment benefits during 2009 and 2010 identify the periods of time when you received benefits and the amounts received.
9. Explain how the claimed lost earnings were estimated.

The Claimant has not provided additional documents as requested by the NPFC nor answered any of the questions to support her claim in order to demonstrate she had a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/24/11***

Supervisor Action: ***Denial approved***

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
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
5/5/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0373

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 N10036-0373 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]

U.S. Coast Guard

ENCL: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 5/2/2011
Claim Number	: N10036-0373
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $4,950.00

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 December 29, 2010, [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $4,950.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that his position with the banquet department at [redacted] suffered due to a lack of volume at the casino. He asserted that his income; which is compiled of base pay, tips and a gratuity pool, to diminish as a direct result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF on September 12, 2010 and was subsequently denied on November 12, 2010.

REQUEST FOR RECONSIDERATION:

On April 21, 2011, the Claimant mailed a request for reconsideration to the NPFC stating he would like the NPFC to reconsider his claim. The NPFC denied the claim originally on February 17, 2011 because the Claimant had not provided the additional information requested by the NPFC nor answered any of the questions asked in order to demonstrate that he has a loss of profits and earnings capacity claim due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via mail received by the NPFC on April 21, 2011. To support his request for reconsideration, the claimant provided answers to the questions the NPFC posed in its request for additional information letter dated January 12, 2011, Claimant provided Income Tax Returns for 2007 and 2008, Claimant provided pay stubs for 2009 and 2010 with employer [redacted] Claimant provided copies of his work schedules for periods before and after the oil-spill period, and the Claimant provided a general letter from his employer [redacted]

[redacted] It is important to note the letter is undated and does not contain the name of the individual that signed the letter. The signature block merely states [redacted]' with an illegible signature.

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 information the Claimant did provide in his original claim submission as well as the new information provided on reconsideration. Below is a table which identifies the Claimant's annual earnings from 2007 through 2010.

TABLE 1: Annual Earnings by Year Based on Tax Returns

Year	*Gross Earnings*
2010	$27,879.00[1]
2009	$18,440.00[2]
2008	$10,287.00[3]
2007	$29,201.00[4]

TABLE 2 Beau Rivage Earnings by Pay Period

Pay Period	*Total Hours Worked*	*Pay Period*	*Total Hours Worked*
6/14/09	22.00	6/27/10	10.30
6/28/09	27.30	7/11/10	13.40
7/12/09	57.30	7/25/10	10.30
7/26/09	64.30	8/08/10	11.80
8/09/09	12.20	8/22/10	13.70
8/23/09	17.00	9/19/10	4.10
9/06/09	46.10	10/3/10	24.60
9/20/09	28.40	10/17/10	28.60
10/4/09	31.00	10/31/10	24.70
10/18/09	6.80	11/14/10	6.80
11/01/09	21.60	11/28/10	4.60

[1] Gross annual income is derived from the W2 for [redacted] in the amount of $20,273.00 plus the W2 for [redacted] in the amount of $7,611.77.
[2] Gross annual income is derived from the W2 for [redacted] in the amount of $12,518.74 plus $6,287.00 from Claimant's Schedule C which states he operates a Bookkeeping Service
[3] Gross annual income is derived from the W2 for [redacted] in the amount of $6,030.49 plus the W2 for [redacted] in the amount of $4,256.60.
[4] Gross annual income is derived from the W2 for [redacted] in the amount of $22,942.14 plus the W2 for [redacted] in the amount of $6,258.90 less $740.00 in Business income loss although Claimant did NOT provide a copy of his Schedule C for this tax year and less $582.00 for a Capital loss which the Claimant also did NOT provide a copy his Schedule D for this tax year.

Based on the preceding tables, the NPFC has determined that the Claimant's annual income has substantially increased overall in 2010 compared to the overall annual income for the two years preceding the Deepwater Horizon incident. With respect to the number of hours worked in 2010 compared to hours worked in similar pay periods in 2009 while employed with [redacted] 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 or how exactly the reduction in hours is due to the injury to the natural resource since the letter provided by the Claimant from his employer is very general in natural and states that the Claimant had a reduction of working hours and that the reduction stems from …"a lack of business otherwise common place during the time in question."

Based on the overall income of the Claimant from 2008 through 2010, the Claimant has clearly made more money in 2010 than the preceding two years therefore in consideration of 33 C.F.R. 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;

Based on foregoing, the NPFC does not see how the Claimant has calculated a loss of profits and earning capacity as a result of the spill when taking into consideration ALL income including but not limited to income from alternate employment.

The NPFC again denies the claim because (1) the Claimant has failed to demonstrate that the alleged loss is 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 (2) the Claimant has failed to demonstrate a loss in the amount alleged when considering the overall income earned by the Claimant and compared to two prior years preceding the incident in question. Therefore this claim is denied upon reconsideration.

Claim Supervisor [redacted]

Date of Supervisor's review: ***5/5/11***

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0374
17 February 2011

[redacted]

RE: Claim Number: N10036-0374

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0374.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	16 February 2011
Claim Number	N10036-0374
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,141.00

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 29 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $10,141.00 in lost profits and earning capacity.

The Claimant worked as a shipyard worker in Mobile, Alabama. He stated that he was laid off from this job and then he received work as an oil-spill responder for [redacted] after the Deepwater Horizon oil spill. He stated that [redacted] promised him a job for two years, but he was laid off from this job too.

The Claimant seeks lost earnings from his layoff as shipyard worker and oil-spill responder.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documents:

— OSLTF claim form;
— Letters from GCCF dated 23 Oct 2010, 22 Nov 2010, 18 Nov 2010 and 07 Dec 2010;
— Letter from Claimant describing claimed loss not dated;
— Letter from Claimant describing claimed loss dated 19 Oct 2010;
— Copy of Claimant's Alabama driver's license and three other identification cards;
— 2008 and 2009 U.S. Individual Income Tax Returns;
— Weekly paycheck-stubs from [redacted] for the pay periods ending 04 July 2010 and 11 July 2010;
— Weekly paycheck-stub from [redacted] for the pay period ended 13 September 2010;
— Weekly paycheck-stubs from [redacted] for the pay periods ended 16 May 2010 through 30 May 2010 and 22 Aug 2010;
— Weekly paycheck-stubs from [redacted] for the pay periods ended 7 Mar 2010 through 21 Mar 2010; and
— Weekly paycheck-stubs from [redacted] for the pay periods ended 05 Sept 2010 through 03 Oct 2010.

The Claimant seeks $10,141.00 in lost earnings from his layoff as shipyard worker and then as an oil-spill responder, which he attributes to the Deepwater Horizon oil-spill.

On 19 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for $19,875.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted]

and Claim [redacted] On 07 December 2010 the GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

This claim is denied. 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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation submitted by the Claimant.

The evidence submitted by the Claimant does not support his allegation that he suffered an economic loss as a result of the Deepwater Horizon oil spill. On 14 January 2011, the NPFC sent the Claimant a letter requesting additional information to further evaluate his claim.[1] The letter requested, among other things, documentation from the Claimant's employers addressing the link between the decision to lay the Claimant off and the Deepwater Horizon oil-spill.

To date, the Claimant has not responded to the NPFC's request for additional information. Without further evidence, the NPFC cannot verify if the Claimant suffered an economic loss as a result of the Deepwater Horizon oil-spill. This claim is accordingly denied for lack of documentation.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/17/10***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[1] The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered 24 January 2011.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0375
15 February 2011

[redacted]

RE: Claim Number: N10036-0375

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0375 involving the Deepwater Horizon incident. Please see the attached Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0375.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 15 February 2011
Claim Number	: N10036-0375
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager:	[redacted]
Amount Requested	: $80,000

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form seeking $80,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant asserts that he has worked as a commercial diver for 14 years. During 2008, Claimant worked for [redacted] as a commercial diver earning total gross pay of $164,032. Claimant continued his employment with [redacted] in 2009 and earned total gross pay of $158,984.

Prior to the Deepwater Horizon incident, Claimant earned total gross pay of $6,662 from 01 January 2010 to 07 March 2010, or an average daily pay rate of $100.94. Claimant voluntarily resigned his employment a[redacted] Marine sometime between 07 March 2010 and 14 March 2010, the date of his last paycheck. According to Claimant he quit "due to a lack of work."

After resigning his position at [redacted] in March, Claimant went to work for [redacted] as a commercial diver beginning 12 April 2010. Claimant then left [redacted] and went to work for another company, [redacted] sometime in July 2010. According to the records presented, Claimant returned to his original employer, [redacted] Marine, in August 2010. Claimant continued to work for [redacted] through at least 24 October 2010, the date of the last payroll records presented.

Claimant alleges that each company he has worked for has been impacted by the Deepwater Horizon incident, and this impact translated into "a substantial decrease in the amount of work available"[1] and

[1] Correspondence from Claimant explaining his claim, dated 29 December 2010.

09-14-11 ENCLOSURE FOIA2011-3380-00001491

reduction in his earnings. He seeks alleged lost earnings as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the following documents to the NPFC:

- NPFC Optional (OSLTF) Claim Form dated 29 December 2010;
- Correspondence from Claimant explaining his claim, dated 29 December 2010;
- Claimant status page print-out from GCCF website;
- W-2 Wage and Tax Statement, 2008;
- W-2 Wage and Tax Statement, 2009;
- Correspondence from [redacted] Marine indicating that claimant was hired (re-hired) with them as of 14 August 2010. Letter is dated 25 October 2010;
- GCCF claim denial dated 01 December 2010;
- Earnings statements from [redacted] for pay periods ending 2/28/10, 3/7/10, 3/14/10, and 8/15/10 through 10/24/10;
- Earnings statements from [redacted] for pay periods ended 4/25/10 and 5/9/10; and
- Earnings statements from [redacted] for pay periods ending 7/25/10, 8/27/10, and 10/3/10.

On 09 November 2010, Claimant filed a six month Emergency Advance Payment (EAP) claim for $82,200.00 in lost earnings with the GCCF. GCCF assigned him Claimant ID [redacted] and Claim [redacted] to his EAP claim. On 03 December 2010, the GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

This claim is denied. 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 the documentation presented by the Claimant. This evidence does not support Claimant's allegation he lost $80,000.00 in earnings as a result of the Deepwater Horizon incident.

Based on a review of the information provided, the NPFC determined that the claimant voluntarily resigned his position at [redacted] sometime between 07 March 2010 and 14 March 2010. This resignation pre-dates the Deepwater Horizon incident by over a month. According to correspondence from the claimant, he "quit" his employment at [redacted] "due to a lack of work."[2] Given the above timeline, this lack of work could not be due to the Deepwater Horizon incident.

The claimant earned total gross pay of $6,662.00 for the pay periods of 01 January 2010 to 07 March 2010. This equates to an average daily pay rate of $100.94. At that average daily rate, projected annual earnings for 2010 would be only $36,844.00. Although this level is a substantial reduction from the annual earnings levels in 2008 and 2009, the period predates the Deepwater Horizon incident. As such, this decrease could not be due to the incident.

[2] Correspondence from Claimant explaining his claim, dated 29 December 2010.

The claimant switched jobs twice more during the months of April through August 2010. The claimant went to work for [redacted] on 12 April 2010 earning $5,065.00 through the pay period ending 09 May 2010. The claimant then went to work for [redacted] in June 2010 earning $7,419.00 during the pay period of 04 June 2010 through 03 October 2010.

The claimant returned to his original employer, [redacted] on 14 August 2010. For the pay periods of 09 August 2010 through 24 October 2010, the claimant earned $24,737.00 during the return employment at [redacted]

After leaving [redacted] in March, the claimant earned $37,221 during the period of 12 April 2010 through 24 October 2010. This equates to an average daily earnings rate of $189.90. This compares to the pre-incident earnings rate of $100.94, or nearly double the earning rate experienced during the first 66 days of the year from 01 January 2010 to 07 March 2010. As such, the claimant's average daily pay rate in 2010 actually increased during the seven month period following the Deepwater Horizon incident. However, notwithstanding the increase in average daily earnings, the claimant voluntarily resigned his position at [redacted] prior to the Deepwater Horizon incident due to a lack of work.

Based on consideration of all documents and information supplied, the claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. As such, the Claimant's claim for lost profits or earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Supervisor's Actions: Denied Approved

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0377
28 March 2011

[redacted]

RE: Claim Number: N10036-0377

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 N10036-0377 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0377.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	15 March 2011
Claim Number	N10036-0377
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$72,257.00

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 29 December 2010, [redacted] (Owner) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form on behalf of [redacted] (Claimant) to the National Pollution Funds Center (NPFC). The OSLTF claim form alleged $265,870.00 in lost profits and earnings capacity resulting from the Deepwater Horizon oil spill although the Claimant amended his sum certain to $72,257.00 via facsimile dated March 5, 2011.[1]

Claimant is a general contracting and construction business in Destin, Florida. Owner indicates that Claimant performs a variety of construction projects in the Destin community, including work on commercial buildings, residential homes and condominium remodeling.[2] Owner alleges that as a result of the Deepwater Horizon oil spill, the economy in Destin tanked, leading to reduced demand for construction services and a resulting income loss for Claimant.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

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[1] On 05 March 2011, this sum was amended to a net loss of $72,257.00 for eleven months from April 2010 through February 2011 or $59,119.00 for nine months from April through December 2010. Claimant's correspondence to the NPFC expressed uncertainty over "the exact dates" and therefore presented both modified sums. For purposes of assessing Claimant's loss herein, the NPFC will use the larger figure.

[2] Correspondence from Owner describing the claimed loss, dated 14 December 2010.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support the claim, Owner submitted the following documentation on behalf of Claimant to the NPFC:

1. OSLTF claim form dated 14 December 2010;
2. State of Florida article of incorporation letter;
3. Correspondence from Owner describing the claimed loss, dated 14 December 2010;
4. Profit and Loss Statements, for 2007, 2008, 2009 and 11 months of 2010;
5. Monthly bank statements, January 2007 through January 2011;
6. U.S. Income Tax Return for an "S" Corporation, Form 1120S, 2007, 2008, 2009 and 2010;
7. Correspondence from Owner, dated 14 January 2011;
8. Five (5) cancellation letters from potential customers;
9. Email from Owner's spouse to the NPFC, dated 20, 21 & 31 January 2011;
10. Email from Owner's spouse to the NPFC, dated 02 February 2011;
11. Email correspondence from Owner's spouse, dated 05 February 2011;
12. Correspondence from Owner's spouse, dated 09 February 2011;
13. Email correspondence from Owner's spouse, dated 09 February 2011;
14. Correspondence from Owner's spouse dated 05 March 2011.

Claimant seeks $72,257.00 in lost profits allegedly resulting from the Deepwater Horizon oil spill.

On 12 October 2010, Claimant filed six-month Emergency Advance Payment claim for $96,000.00 with the GCCF. Claimant was issued GCCF Claimant ID # [redacted] and Claim # [redacted][3] On 10 December 2010, this claim was denied by the GCCF.[4]

NPFC Determination

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 claim is denied because the alleged loss is 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.

In email correspondence dated 05 February 2011, the Claimant referenced five jobs that they claim were cancelled or delayed due to the Deepwater Horizon incident. These five jobs total $116,930 in claimed lost profits. One of the five jobs accounts for $52,500 of this amount.[5] It is important to note that cancelled and delayed jobs are common in the construction industry. This was particularly true during the economic recession in 2008 through 2010. As such, this is not the most accurate or reliable way to determine the amount of potential lost profits in 2010.

The Claimant based its lost profits calculation on the difference between its Net Income from calendar year 2008 and Net Income from calendar year 2010. As shown on Schedules 2 and 3, total sales (in the form of monthly bank deposits), sales began declining in the second half of 2008.[6] That decline accelerated throughout 2009 and into the first quarter of 2010. As shown on Schedule 2, year-over-year sales declined by over 60.43% during the 12 months immediately preceding the incident. [7]

The pre-incident decline in sales experienced by the Claimant is consistent with overall trends experienced by the construction industry from 2008 to present. The overall decline in the construction industry is generally tied to the collapse of the housing and real estate markets in 2007 and 2008, and the subsequent economic recession in 2008 through 2010.

The significant sales decline of over 60.43% leading up to May 2010 was not accounted for by the Claimant in its calculation of loss. Rather, the Claimant added a growth factor of 5 percent to the combined record high ordinary business income from its 2008 form 1120S and then added to this total the ordinary business loss from its 2010 form 1120S.[8]

Our projection of sales properly accounts for recent industry trends consistent with the recent decline in sales experienced by the Claimant in the months leading up to the incident. However, we moderated the recent sales decline of 60.43% by a conservative 50%, using a sales trend factor of

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[3] GCCF Claimant status for GCCF Claimant ID [redacted]
[4] GCCF denial letter Re: Claimant's Emergency Advance Payment claim, dated 10 December 2010.
[5] Email from Owner's spouse, dated 05 February 2011, showing costs and profits for cancelled projects.
[6] Schedule 3 for monthly bank deposits reflecting total sales ($329,785.00 for January through June 2008 and $177, 459.00 for July through December 2008).
[7] Schedule 2 for year-over-year change from 2008/09 to 2009/10 pre oil spill equaling 60.43% decline.
[8] Correspondence from Owner describing the claimed loss, dated 14 December 2010, states that this methodology for calculating loss was what the GCCF recommended.

negative -30.2%. As shown on Schedule 2, this equated to a monthly sales projection of $9,845.00.[9] The Claimant's monthly sales level is more than four times greater than this amount at $44,384.00.[10]

As shown on Schedule 1, total projected sales for the 8 months ending December 31, 2010 are $78,760.00. This compares to actual sales during the same period of $57,942.00, or potential lost sales of $20,818.[11]

To determine the amount of alleged lost net profit, we deducted the cost of sales (cost of construction) at the Claimant's actual historical rate of 70.2% of sales.[12] The actual amount of saved operating expenses was also deducted as appropriate. Saved operating expenses and cost of sales are calculated on Schedules 4 and 5, respectively. [13]

As shown on Schedule 1, the amount of lost net profit, after deducting the cost of sales and saved operating expenses, comes to $1,415. Given the minor magnitude of this amount relative to the overall claimed loss, it is well within any tolerable error level for this projection. As such, our analysis has not revealed any significant amount of lost profit as a result of the Deepwater Horizon incident.

Based on the above analysis, and as detailed in the attached schedules, the claim is denied because no amount has been determined to be the result from injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/28/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[9] Schedule 2 for year-over-year change from 2008/09 to 2009/10 equaling a decline of 60.43%, then taking the monthly average for bank deposits in 2009/10 equaling $14,108.00 and applying half of the 60.43% decline thus 30.2% to $14,108.00 equals $9,845.00 for projected monthly sales for 2010/11 post oil spill.
[10] Schedule 1 (A) Claimant projected lost sales at 2008 monthly sales average plus 5% equaling $44,384.00.
[11] Schedule 1 ($9,845.00 multiplied by 8 months (May to December 2010) = $78,760.00 subtracted by actual sales from May to December 2010 (taken from monthly bank deposits) of $57,942.00 = $20,818.00.
[12] Schedule 5 for cost of goods sold (cost of construction).
[13] $20.818 subtracted by (70.2% multiplied by $20,818 = $14,605) = $6,213 subtracted by total saved operating expenses of $4,798 = $1,415 Lost Net Profit post oil spill from May 2010 to December 2010

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CALCULATION OF LOST NET PROFIT

Schedule 1

Description	Claim Amount Original	Claim Amount Revised		Schedule Reference	Basis II
Lost Sales:					
Projected Monthly Sales	$ 44,384	$ 44,384	(A)	2	$ 9,845
Number of Months Included in Loss	10.00	11.00	(B)		8.00
Total Projected Sales	443,839	488,222			78,760
Less Actual Sales	-	(96,769)	(C)	3	(57,942)
Total Lost Sales	443,839	391,453			20,818
Non-Continuing (Saved) Expenses:					
Cost of Goods Sold Amount	(177,969)	(274,634)		5	(14,605)
Percentage	*40.1%*	*70.2%*			*70.2%*
Total Operating Expenses	-	(44,563)	(D)	4	(4,798)
Total Non-Continuing Expenses	(177,968)	(319,196)			(19,403)
Lost Net Profit	265,870	72,257			1,415
Less Actual Payments made by GCCF	-	-			-
Lost Net Profit, net of Payments	$ 265,870	$ 72,257			$ 1,415

NOTES:

(A) The claimant projected sales using average monthly sales in 2008, increased by 5%.

(B) Source: Claimant correspondence to NPFC of 06 March 2011.

(C) Source: Actual monthly bank deposits for the months of Apr-10 through Feb-11 (see Schedule 3).

(D) Calculated to arrive at net revised claim of $72,257.

ANALYSIS OF MONTHLY BANK DEPOSITS

Source: Monthly sales as summarized on Schedule 3. *Schedule 2*

Month	Monthly Deposits Amount 2008/09	Monthly Deposits Amount 2009/10	Year-over-Year Change	Year-over-Year Trend	Aggregate 2008/09	Aggregate 2009/10	Aggregate Change	Aggregate Trend	Months Pre-Loss	Monthly Moving Average 2008/09	Monthly Moving Average 2009/10
May	$ 100,706	$ 27,130	-73.06%	26.94%	$ 427,827	$ 169,291	-60.43%	39.57%	12	$ 35,652	$ 14,108
June	10,521	6,715	-36.18%	63.82%	327,121	142,161	-56.54%	43.46%	11	29,738	12,924
July	20,200	9,063	-55.13%	44.87%	316,600	135,446	-57.22%	42.78%	10	31,660	13,545
August	30,087	8,845	-70.60%	29.40%	296,400	126,383	-57.36%	42.64%	9	32,933	14,043
September	5,324	6,948	30.50%	130.50%	266,313	117,538	-55.86%	44.14%	8	33,289	14,692
October	9,191	33,513	264.63%	364.63%	260,989	110,590	-57.63%	42.37%	7	37,284	15,799
November	82,584	9,257	-88.79%	11.21%	251,798	77,077	-69.39%	30.61%	6	41,966	12,846
December	30,073	8,731	-70.97%	29.03%	169,214	67,820	-59.92%	40.08%	5	33,843	13,564
January	41,761	17,468	-58.17%	41.83%	139,141	59,089	-57.53%	42.47%	4	34,785	14,772
February	20,000	1,174	-94.13%	5.87%	97,380	41,621	-57.26%	42.74%	3	32,460	13,874
March	54,858	12,418	-77.36%	22.64%	77,380	40,447	-47.73%	52.27%	2	38,690	20,224
April	22,522	28,029	24.45%	124.45%	22,522	28,029	24.45%	124.45%	1	22,522	28,029
Total	$ 427,827	$ 169,291	-60.43%	39.57%		Monthly Seasonality Correlation R^2 = 0.20					
Monthly Average	$ 35,652	$ 14,108									
Projected Trend, 2010/11 (A)		-30.2%									
Projected Monthly Sales, 2010/11		**$ 9,845**									
		To Schedule 1									

NOTE:

(A) Projected trend for next 12 month period estimated at one-half of the downward trend experienced in the prior 12 month period.

SUMMARY OF MONTHLY BANK DEPOSITS

Source: Monthly bank statements provided by the claimant *Schedule 3*

Month	Year 2007	2008	2009	2010	2011
January	$ 4,101	$ 35,639	$ 41,761	$ 17,468	$ 953
February	30,302	77,132	20,000	1,174	9,845
March	6,226	33,275	54,858	12,418	
April	97,415	72,512	22,522	28,029	
May	67,201	100,706	27,130	6,450	
June	156,755	10,521	6,715	9,835	
July	24,433	20,200	9,063	502	
August	24,377	30,087	8,845	13,017	
September	20,007	5,324	6,948	6,045	
October	6,445	9,191	33,513	15,417	
November	15,387	82,584	9,257	1,786	
December	20,934	30,073	8,731	4,890	
Total	$ 473,583	$ 507,244	$ 249,343	$ 117,031	
Monthly Average	$ 39,465	$ 42,270	$ 20,779	$ 9,753	
% Change		7.1%	-50.8%	-53.1%	

NOTE:
(A) February 2011 bank deposit (sales) estimated based on monthly projection shown on Schedule 2.

ANALYSIS AND CALCULATION OF NON-CONTINUING (SAVED) OPERATING EXPENSES

Schedule 4

Description	Total Amount 2008	Total Amount 2009	Monthly Average 2008	Monthly Average 2009	Monthly Average 2008-09	Monthly Projection	8.00 Month Projection	Actual Operating Expenses	(Saved) Operating Expenses
	From Schedule 5							*From Sch. 4A*	
Operating Expenses:									
Compensation of Officers	$ 62,800	$ 10,400	$ 5,233	$ 867	$ 3,050	$ 1,056	$ 8,447	$ 8,447	$ -
Salaries and Wages	-	-	-	-	-	-	-	-	-
Repairs and Maintenance	508	1,113	42	93	68	68	540	831	291
Bad Debts	-	-	-	-	-	-	-	-	-
Rents	-	-	-	-	-	-	-	-	-
Taxes & Licenses	5,242	2,353	437	196	316	196	1,569	423	(1,146)
Interest	-	-	-	-	-	-	-	-	-
Charitable Contributions	-	-	-	-	-	-	-	665	665
Depreciation	3,202	2,249	267	187	227	-	-	-	-
Advertising	924	913	77	76	77	77	612	333	(279)
Sub Total	72,676	17,028	6,056	1,419	3,738	1,396	11,168	10,699	(469)
Other Expenses:									
Auto and Truck Expenses	14,749	12,874	1,229	1,073	1,151	1,151	9,208	6,929	(2,278)
Dues & Subscriptions	776	612	65	51	58	51	408	420	12
Insurance	8,743	5,086	729	424	576	424	3,391	1,926	(1,465)
Educational Expenses	240	-	20	-	10	-	-	-	-
Interest	-	277	-	23	12	26	208	208	-
Medical	-	4,835	-	403	201	53	425	425	-
Office Expense & Supplies	2,325	2,225	194	185	190	190	1,517	912	(605)
Printing	62	-	5	-	3	-	-	-	-
Small Tools & Materials	4,148	6,807	346	567	456	567	4,538	4,224	(314)
Telephone	4,582	4,577	382	381	382	382	3,053	3,090	37
Postage & Delivery	180	441	15	37	26	37	294	260	(34)
Pest Control	240	240	20	20	20	20	160	120	(40)
Professional Fees	-	700	-	58	29	56	450	450	-
Utilities	4,459	5,093	372	424	398	424	3,395	3,597	202
Tolls / Parking	975	750	81	63	72	63	500	230	(270)
Travel	1,139	-	95	-	47	47	380	806	426
Meals & Entertainment (at 100%)	674	440	56	37	46	-	-	-	-
Total Other Expenses	43,292	44,957	3,608	3,746	3,677	3,491	27,926	23,597	(4,329)
Total Operating Expenses	$ 115,968	$ 61,985	$ 9,664	$ 5,165	$ 7,415	$ 4,887	$ 39,094	$ 34,296	**$ (4,798)**
									To Sched. 1

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SUMMARY OF CONTINUING OPERATING EXPENSES - MAY 2010 TO DECEMBER 2010

Source: Monthly Profit and Loss Statements provided by the Claimant

Schedule 4A

Description	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Total
									To Sched. 4
Operating Expenses:									
Compensation of Officers	$ -	$ 1,415	$ -	$ 2,829	$ -	$ 1,399	$ 1,399	$ 1,405	$ 8,447
Salaries and Wages	-	-	-	-	-	-	-	-	-
Repairs and Maintenance	8	-	5	-	37	725	45	11	831
Bad Debts	-	-	-	-	-	-	-	-	-
Rents	-	-	-	-	-	-	-	-	-
Taxes & Licenses	-	209	-	195	19	-	-	-	423
Interest	-	-	-	-	-	-	-	-	-
Charitable Contributions	-	165	500	-	-	-	-	-	665
Depreciation	-	-	-	-	-	-	-	-	-
Advertising	79	-	82	41	-	90		41	333
Sub Total	87	1,789	587	3,065	56	2,214	1,444	1,457	10,699
Other Expenses:									
Auto and Truck Expenses	646	475	-	461	1,670	407	1,654	1,616	6,929
Dues & Subscriptions	60	20	-	20	220	20	20	60	420
Insurance	-	-	409	366	366	139	506	140	1,926
Educational Expenses	-	-	-	-	-	-	-	-	-
Interest	-	-	-	-	64	77	67	-	208
Medical	-	-	-	425	-	-	-	-	425
Office Expense & Supplies	96	252	10	54	295	77		128	912
Printing	-	-	-	-	-	-	-	-	-
Small Tools & Materials	200	96	481	325	160	1,198	637	1,127	4,224
Telephone	421	128	150	640	326	326	332	767	3,090
Postage & Delivery	72	-	2	-	44		17	125	260
Pest Control	-	-	-	60	-	-	-	60	120
Professional Fees	450	-	-	-	-	-	-	-	450
Utilities	557	366	434	540	519	393	326	462	3,597
Tolls / Parking	25	-	-	50	30	50	-	75	230
Travel	466	46	50	-	129	31	-	84	806
Meals & Entertainment (at 100%)	-	-	-	-	-	-	-	-	-
Total Other Expenses	2,993	1,383	1,536	2,941	3,823	2,718	3,559	4,644	23,597
Total Operating Expenses	$ 3,080	$ 3,172	$ 2,123	$ 6,006	$ 3,879	$ 4,932	$ 5,003	$ 6,101	$ 34,296

SUMMARY OF INCOME STATEMENTS, 2008 AND 2009

Source: U.S. Corporation Income Tax Return, Form 1120 *Schedule 5*

Description	2008		2009		2008-09 Average	
	Amount	% Sales	Amount	% Sales	Amount	% Sales
Gross Receipts or Sales	$ 491,954	100.0%	$ 252,729	100.0%	$ 372,342	100.0%
Cost of Goods Sold:						
Cost of Goods Sold	346,367	70.4%	176,084	69.7%	261,226	**70.2%**
						To Sched. 1
Gross Profit	145,587	29.6%	76,645	30.3%	111,116	29.8%
Operating Expenses:						
Compensation of Officers	62,800	12.8%	10,400	4.1%	36,600	9.8%
Salaries and Wages	-	0.0%	-	0.0%	-	0.0%
Repairs and Maintenance	508	0.1%	1,113	0.4%	811	0.2%
Bad Debts	-	0.0%	-	0.0%	-	0.0%
Rents	-	0.0%	-	0.0%	-	0.0%
Taxes & Licenses	5,242	1.1%	2,353	0.9%	3,798	1.0%
Interest	-	0.0%	-	0.0%	-	0.0%
Charitable Contributions	-	0.0%	-	0.0%	-	0.0%
Depreciation	3,202	0.7%	2,249	0.9%	2,726	0.7%
Advertising	924	0.2%	913	0.4%	919	0.2%
Sub Total	72,676	14.8%	17,028	6.7%	44,852	12.0%
Other Expenses:						
Auto and Truck Expenses	14,749	3.0%	12,874	5.1%	13,812	3.7%
Dues & Subscriptions	776	0.2%	612	0.2%	694	0.2%
Insurance	8,743	1.8%	5,086	2.0%	6,915	1.9%
Educational Expenses	240	0.0%	-	0.0%	120	0.0%
Interest	-	0.0%	277	0.1%	139	0.0%
Medical	-	0.0%	4,835	1.9%	2,418	0.6%
Office Expense & Supplies	2,325	0.5%	2,225	0.9%	2,275	0.6%
Printing	62	0.0%	-	0.0%	31	0.0%
Small Tools & Materials	4,148	0.8%	6,807	2.7%	5,478	1.5%
Telephone	4,582	0.9%	4,577	1.8%	4,580	1.2%
Postage & Delivery	180	0.0%	441	0.2%	311	0.1%
Pest Control	240	0.0%	240	0.1%	240	0.1%
Professional Fees	-	0.0%	700	0.3%	350	0.1%
Utilities	4,459	0.9%	5,093	2.0%	4,776	1.3%
Tolls / Parking	975	0.2%	750	0.3%	863	0.2%
Travel	1,139	0.2%	-	0.0%	570	0.2%
Meals & Entertainment (at 100%)	674	0.1%	440	0.2%	557	0.1%
Total Other Expenses	43,292	8.8%	44,957	17.8%	44,125	11.9%
Total Operating Expenses	115,968	23.6%	61,985	24.5%	88,977	23.9%
Net Operating Income	$ 29,619	6.0%	$ 14,660	5.8%	$ 22,140	5.9%

09/14/11 FOIA2011-3380-00001505

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0378
15 March 2011

[redacted]
New Orleans, LA 70117

RE: Claim Number: N10036-0378

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 N10036-0378 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0378.

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 15 March 2011
Claim Number	: N10036-0378
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,000.00

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 30 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $10,000 in loss of profits and earning capacity. Claimant asserts that he lost earnings due to the Deepwater Horizon oil spill.

Claimant works at a [redacted] Restaurant located in Lafayette, LA.[1] Claimant indicated that he lost earnings because of the decreased availability of raw oysters from April 2010 through November 2010.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] [redacted]

[2] Optional OSLTF claim form dated 18 December 2010

09/12/11 ENCLOSURE FOIA2011-3380-00001507

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation:

- Optional OSLTF Claim Form, dated 18 December 2010;
- 2008 and 2009 W-2's from [redacted] Restaurant;
- Earnings statement from [redacted] Restaurant for the period 28 June 2010 through 11 July 2010;

Claimant seeks a total of $10,000 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 29 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim of $10,000 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID # [redacted] and Claim # [redacted]. On 3 December 2010, his claim was denied by the GCCF.[3]

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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 Claimant.

This evidence does not support the allegation that Claimant suffered a reduction in earnings as a result of the Deepwater Horizon oil spill. Claimant's only submitted proof was 2008 and 2009

[3] Claimant currently has a Full Review Final claim under review with the GCCF.

W-2's from [redacted] and payroll records showing earnings from a two week period spanning June and July of 2010. A representative from the NPFC followed up with Claimant to obtain more information and Claimant indicated that he had no further documentation to substantiate his claim.[4]

The claim is denied because the evidence presented does not prove that Claimant suffered an economic loss 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 3/16/11

Supervisor's Actions: DENIAL AFFIRMED

Supervisor's Comments:

[4] Phone call between Claimant and NPFC Representative on 20 January 2011.

FOIA2011-3380-00001509

U.S. Department
of Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
[redacted]

16480

7 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0379

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met the general claims requirements or your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

On 21 December 2010, you presented your claim to the NPFC for lost subsistence use of natural resources following the Deepwater Horizon incident. You seek $20,000 as damages for lost subsistence use of fish and game that you claim you would have caught and used for subsistence food.

09/14/11 FOIA2011-3380-00001510

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)).

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 21 December 2010 included the following supporting documents: a letter to the GCCF from you with original signatures seeking an Emergency Advanced Payment of $6,000 ($1,000 a month for six months) for lost subsistence use of natural resources; a bill of sale for the boat you claim to use to subsistence fish and hunt; and a letter from the owner of the boat stating that the family uses the boat to fish and hunt[1].

[1] The NPFC notes that your claim is very similar to other claimants that, according to the letter you provided, are related to you and use the same boat to fish and hunt. It is unclear whether these related claimants are claiming for the same damages. Under OPA, loss of subsistence use may be claimed by those who use the resource to sustain the minimum necessities of life for themselves and their households. Damages under OPA may be compensated once. Therefore, each family member that fishes or hunts with you and suffers a loss may only claim for the food that s/he eats or provides for her/his immediate household.

NPFC Determination

The NPFC finds that you have not met your burden of proving that you first presented your claim to the GCCF. You included a letter to the GCCF in your claim to the NPFC, but there is no evidence that it was mailed to, or received by, the GCCF, nor is there proof that your claim was denied. Without proof that the RP either denied or did not act on your claim within 90 days, your claim does not meet the general claim requirements.

The NPFC further finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and consumption that you and/or your family relied upon to meet the minimum necessities of life) or a valid fishing or hunting license that would demonstrate that you are legally entitled to catch fish or game in the state of Louisiana.

(2) have not provided any documentation to support the dollar amount of subsistence use claimed. Your claim form indicates that you seek $20,000 for subsistence use damages, while your letter to the GCCF states that you usually buy $1,000 of seafood per month. The NPFC cannot reconcile these figures to determine the period of claimed loss and actual costs incurred.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0379) to:

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at 202-493-6856.

[redacted]
M. Denise Coutlakis
U.S. Coast Guard

U.S. Department
of Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
[redacted]

16480

7 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0380

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met the general claims requirements or met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

On 21 December 2010, you presented your claim to the NPFC for lost subsistence use of natural resources following the Deepwater Horizon incident. You seek $12,000 as damages for lost subsistence use of fish and game that you claim you would have caught and used for subsistence food.

09/14/11 FOIA2011-3380-00001514

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)).

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 21 December 2010 included the following supporting documents: a letter to the GCCF from you with original signatures seeking an Emergency Advanced Payment of $3,000 ($500 a month for six months) for lost subsistence use of natural resources; a bill of sale for the boat you claim to use to subsistence fish and hunt; and a letter from the owner of the boat stating that the family uses the boat to fish and hunt[1].

[1] The NPFC notes that your claim is very similar to other claimants that, according to the letter you provided, are related to you and use the same boat to fish and hunt. It is unclear whether these related claimants are claiming for the same damages. Under OPA, loss of subsistence use may be claimed by those who use the resource to sustain the minimum necessities of life for themselves and their households. Damages under OPA may be compensated once. Therefore, each family member that fishes or hunts with you and suffers a loss may only claim for the food that s/he eats or provides for her/his immediate household.

NPFC Determination

The NPFC finds that you have not met your burden of proving that you first presented your claim to the GCCF. You included a letter to the GCCF in your claim to the NPFC, but there is no evidence that it was mailed to, or received by, the GCCF, nor is there proof that your claim was denied. Without proof that the RP either denied or did not act on your claim within 90 days, your claim does not meet the general claim requirements.

The NPFC further finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and consumption that you and/or your family relied upon to meet the minimum necessities of life) or a valid fishing or hunting license that would demonstrate that you are legally entitled to catch fish or game in the state of Louisiana.

(2) have not provided any documentation to support the dollar amount of subsistence use claimed. Your claim form indicates that you seek $12,000 for subsistence use damages, while your letter to the GCCF states that you usually buy $500 of seafood per month. The NPFC cannot reconcile these figures to determine the period of claimed loss and actual costs incurred.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0380) to:

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at 202-493-6856.

[redacted]

U.S. Coast Guard

U.S. Department
of Homeland Security

United States
Coast Guard

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
[redacted]

16480

2 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0381

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 CFR Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

The GCCF has confirmed that on 24 September 2010, you submitted a request for a six month Emergency Advanced Payment of $3,600 to the GCCF for loss of subsistence use of natural resources following the Deepwater Horizon incident, which was denied. On 21 December 2010, you presented your claim to the NPFC. You seek $14,000 as damages for lost subsistence use of fish and game that you claim you would have caught and used for subsistence food.

09/14/11 FOIA2011-3380-00001518

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 21 December 2010 included the following supporting documents: your letter to the GCCF seeking an Emergency Advanced Payment of $3,600 ($600 a month for six months) for lost subsistence use of natural resources that you claim you purchased weekly; a bill of sale for the boat you claim to use to subsistence fish and hunt; and a letter from the owner of the boat stating that your family uses the boat to fish and hunt[1].

[1] The NPFC notes that your claim is very similar to other claimants that, according to the letter you provided, are related to you and use the same boat to fish and hunt. It is unclear whether these related claimants are claiming for the same damages. Under OPA, loss of subsistence use may be claimed by those who use the resource to sustain the minimum necessities of life for themselves and their households. Damages under OPA may be compensated once. Therefore, each family member that fishes or hunts with

NPFC Determination

The NPFC finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and consumption that you and/or your family relied upon to meet the minimum necessities of life) or a valid fishing or hunting license that would demonstrate that you are legally entitled to catch fish or game in the state of Louisiana

(2) have not provided any documentation to support the dollar amount of subsistence use claimed. Your claim form indicates that you seek $14,000 for subsistence use damages, while your letter to the GCCF states that you usually buy $600 of seafood per month. The NPFC cannot reconcile these figures to determine the period of claimed loss and actual costs incurred.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0381) to:

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you and suffers a loss may only claim for the food that s/he eats or provides for her/his immediate household.

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [redacted]

[redacted]
U.S. Coast Guard

U.S. Department
of Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
[redacted]

16480

2 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0382

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 C.F.R. Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

The GCCF has confirmed that on 24 September 2010, you submitted a request for a six month Emergency Advanced Payment of $6,000 to the GCCF for loss of subsistence use of natural resources following the Deepwater Horizon incident, which was denied. On 21 December 2010, you presented your claim to the NPFC. You seek $20,000 as damages for lost subsistence use of fish and game that you claim you would have caught and used for subsistence food.

09/14/11 FOIA2011-3380-00001522

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 21 December 2010 included the following supporting documents: your letter to the GCCF seeking an Emergency Advanced Payment of $6,000 ($1,000 a month for six months) for lost subsistence use of natural resources that you claim you purchased weekly; a bill of sale for the boat you claim to use to subsistence fish and hunt; and a letter from the owner of the boat stating that your family uses the boat to fish and hunt[1].

[1] The NPFC notes that your claim is very similar to other claimants that, according to the letter you provided, are related to you and use the same boat to fish and hunt. It is unclear whether these related claimants are claiming for the same damages. Under OPA, loss of subsistence use may be claimed by those who use the resource to sustain the minimum necessities of life for themselves and their households. Damages under OPA may be compensated once. Therefore, each family member that fishes or hunts with

NPFC Determination

The NPFC finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and consumption that you and/or your family relied upon to meet the minimum necessities of life) or a valid fishing or hunting license that would demonstrate that you are legally entitled to catch fish or game in the state of Louisiana.

(2) have not provided any documentation to support the dollar amount of subsistence use claimed. Your claim form indicates that you seek $20,000 for subsistence use damages, while your letter to the GCCF states that you usually buy $1,000 of seafood per month. The NPFC cannot reconcile these figures to determine the period of claimed loss and actual costs incurred.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0382) to:

---

you and suffers a loss may only claim for the food that s/he eats or provides for her/his immediate household.

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [redacted]

[redacted]
U.S. Coast Guard

U.S. Department
of Homeland Security

United States
Coast Guard

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd. Suite 1000
[redacted]

16480

2 February 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0383

Dear [redacted]

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. § 2701 *et seq.*) and OPA claims regulations (33 C.F.R. Part 136). Accordingly, the NPFC denies payment of your claim. The basis of this determination follows.

Background

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, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

The GCCF has confirmed that on 18 October 2010, you submitted a request for a six month Emergency Advanced Payment to the GCCF for loss of subsistence use of natural resources following the Deepwater Horizon incident, which was denied. On 27 December 2010, you presented your claim to the NPFC. You seek $14,000 as damages for lost subsistence use of fish and game that you claim you would have caught and used for subsistence food.

09/14/11 FOIA2011-3380-00001526

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. §2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. §2702(b)(2)(C)). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and
5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim you submitted to the NPFC on 27 December 2010 included the following supporting documents: your letter to the GCCF seeking an Emergency Advanced Payment of $4,800 ($800 a month for six months) for lost subsistence use of natural resources that you claim you purchased weekly; a bill of sale for the boat you claim to use to subsistence fish and hunt; and a letter from the owner of the boat stating that your family uses the boat to fish and hunt[1].

[1] The NPFC notes that your claim is very similar to other claimants that, according to the letter you provided, are related to you and use the same boat to fish and hunt. It is unclear whether these related claimants are claiming for the same damages. Under OPA, loss of subsistence use may be claimed by those who use the resource to sustain the minimum necessities of life for themselves and their households. Damages under OPA may be compensated once. Therefore, each family member that fishes or hunts with

NPFC Determination

The NPFC finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you are a subsistence user. You have not provided supporting information that attests to your subsistence use (i.e., a regular pattern of catch and consumption that you and/or your family relied upon to meet the minimum necessities of life) or a valid fishing or hunting license that would demonstrate that you are legally entitled to catch fish or game in the state of Louisiana, and

(2) have not provided any documentation to support the dollar amount of subsistence use claimed. Your claim form indicates that you seek $14,000 for subsistence use damages, while your letter to the GCCF states that you purchase $800 of seafood per month (6 months x $800/month = $4800). The NPFC cannot reconcile these figures to determine the period of claimed loss and actual costs incurred to replace the fish and game that you would have caught and eaten if the spill had not occurred.

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0383) to:

---

you and suffers a loss may only claim for the food that s/he eats or provides for her/his immediate household.

Chief (Cn)
National Pollution Funds Center
U.S. Coast Guard, Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [redacted]

[redacted]
U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0384
22 February 2011

[redacted]

Re: Claim Number: N10036-0384

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0384 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0384.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001530

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0384
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Subsistence Use; Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $41,450

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 04 January 2011, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $16,000.00 in lost subsistence use and $25,450.00 in lost profits and earning capacity, for a total claimed loss of $41,450, resulting from the Deepwater Horizon incident.

With respect to her subsistence claim, Claimant is a resident of New Orleans, Louisiana who, on account of her health, consumes large amounts of fresh-caught seafood and game, which Claimant asserted is healthier than "processed" seafood.[1] Prior to the Deepwater Horizon incident, Claimant and her family apparently hunted and caught all of their meals in the bayou near Port Sulphur, LA. Claimant asserted that since April 2010, these natural resources have been unavailable to her, and that she has expended $16,000 purchasing food to replace what she previously caught.[2]

With respect to her lost earnings claim, Claimant worked as an administrative assistant for [redacted] a New Orleans based accounting firm. Claimant asserted that the firm's business suffered since its clientele consisted mostly of maritime workers who were financially impacted by the Deepwater Horizon incident.[3] This impact caused Claimant's employer to reduce her hours, withhold her annual pay increase, and ultimately result in her termination on 14 December 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

[1] Letter to Gulf Coast Claims Administrator dated 08 November 2010 and 22 September 2010.
[2] Letter to Gulf Coast Claims Administrator dated 08 November 2010.
[3] OSLTF claim form; PHONECON between Claimant and NPFC representative on 06 January 2011.

FOIA2011-3380-00001531

Loss of Earning Capacity

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

Loss of Subsistence Use

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

(a) Be for lost subsistence use and submitted by an eligible claimant;
(b) Identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
(c) Describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
(d) Describe efforts to mitigate the subsistence use loss; and
(e) Be based on the reasonable cost to replace the lost subsistence use of natural resources.

DETERMINATION OF LOSS

Claimant's Submission

In support of her claim, Claimant presented the following to the NPFC:

- OSLTF claim form 10 December 2010;
- 2010 W-2 wage statements;
- Letter from Claimant to the NPFC dated to 04 February 2011;
- Paystubs from [redacted] for pay periods from 30 December 2009 to 05 October 2010;
- GCCF Denial Letter dated 28 October 2010;
- GCCF Denial Letter dated 02 November 2010
- Letter to Gulf Coast Claims Administrator, dated 08 November 2010;
- Federal tax return from 2008, 2009;
- Itemized deductions, education credits and tuition deductions from 2008 Federal tax return;
- Letter to Gulf Coast Claims Administrator, dated 22 September 2010;
- Bill of Sale for 45 foot aluminum flat boat dated 28 April 2010;
- Letter from [redacted] attesting to Claimant's subsistence use;
- Letter from [redacted] addressed to Claimant (though salutation is to a [redacted], informing of decision to terminate employment, dated 14 December 2010;
- Letter from [redacted] to Gulf Coast Claims Administrator detailing the nature of Claimant's employment and the fact that she had not been given her yearly raise in June 2010.

The Claimant seeks $16,000.00 in lost subsistence use and $25,450.00 in lost earnings, for a total claimed loss of $41,450.00, which resulted from the Deepwater Horizon incident.

The Claimant initially filed six-month Emergency Advance Payment (EAP) claims for loss of subsistence use and loss of earnings with the GCCF. She was assigned Claimant ID # [redacted], Claim # [redacted] (EAP subsistence), and Claim # [redacted] (EAP lost earnings). On 28 October 2010, Claim # [redacted] was denied by the GCCF and on 02 November 2010, Claim # [redacted] was also denied. The NPFC verified this information.

NPFC Determination

The Claimant's subsistence and loss of profits and earnings claim components are denied for the reasons set forth below. Under 33 C.F.R. § 136.105(a), the claimant bears the burden of providing all evidence, information, and documentation deemed necessary by the Director, NPFC, to support her claims. The NPFC considered all documentation presented by Claimant.

Loss of Subsistence Use

Claimant has failed to prove that she engaged in a regular pattern of catch and consumption to meet the minimum necessities of life prior to the Deepwater Horizon incident, nor has she presented valid fishing or hunting licenses to indicate she was eligible to take wildlife in a consistent, lawful manner.[4] Claimant has not presented any documentation to support the dollar amount of subsistence use claimed, nor is there any proof that the amount claimed reflects the reasonable replacement cost of subsistence loss suffered by the Claimant. Accordingly, Claimant

[4] In her letter dated 08 November 2010, Claimant cites Robin as one of the species she formerly subsisted on. Initial research indicates, however, that hunting robins is prohibited under the Migratory Bird Treaty Act.

has not proven subsistence loss as required by OPA and the accompanying regulations at 33 C.F.R. § 136.221 and 136.223.

Lost Profits and Earning Capacity

Claimant has failed to prove that she lost earnings 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. Claimant has not provided any evidence that her employer's decision to terminate her employment resulted from the Deepwater Horizon incident, and not the result of other economic or business factors.[5] To the contrary, an analysis of Claimant's financial documentation indicated that neither her salary nor her regular work hours were reduced after the oil-spill until her termination in December 2010. Claimant's overtime hours did gradually decrease after the oil-spill; however, this is in keeping with the regularly seasonal nature of tax preparation work (with work building and spiking around mid-April, and declining thereafter), and is not readily attributable to the oil-spill. In summary, the Claimant has not proven that she experienced a financial loss resulting from the Deepwater Horizon incident.

This claim is denied.

Claim Supervisor: [redacted]

Date of Review: ***2/22/11***

Supervisor's Comments: ***Denial approved***

[5] The Claimant provided a termination letter from her employer ([redacted]) which appears to be for another employee ([redacted]). The Claimant acknowledged this in her letter to the NPFC dated 04 February 2011 and stated that she will fax over a letter regarding her termination. To date, the NPFC has not received this letter. The NPFC notes that the termination letter for [redacted] cites "lack of clients" as the reason for shortening the office staff.

U.S. Department
of Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

U.S. Coast Guard Stop 7100
4200 Wilson Blvd, Suite 1000
[redacted]

16480

28 March 2011

CERTIFIED MAIL Number: [redacted]

[redacted]

RE: Claim Number: N10036- 0385

Dear [redacted]

On 28 December 2010, you presented a claim to the National Pollution Funds Center (NPFC) seeking $15,000 for lost profits and $2,800 for lost use of natural resources following the Deepwater Horizon oil spill. The NPFC denied the lost profits portion of your claim on 27 January 2010, because you failed to prove this claimed loss. The NPFC has now reviewed the lost use portion of your claim, and has further determined that your claimed costs are not compensable under the Oil Pollution Act (OPA) (33 U.S.C. § 2701 *et seq*) and the NPFC claims regulations (33 C.F.R. Part 136) (see also http://www.uscg.mil/npfc/Claims/DWH_faqs.asp). The basis of this determination follows.

Background

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result, oil was discharged and the federal government and Gulf coast states closed certain waters to commercial and recreational fishing. 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 individual and business claims on behalf of BP.

Facts

On 26 September 2010, you filed a claim in the amount of $15,000 for lost profits with GCCF, which was denied. You filed two claims for final payment with GCCF on 29 November 2010; one totaled $15,000 for lost profits, the second totaled $2,800 for lost use of natural resources. Your lost use claim was still pending with the GCCF when you submitted your claim for $15,000 in lost profits and $2,800 for lost use of natural

09/14/11 FOIA2011-3380-00001535

resources with the NPFC on 28 December 2010. The NPFC denied the lost profits portion of your claim on 27 January 2011, deferring a determination on the lost use portion until after the required 90 day presentment period had elapsed[1].

You claim $2,800 for lost use of natural resources following the Deepwater Horizon spill. You present this dollar amount as the cost to replace fish, shrimp, and crabs that you claim you would have caught and used for food during a six month period (from 24 April 2010 through October 2010) if the spill had not occurred. The NPFC considers this to be a claim for lost subsistence use of natural resources.

Applicable Law

OPA provides that the Oil Spill Liability Trust Fund (OSLTF) is available to pay claims for damages resulting from oil pollution incidents (33 U.S.C. § 2712(a)(4)). Damages include loss of subsistence use of natural resources (33 U.S.C. § 2702(b)(2)(C)) (i.e., resources relied upon for food). The regulations at 33 C.F.R. Part 136 include general claim requirements and requirements specific to lost subsistence use claims.

General Claim Requirements

Claims, including those for lost subsistence use of natural resources, must be: (a) in writing for a sum certain (33 C.F.R. §136.105(b)), (b) submitted to the NPFC within three years after the date on which the injury and its connection with the incident were reasonably discoverable (33 C.F.R. §136.101(a)), and (c) presented first to the (RP or guarantor and that claim is denied or not settled after 90 days before submission to the NPFC for payment (except as noted in 33 C.F.R. §136.103(a)). Your claim meets the general claim requirements.

Subsistence Use Loss Claim Requirements

The claims regulations (33 C.F.R. §§136.219-223) provide additional requirements for lost subsistence use claims. Specifically, each claim for loss of subsistence use of natural resources must:

1) be for lost subsistence use and submitted by an eligible claimant;
2) identify and describe the actual subsistence use of each specific natural resource for which compensation is being claimed;
3) describe how and to what extent the claimant's subsistence use was affected by injury to or loss of each specific natural resource;
4) describe efforts to mitigate the subsistence use loss; and

[1] OPA requires that a claim to the NPFC be presented first to the responsible party or guarantor, and if the claim is denied or not settled after 90 days, it can be considered by the NPFC for payment. NPFC considered the 90 day presentment period for the lost profits portion of the claim from 26 September 2010 to 26 December 2010; and the 90 day presentment period for the lost use portion to be 29 November 2010 to 28 February 2010.

5) be based on the reasonable cost to replace the lost subsistence use of natural resources.

Claim Submission and Documentation

The claim that you submitted to the NPFC on 28 December 2010 included a letter with the following supporting documents: various articles about oiling of your crabbing areas and potential damage to future crab populations due to the spill; maps indicating your favorite crabbing locations; a letter from your pastor attesting that you crab and occasionally share your catch with members of the congregation; and numerous receipts for the sale of crabs from the date of the spill through August 2010. You faxed additional information to the NPFC on 18 January 2010 which included: your statement describing the types of natural resources used for subsistence food and the loss period for your subsistence use claim; a copy of your residential "basic" (non-saltwater) fishing and recreational crabbing license.

NPFC Determination

The NPFC finds that you have not met your burden of proving a subsistence use loss as defined by the Oil Pollution Act (OPA, 33 U.S.C. 2701 et seq.) and OPA claims regulations (33 C.F.R. Part 136). Specifically, you:

(1) have not demonstrated that you subsist upon fish, shrimp and crabs. You have not provided any evidence to support a regular pattern of catch that you or your family relied upon (e.g., statements or affidavits that address the frequency and amount of subsistence catch and consumption);

(2) claim a period of loss (24 April 2010, through October 2010) that exceeds the closure period in your area, suggesting that at least a portion of your claimed loss resulted from your choice not to fish or crab rather than the Deepwater Horizon oil spill. Further, you have not provided any explanation as to why you were unable to fish in nearby locations unaffected by the spill or clean-up efforts.

(3) have not provided any documentation to support the dollar amount of subsistence use claimed. The NPFC cannot determine the actual costs incurred to replace the fish that you would have caught and eaten if the spill had not occurred (i.e., no receipts or statements were provided to support damages incurred in the amount claimed).

Request for Reconsideration

Under OPA, you may ask the NPFC to reconsider this determination. Reconsideration requests must be received by the NPFC in writing within 60 days of the date of this letter, and will be based upon the additional factual or legal information that you provide with your request. A claim may be reconsidered only once, and written disposition of a reconsideration request constitutes final agency action. If the NPFC fails to issue a

written decision within 90 days after receipt of a request for reconsideration, this determination, at the option of the claimant, shall be deemed final agency action.

Should you choose to request NPFC reconsideration of this determination, please mail the request and additional claim information with the appropriate claim number (N10036-0385) to:

Chief (Cn)
[redacted]

If you have any questions about reconsideration, please feel free to contact me at the above address or by phone at [redacted]

Sincerely,

[redacted]

U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: 5/2/2011
Claim Number	: N10036-0386
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $12,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that his business, [redacted] lost profits & earnings as a result of the Deepwater Horizon incident.

The Claimant identified his claim as loss of profits and loss of subsistence use although the NPFC has determined that what the Claimant categorized as loss of subsistence use was inaccurate; therefore, the NPFC adjudicated the claim as sole lost profits & earnings claim. The NPFC denied the claim originally on March 15, 2011 because the Claimant had not provided the additional information requested by the NPFC in order to demonstrate that he has a loss of profits and if he had been able to demonstrate a loss, that is was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil.

The Claimant filed a claim with the GCCF and was given claim # [redacted] The Claimant did not provide a GCCF denial letter but stated that he was denied.

REQUEST FOR RECONSIDERATION:

On April 20, 2011, the Claimant mailed a request for reconsideration to the NPFC stating he would like the NPFC to reconsider his claim. In the Claimant's handwritten request for reconsideration letter dated April 11, 2011, he stated he wanted to submit additional information (i.e., 2010 tax information and his denial letter from the GCCF). The Claimant further stated in his letter that he has never received unemployment and all money from his business was in cash.[1]

[1] See request for reconsideration letter dated April 11, 2011.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via mail received by the NPFC on April 20, 2011. To support his request for reconsideration, the claimant provided a third party letter dated April 26, 2011 which was received by the NPFC via email dated April 27, 2011.[2] Additionally, via mail received on April 25, 2011, the Claimant provided a copy of a GCCF denial letter dated November 2, 2010 and a partial copy of his 2010 Income Tax Return and 2010 Mississippi Individual Income Tax Declaration with a handwritten note that he paid no state taxes this year.

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 reviewed the information the Claimant provided in his original claim submission as well as the new information provided on reconsideration.

On reconsideration, the Claimant stated that he wanted to submit additional information (i.e., 2010 tax information and his denial letter from the GCCF). It is important to note that the Claimant has stated he only deals in cash, has no Profit and Loss statements for his business, and has no bank account statements in which to provide. The Claimant has provided his Schedule C associated with his 2007, 2008, and 2009 tax returns, and a full copy of his 2009 Income Tax return.

It appears, based on the Claimant's Schedule C for 2009, he had gross income of $19,280.00 and based on his Schedule C for 2010, he had a gross income of $13,825.00, a difference of $5,455.00. The Claimant asserted that he closed his business in July 2010 but has not provided any documentation to support what his saved expenses were as a result of not operating the [redacted] The Claimant has not provided any information on his saved expenses associated with any employees he had prior to closing the [redacted] saved food expenses, saved utilities, etc. Additionally, the Claimant has provided no assertions on how the incident caused his alleged loss.

Additionally, in an email dated December 10, 2010 to the NPFC, the Claimant asserted that he also cooked meals for family and friends during the summer months and was able to make $150.00 or more for each cookout event he hosted. While the Claimant has made that assertion, he has not provided an itemized accounting of the events he hosted, itemized what events he was paid for and when, or how the events were scheduled therefore the NPFC cannot determine the

[2] See written statement by [redacted] dated April 26, 2011. Statement affirms that [redacted] states that he supplied the Claimant shrimp from his stand and also provided one receipt dated March 30, 2010 (prior to the incident) that shows the sale of 30lbs. of shrimp to the Claimant's Sport Bar.

relevance of the assertion with respect to his alleged loss and what amount is attributable to cookout events without further support.

Based on the information provided by the Claimant, the NPFC cannot determine how the Claimant arrived at his sum certain. More importantly, the Claimant simply has not provided comparable financial records to support his alleged loss. In summary, the Claimant has not demonstrated a loss of profits, the Claimant hasn't provided documentation with respect to his saved expenses or how his loss is the result of the to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil.

Based on the foregoing. the NPFC again denies the claim because (1) the Claimant has failed to demonstrate that the alleged loss is 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 (2) the Claimant has failed to demonstrate a loss in the amount alleged when considering the absence of overall comparable financial documentation pursuant to 33 C.F.R. § 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-

(d) Any saved overhead or normal expenses not incurred as a result of the incident; and

33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

This claim is denied upon reconsideration.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***5/5/11***

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

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
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
5/5/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0386

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 N10036-0386 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,

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
[redacted]
Fax: 202-493-6937

5890
3/15/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0386

[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 N10036-0386 involving the Deepwater Horizon oil-spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0386.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard

03/04/11 FOIA2011-3380-00001543

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 15, 2011
Claim Number	: N10036-0386
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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. 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 August 23, 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 December 28, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $12,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that his business, [redacted], lost profits & earnings as a result of the Deepwater Horizon incident.

The Claimant identified his claim as loss of profits and subsistence use although the NPFC has determined that what he categorized as subsistence was inaccurate.

The Claimant filed a claim with the GCCF and was given claim # [redacted] The Claimant did not provide a GCCF denial letter but stated that he was denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC Optional (OSLTF) Claim Form, no date
- U.S. Individual Income Tax Return, Form 1040, Schedule C attached
- Food Service Facility Inspection Results Form 301, 6/8/09
- Photocopy of Louisiana state driver's license and social security card
- City of Durant, MS business tax license, [redacted] June 3, 2009
- U.S. Individual Income Tax Return, Form 1040, Schedule C, 2007 and 2008
- State of Mississippi Bar & Lounge Certificate of Approval, May 10, 2009
- State of Mississippi, Beer Permit and Privilege License Retailer, Expiration date, 9/1/10.

NPFC Determination

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.

To assist in adjudication of the claim, the NPFC sent the Claimant two (2) requests for additional information. Both times the NPFC requested the following documentation to assist in the determination of a lost profits and earnings claim:

1. Monthly Profit and Loss Statements (Income Statements) for all months in 2008, 2009 and 2010.
2. Monthly business bank statements for all months in 2009 and 2010.
3. State sales tax returns for all reported periods in 2009 and 2010.
4. You indicated that you became unemployed in June 2010 when you closed your business. Please provide any and all unemployment compensation benefit statements for any periods in 2010 when unemployment benefits were received.

The Claimant never provided the NPFC with the above referenced documentation and stated that his business was conducted in cash transactions so bank statements would not be able to be provided. The claim is denied because the evidence provided by Claimant, as described above, does not establish that he has incurred a loss or that the alleged loss (if one had occurred) was 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.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/15/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0387
25 March 2011

[redacted]

RE: Claim Number: N10036-0387

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 the claim number N10036-0387 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0387.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Date	: 25 March 2011
Claim Number	: N10036-0387
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,000.00

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 03 January 2011, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC). The OSLTF claim form alleged $10,000.00 in lost profits and earnings capacity resulting from the Deepwater Horizon oil spill.

Claimant's payroll records indicated that he worked for [redacted] Claimant asserted that "[d]ue to the [Deepwater Horizon] Oil Spill, Drilling has been banned and most contracts canceled. Being a Tie-in company, there is no work."[2] Claimant further asserted that as a result of the oil spill, the vessel he worked on was docked indefinitely, which led to reduced overtime and lost income for Claimant.[3]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] The same payroll records also indicate that Claimant worked for [redacted] It is unclear if Claimant still works for the same employer.
[2] OSLTF claim form.
[3] Correspondence from Claimant, "to whom it may concern", undated.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documents to the NPFC:

1. OSLTF claim form, dated 30 December 2010;
2. Check History Listing (paychecks), [redacted] and [redacted] 2009 and 2010; and
3. Correspondence from Claimant, "to whom it may concern", undated.

On 12 September 2010, Claimant filed a six-month Emergency Advance Payment claim with the GCCF.[4] On 23 September 2010, Claimant received $16,300.00 as compensation on this claim from the GCCF.[5]

Claimant thereafter presented this claim for $10,000.00 to the NPFC.

NPFC Determination

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 as a direct result of the Deepwater Horizon Incident. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because Claimant failed to demonstrate a loss of profits or impairment of earnings capacity as a direct result of the Deepwater Horizon Incident.

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[4] GCCF Email to the NPFC, dated 24 March 2011.
[5] GCCF Email to the NPFC, dated 24 March 2011.

During 2009, the Claimant worked a total of 2,273 total hours, or approximately 47.4 hours per week over a 48-week work year. For the year, the Claimant earned total gross pay of $52,736 in 2009. Approximately half of the Claimant's hours were recorded as overtime hours in 2009. The remainder, or 1,125 hours were recorded at the regular pay rate in 2009.

During the first 10 pay periods (weeks) of 2010, the Claimant worked an average of 48.5 hours per week. During the pre-incident pay periods ending 18 April 2010, the Claimant only recorded 33% of his total hours (160 hours) at the overtime rate. For the post-incident pay periods of 25 April 10 through 21 November 10, the Claimant worked an average of 57.2 hours per week. During that period, the Claimant recorded 593.0 hours at the overtime rate, or 39.3% of total hours.

The pay rate earned by the Claimant did not change in 2009 or 2010. In both years, the regular pay rate was $17.00 per hour and the overtime rate was $25.50 per hour. Further, average total hours per week did not decrease during the pay periods that followed the Deepwater Horizon Incident but rather they increased.

The percentage of total hours recorded at the overtime rate did decrease in the first 3.5 months of 2010 compared to 2009, but this period pre-dates the Deepwater Horizon oil spill. After the oil spill, the percentage of total hours recorded at the overtime rate increased from 33% to 39%.

Additionally, in consideration of all documents and information provided as well as a conversation with the employer, [redacted], the Claimant has failed to establish that the loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon oil spill. The Human Resources representative from [redacted] Inc. advised that to the best of her knowledge, no employees lost hours due to the oil spill but, if hours/wages were lost subsequent to the oil spill, it was due to the moratorium and permitting process delays rather than the presence of oil in the water. She further advised that the "slow" season was during the winter and hours lost any time prior to late March were most likely due to seasonal variances resulting in a lack of available work. In summary, she has no awareness of a loss of hours due directly to oil in the water or a threat of discharge of oil and likewise frames the seasonal components of this company in her own words, explaining the data presented by this claim and refuting direct causation to the Deepwater Horizon oil spill.[6]

As such, Claimant's claim for lost profits or earnings capacity is denied because the alleged losses were not calculable by the NPFC, and the claimed losses are 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 as a result of the Deepwater Horizon oil spill.[7]

Claim Supervisor [redacted] for

Date of Supervisor's review: *3/25/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[6] Conversation between [redacted] Human Resources and NPFC staff, 21 March 2011

[7] The NPFC notes that Claimant received $16,300.00 as compensation from the GCCF.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0389
24 March 2011

[redacted]

RE: Claim Number: N10036-0389

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 N10036-0389 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0389.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 March 2011
Claim Number	: N10036-0389
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $9,000.00

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 30 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $9,000.00 in loss of profits and earning capacity. Claimant asserts that he lost his job due to the Deepwater Horizon oil spill.

At the time of the Deepwater Horizon oil spill, Claimant was a deckhand on a boat owned by [redacted]. Claimant indicates that the captain of the boat lost business due to the Deepwater Horizon oil spill and laid him off April of 2010.[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax

[1] Claimant provides a letter from his employer, [redacted] which states that he was laid off as a result of the Deepwater Horizon oil spill.

ENCLOSURE
FOIA2011-3380-00001552

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation:

- Optional OSLTF claim form, dated 30 December 2010;
- Handwritten letter from [redacted] Boat Capitan, dated 30 December 2010;
- Copy of Drivers License;
- Copy of Social Security Card.

Claimant seeks a total of $9,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon oil spill.

On 23 August 2010, Claimant filed a six month Emergency Advance Payment (EAP) claim with GCCF for $100,000. He was assigned GCCF Claimant ID # [redacted] This claim was denied by GCCF. Correspondence from the Responsible Party also indicates that the Claimant filed a claim directly with BP for $6,000 and was compensated in that amount.

NPFC Determination

This claim is denied because the evidence provided by the Claimant does not show that his alleged loss in the amount of $9,000.00 is 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.

In connection with the review of this claim, the NPFC sent Claimant a letter requesting additional information in order to further evaluate his claim. The letter requested, among other things, financial documentation for an accurate accounting of Claimant's losses. It was sent on

22 February 2011. On 22 March 2011, Claimant acknowledged receipt of the letter and indicated that he did not have any additional information to support his claim.

Accordingly, the NPFC evaluated the claim based upon the sparse evidence Claimant originally submitted by Claimant. This evidence does not support the allegation that Claimant lost $9,000.00 in earnings as a result of the Deepwater Horizon oil spill. As a result, his claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review:

Supervisor's Actions:

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

Claim # N10036-0390
19 January 2011

[redacted]

RE: Claim Number: N10036-0390

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0390 involving the Deepwater Horizon incident. Please see the attached Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0390.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date : 19 January 2011
Claim Number : N10036-0390
Claimant : [redacted]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [redacted]
Amount Requested : $4,089.30

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 30 December 2010 [redacted] (Claimant) presented an Oil Spill Liability Trust fund claim form to the National Pollution Funds Center (NPFC) seeking $4,089.30 in lost profits and earnings asserting that he experienced these losses as a result of the Deepwater Horizon incident.[1] Prior to the Deepwater Horizon incident, the Claimant worked for [redacted] from at least 01 January 2010 to 14 May 2010. From January through May 2010, claimant worked an average of 45 hours per week earning $9,575, or an effective hourly rate of approximately $11.21 per hour.

Claimant appears to have voluntarily left his position at [redacted] in order to attend his Grandfather's funeral. His last paycheck at the [redacted] was received on 14 May 2010. He was offered another job at the [redacted] in Perdido Key, Florida where he was promised full time employment. Claimant began work at the [redacted] on or about 23 May 2010 and worked an average of 25.6 hours per week for his first five weeks. Claimant averaged approximately 25 hours per week at the [redacted] from 30 May through to 28 November 2010.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

[1] Optional OSLTF claim form dated 08 December 2010 and received at NPFC on 30 December 2010

09/12/11 ENCLOSURE FOIA2011-3380-00001556

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted:

- NPFC OSLTF Claim Form dated 08 December 2010.
- Letter from General Manager, [redacted] in regard to Claimant signed on 19 October 2010.
- 2007 and 2009 IRS Form 1040 Tax Returns.
- [redacted] Payroll History Detail Report for Claimant from 01 January 2010 to 08 December 2010 for 25 weekly pay periods with check dates 06/02/2010 to 12/01/2010.

- [redacted] for the Claimant dated 05/13/2010
- Letter To Whom It May Concern dated 12/05/2010 endorsed by the Claimant.
- A copy of the Claimant's Social Security Card, Driver's License, and Pensacola Junior College Student Identification for 2011 to 2013.
- Claimed amount calculation sheet showing weeks 3 to 28 with weekly hourly rates multiplied by the estimated hours lost per week. The total shown is $4,529.30.

The Claimant states that he did not receive 35-40 hours per week as promised at the [redacted] as a result of the Deepwater Horizon incident and seeks 4,089.30 in lost earnings. [2]

On 18 September 2010, the Claimant filed an Emergency Advance Payment claim with the GCCF and received Claimant ID [redacted] and Claim [redacted] On 04 December 2010, the Claimant received a GCCF Emergency Advance Payment denial letter.[3]

NPFC Determination

This claim is denied. 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. Under 33 C.F.R. § 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 claim is denied because the alleged loss in the amount of $4,089.30 is not due to the injury, destruction, or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil but due to the Claimant's decision to voluntarily leave his position at the [redacted] for another job.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/14/11

Supervisor Action: DENIAL APPROVED
A

Supervisor's Comments:

[2] Optional OSLTF claim form dated 08 December 2010 and received at NPFC on 30 December 2010
[3] GCCF letter to Claimant dated 04 December 2010.

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
[redacted]

5890
1/5/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0391

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0391 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation of your denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0391.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/5/2011
Claim Number	: N10036-0391
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $4,500.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 30 December 2010, [redacted] (Claimant), presented a lost profits & earnings claim in the amount of $4,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he left his position with [redacted] due to reduced hours and was subsequently offered a spill cleanup position which he decided to take in order to make more money. Some time thereafter, [redacted] position as a spill cleanup contractor ended and he reapplied for his old position with [redacted] although they had no available openings at the time of his inquiry. Claimant contends his hours were cut and he ultimately lost his job as a spill response contractor because of the Deepwater Horizon incident.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 10, 2010, a letter undated for Claimant's previous employer, [redacted], and a payroll history report from [redacted] dated November 11, 2010. Claimant states he has submitted a claim to the GCCF although a claim number has not been provided in the submission to the NPFC. [redacted] states on the OSLTF Claim Form that he has received no response to date from the GCCF.

B. NPFC Determination

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 claim is denied because the alleged loss in the amount of $4,500.00 is 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. Claimant's termination from employment and alleged financial losses are the result of business decisions made by his employer, and not the result of the Deepwater Horizon incident. Such a loss as the one claimed in this case, is not a damage that may be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/5/11

Supervisor Action: Denial approved

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail: [redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim #N10036-0112
04 February 2011

[redacted]
Slidell, LA 70461

RE: Claim Number: N10036-0112

Dear Mr. [redacted],

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0112 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary / Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0112.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 04 February 2011
Claim Number	: N10036-0112
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $58,604.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit 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, 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 for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues. [1]

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

On 18 November 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) claiming $58,604.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

09/[illegible]/2011
ENCLOSURE
FOIA2011-3380-00001564

Claimant asserts that "[he] was working not far from the deep water horizon at the time of the spill and was subsequently laid off due to lack of work as a result of the spill."[2]

Claimant seeks lost wages from his unemployment.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
3) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
4) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

[2] Optional OSLTF Claim Form.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the following documentation:

- Optional OSLTF Claim Form;
- Contact us page from [redacted]
- 2008 W-2 from [redacted]
- 2009 W-2 from [redacted]
- Form LWC 77 Separation Notice Alleging Disqualification;
- Check stub D26876 dated 11 December 2009 from [redacted]
- Check stub D28122 dated 24 December 2009 from [redacted]
- Check stub D28692 dated 31 December 2009 from [redacted]
- Check stub D29939 dated 15 January 2010 from [redacted]
- Check stub D31145 dated 29 January 2010 from [redacted]
- Check stub D32399 dated 12 February 2010 from [redacted]
- Check stub D33014 dated 19 February 2010 from [redacted]
- Check stub D34142 dated 05 March 2010 from [redacted]
- Check stub D34688 dated 12 March 2010 from [redacted]
- Check stub D38095 dated 16 April 2010 from [redacted]
- Check stub D38675 dated 23 April 2010 from [redacted]

Claimant seeks lost wages from being laid off from [redacted] allegedly as a result of the Deepwater Horizon incident.

In October 2010, Claimant filed an Emergency Advance Payment claim with the GCCF.[3] GCCF assigned him Claimant ID # [redacted] but has no record of any action on the claim. NPFC accepted review of the claim based upon the assignment of the GCCF Claimant ID #, confirming presentment, and the fact that ninety days has elapsed since the last day of October, the month in which the Claimant presented his claim, without action by the GCCF.

On 18 November 2010, Claimant presented an Optional OSLTF Claim Form to the NPFC, claiming $58,604.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

[3] Optional OSLTF Claim Form.

FOIA2011-3380-00001566

NPFC Determination

This claim is denied. Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a Claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The documentary evidence presented by the Claimant indicates that his loss resulted from the six month deepwater drilling moratorium. The claim is denied because the alleged loss in the amount of $58,604.00 is not due to the injury, destruction, or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil, but because a determination was made and a directive issued by the Department of Interior to enact a deepwater drilling moratorium to implement new safety requirements.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/7/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0393
23 February 2011

[redacted]

RE: Claim Number: N10036-0393

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0393 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0393.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	16 February 2011
Claim Number	N10036-0393
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$28,000.00

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 09 December 2010, [redacted] (Claimant) presented a claim form seeking $28,000.00 in lost profits and earnings capacity to the National Pollution Fund Center (NPFC) alleging damages resulting from the Deepwater Horizon incident.

Claimant is an employee-partner with [redacted] out of Mobile, Alabama. He provides Pepsi goods and services to various businesses. The Claimant provided statements from his customers that they stopped receiving orders from him as a result of the Deepwater Horizon incident. The customers stated that this also caused the Claimant to suffer losses. The claimant alleged that he lost earnings as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant provided copies of GCCF Denial dated 02 November 2010, sales receipts from [redacted] dated 13 August 2010 and 24 Sept 2010, letters from customers stating they no longer receive Claimant's products, letter dated 14 July 2010 from [redacted] regarding the incident and its impact on their income, and copy of the Claimant's drivers license.

On 14 January 2011, the NPFC sent a letter to the Claimant requesting additional information in order to obtain the necessary information to be able to adjudicate the claim. The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered 24 January 2011. The Claimant called the NPFC on 25 January 2011 and requested additional time to respond. Claimant stated that his mail was delayed because of his change of address. The NPFC gave the Claimant an additional 14 days or until 08 February 2011. To date, no response has been received from the Claimant.

Claimant is claiming lost earnings and wages $28,000.00.

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID [redacted] and Claim [redacted] On 02 November 2010 the GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

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 or 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 submitted by the Claimant.

The claim is denied because the evidence presented by the Claimant does not demonstrate that his alleged financial loss is a direct result of the Deepwater Horizon incident. NPFC sent a letter to Claimant requesting additional information in order to further evaluate the claim. The Claimant called NPFC to request additional time to respond. He was given an additional 14 days or until 08 February 2011. No response has been received by the Claimant therefore the Claimant has failed to meet his burden in demonstrating he has a loss of profits and earnings as a direct result of the Deepwater Horizon incident therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/22/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
2/23/2011

[redacted]

RE: Claim Number: N10036-0394

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0394 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for a detailed explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0394.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 22, 2011
Claim Number	: N10036-0394
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,000.00

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. 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 August 23, 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 December 15, 2010, [redacted] (Claimant), presented a claim to the National Pollution Fund Center (NPFC) seeking $20,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that he lost profits and earning capacity through his employment as a deckhand on his father's fishing vessel as a result of the Deepwater Horizon incident.

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF and was subsequently denied on December 4, 2010.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition,

comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, dated December 6, 2010
- Letter dated December 4, 2010 from GCCF to claimant stating his request for emergency advance payment has been denied.
- Copy of a piece of notebook paper with a telephone number on it.
- Letter dated 05 Dec 2010 from claimant stating he is a commercial fisherman on his father's boat.

NPFC Determination

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.

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that the loss of income was due to injury or 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.

Based on the documentation provided from the Claimant, he indicated that his income was reduced due to his job as a deckhand on his father's fishing vessel being impacted as a result of the Deepwater Horizon incident.

On January 18, 2011, the NPFC sent, via certified mail, a request for additional information to the Claimant in order to obtain necessary information to adjudicate the claim. The documentation requested consisted of the following:

- Income Tax Return Filings for 2007, 2008 and 2009 including all attachments, Schedule C's, W-2's and form 1099's.
- If a deckhand or boat captain, provide copies of all pay checks, pay stubs or earnings statements received for employment during 2009 through the current period in addition to the paystubs already provided.
    - If you cannot provide pay stubs, please provide copies of bank statements showing income.
- If a deckhand, provide the name of the vessel working on, the name of the vessel owner a description of the vessel size and equipment.
- For deckhands, provide settlement sheets provided by the boat captain or vessel owner supporting your compensation/ share of earnings from 2008, 2009 and 2010.
- For boat captains or vessel owners provide:
    - Settlement Sheets providing a detailed breakdown of owner's share of proceeds, compensation to boat captain, payments to deckhands and payment of expenses.
    - Trip Ticket Landing Data from State Authority to listing all trip tickets from 2007 through the present period.
    - If the above is not available, provide the actual Trip Tickets/ Catch Records/ Dealer Receipt Forms for the same period.
- If operating a wholesale business, provide a detailed sales ledger for 2009 and 2010.

The NPFC also requested the Claimant answer the following questions:

- How was your business/ fishing activity impacted by the Deepwater Horizon incident?
- Describe the type of fishing activity you are involved with (i.e. fish, crabs, oysters, shrimp, etc…)
- Describe your method of fishing for each type of seafood product caught. (i.e. fishing nets, fishing with long lines, oyster dredging, etc…)
- Identify the areas where you normally fish.
    - Include any alternative areas you have considered if your normal areas have been closed.
    - If applicable, identify any closures that affected that your fishing operations.
- Describe your compensation agreement and how you are compensated.
- Provide the names of all deckhands, boat captain and boat owner.
- Have other individuals related to your fishing employment (deckhands/ boat captain/ vessel owner) filed claims with BP/ GCCF? If so, identify the status of their claims and if they have been considered for payment.
- Identify the expenses that you are responsible for and pay out of pocket.
- If your fishing activity includes a wholesale/ dealer business, identify the following:
    - Type of products sold/ delivered
    - Your main customers base
    - Identify if your business activity provides distribution and delivery
    - Identify what assets are owned to facilitate your wholesale business.
- Describe your employment history starting from 2008 through the current period.
- Have you been unemployed for any period of time from 2008 through the current period? If so identify the specific dates you were unemployed and describe the reason for your unemployment.

- Describe your current employment/ work status.
- If you are a boat captain or a vessel owner, identify if you have participated in the Vessel of Opportunity program for response to the Deepwater Horizon incident.
- Explain how the claimed lost profits were estimated.

The Claimant has not provided the additional documentation requested nor has the Claimant answered any of the questions to support his claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden demonstrating that he has a loss of profits and earnings and that alleged loss was the direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***February 22, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0395
15 February 2010

Re: Claim Number: N10036-0395

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0395 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0395.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/14/11 FOIA2011-3380-00001577

CLAIM SUMMARY / DETERMINATION FORM

Date	11 February 2010
Claim Number	N10036-0395
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$17,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 January 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking $17,000.00 in lost profits & earnings capacity resulting from the Deepwater Horizon incident.

The Claimant worked as a truck driver until 08 July 2010—the date he was laid off. Claimant has not been able to find gainful employment since.[1]

Claimant seeks lost earnings from his unemployment allegedly as a result of the Deepwater Horizon incident.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] Handwritten message on Claimant's GCCF claim application.

09/14/11 FOIA2011-3380-00001578

ENCLOSURE

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, the Claimant submitted his Optional OSLTF Claim Form dated 03 January 2010 and his GCCF claim application dated October 2, 2010.

Claimant seeks lost earnings from his state of unemployment allegedly as a result of the Deepwater Horizon incident.

On 02 October 2010, Claimant filed a 6-month Emergency Advance Payment (EAP) claim for $14,400.00 in lost profits with the GCCF. GCCF assigned him Claimant ID [redacted] and Claim # [redacted] to his EAP claim. GCCF thereafter denied this claim.

NPFC Determination

The claim is denied. 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 the documentation presented by the Claimant, which only included an incomplete Optional OSLTF Claim Form and Claimant's GCCF claim application. This evidence does not support his allegation that he suffered a loss of earnings as a result of the Deepwater Horizon incident.

This claim is denied for lack of evidence. There is no documentation supporting actual employment, termination of employment, how employment is connected to or relates to oil spill

impacts. Additionally, no financial or pay documentation has been provided to support the valuation of the claim.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Supervisor's Actions: Denial Approved

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0396
18 February 2011

[redacted]

RE: Claim Number: N10036-0396

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0396 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request.

Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0396.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	16 February 2011
Claim Number	N10036-0396
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$25,000.00

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 03 January 2011, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $25,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

The Claimant worked at [redacted] in Houma, Louisiana. Claimant asserted that he worked on jack-up boats, supply boats, and work boats. He alleged that "[t]he Deepwater Horizon oil spill caused BP to use the jack-up boats and work boats that we [redacted] work from."[1] He asserted that "[as a result he] had to wait until the companies could get the boats back so that we could get them to work from."[2]

Claimant seeks lost earnings from the suspension of his work as a result of the unavailability of work boats.

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. § 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 C.F.R. § 136.233 a claimant must establish the following:

[1] OSLTF claim form dated 22 December 2010.
[2] OSLTF claim form dated 22 December 2010.

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

— OSLTF Claim Form signed 22 December 2010;
— Hand-written note explaining his loss;
— Copies of his 2008 and 2009 US Individual Income Tax Returns;
— 2010 paystubs from [redacted] covering 31 October to 11 December 2010;
— Copy of his 23 October 2010 denial letter from GCCF;
— Copy of [redacted] home page; and
— Copy of GCCF claimant status page.

Claimant seeks $25,000.00 in lost earnings as a result of the Deepwater Horizon incident.

On 19 July 2010, the Claimant filed a claim with BP.

On 23 August 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for $10,500.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted]

and Claim [redacted]. On 25 October 2010, his claim was denied by the GCCF. This information was verified by the NPFC.[3]

NPFC Determination

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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all of the documentation submitted by the Claimant.

On 13 January 2011, the NPFC sent the Claimant a certified letter requesting additional information in order to obtain the necessary information to be able to adjudicate the claim. To date, no response has been received by the NPFC.[4] The Claimant has not provided the requested additional information in order to support the claim, therefore, this claim is denied because the Claimant has failed to meet the burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] The Claimant has an Interim Payment claim under review at the GCCF.
[4] The letter was sent Certified Mail Return Receipt Requested. The USPS Tracking site showed the letter was delivered 22 January 2011.

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail:
[redacted]
Fax: 202-493-6937

5890
25 January 2011

VIA CERTIFIED MAIL
Number: [redacted]

[redacted]
Bay Minette, AL 36507

RE: Claim Number: N10036-0397

Dear Mr. [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-397 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0397.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	24 January 2011
Claim Number	N10036-0397
Claimant	Mr. [redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$30,000.00

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 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 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 January 2011, Mr. [redacted] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $30,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant was employed with [redacted] since 1998 and asserted that his "hours and days have been decreasing since the spill and [he] has been clocking out early due to lack of work".[1] Claimant advised that he works in a division of the company that makes [redacted] and production of said poles has decreased due to the spill.[2]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), at 33 U.S.C. § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone, as described in § 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136, to pay claims for uncompensated damages. One type of damages available pursuant to 33 C.F.R. §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 C.F.R. § 136.233 a claimant must establish the following:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

[1] Claimant's Optional OSLTF Claim Form
[2] Claimant's Optional OSLTF Claim Form

09/14/11 FOIA2011-3380-00001586

(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the NPFC Optional OSLTF Claim Form dated 21 December 2010, 2008-2009 W-2, 2008-2009 Form 1040, a letter from [redacted] confirming Claimant's employment status and date of hire and a spreadsheet reflecting payroll histories for the entire year 2010.

Claimant submitted a claim with the GCCF and was assigned a GCCF Claimant Identification Number #[redacted] and was denied by the GCCF on 06 December 2010. Claimant asserted that he has lost hours and wages due to the impacts of the oil spill.

NPFC Determination

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 injury or 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 his claim.

The NPFC reviewed the evidence presented by the Claimant and interviewed a representative from the Human Resources division of [redacted] During the phone conversation it was determined that the Claimant lost no hours due to the oil spill, and as reflected by Claimant's payroll history, lost no apparent hours for any other reason. The employer added that nobody at this organization has lost work due to the oil spill as the business for [redacted] is directed towards inner city projects such as little league fields, parks, etc.[3] Claimant has failed to meet his burden of proof in establishing damages that are the direct result of the Deepwater Horizon incident therefore this claim is denied.

[3] Conversation between employer , [redacted] and [redacted], 13 January 2011

09/14/11 FOIA2011-3380-00001587

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***1/25/11***

Supervisor's Action: ***Denial approved***

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937
5890
3/03/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0398

Dea[redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0398 involving Deepwater Horizon. See the attached Claim Summary / Determination Form for an explanation regarding the denial.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0398.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 28, 2011
Claim Number	: N10036-0398
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $357,815.00

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. 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 August 23, 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 3, 2011, the National Pollution Funds Center (NPFC) received a claim from [redacted] via their authorized agent [redacted] Business Consultant for [redacted] and [redacted] (Claimants), owners of [redacted] for lost profits and earnings in the amount of $357,815.00. The Claimants provided an Authorization dated September 29, 2010, authorizing [redacted] to act on their behalf for submission of the claim.

The Claimants started a new business, [redacted], on May 1, 2010. The Claimants asserted that the Deepwater Horizon incident caused seafood prices to sky-rocket and reduced local patrons and tourists from eating at [redacted] due to fear of eating unsafe seafood, therefore preventing the company from "getting off the ground."

As we understand it, the business specializes in packaging and selling fresh seafood from their beachside location in Panama City Beach, FL. The documentation provided demonstrated that the Claimants signed a one-year lease on May 1, 2010 with [redacted] for the property located at 5510 Thomas Drive, Panama City Beach, Florida 32408.

The claim consists of "sales figures that were based on an up-rise in tourism during the busy tourist months including holiday weekends, spring break for college students, and an increase on 'Snow Bird' population."

Based on information provided by the Claimant and a review of the GCCF database, the assumes the following information to be correct. The Claimants filed a claim with the GCCF on October 5, 2010 for $300,000.00 and was given claim [redacted]. The claim was subsequently denied. A full final review claim was later submitted to the GCCF on December 30, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or

exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support the claim, the Claimant submitted the following documents:

- NPFC OSLTF Claim Form dated December 13, 2010;
- Letter authorizing [redacted] to act on the Claimants' behalf;

- Florida LLC listing of [redacted];
- Personal hardship letter from [redacted] dated December 13, 2010;
- Twenty-two (22) pages of bank statements;
- Copy of lease between Claimants and [redacted] dated May 1, 2010;
- Florida Dept of Corporations confirming [redacted];
- Copy of Florida state license to retail saltwater products;
- Profit and Loss statements for April 2010 through October 2010;
- Comparison of projected sales versus actual sales;
- Answers to 14 questions submitted to the Claimant by the NPFC.

NPFC Determination

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 Claimants have not provided financial information; including expenses, profits, or earnings in comparable periods to the period when the claimed loss was suffered since this was a start up business with no prior historical data. It is important to note that the Claimants do not have a written Business Plan for this startup company. The Claimant's submission stated that the Claimants did not create a Business Plan. The Claimants stated that "due to being a small business, the owners did not create a Business Plan and chose to open with their knowledge and expertise in the fishing and seafood industry."

The Claimants did provide Profit & Loss statements from April 2010 through October 2010 which provided what the actual sales were for the business. The Claimants stated in their February 3, 2011 letter to the NPFC that the projected figures used to estimate their losses are based upon fair market prices and comparable sales by competitive firms in the immediate area although the Claimants have not provided the underlying details they obtained to generate the projections.

Thus, the Claimants have not established that the alleged loss of profits and earnings was due to, the destruction of, or loss of property or natural resources. Additionally, the Claimants have failed to meet their burden in demonstrating a loss of profits. Furthermore, the projected figures do not have the appropriate detail in order for the NPFC to understand how the Claimants arrived at the projected sales figures used to calculate their claimed loss. As such, the claim for lost profits or earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: *3/03/11*

Supervisor Action: ***Denial approved***

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
[redacted]

5890
3/24/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0399

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 N10036-0399 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number N10036-0399.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/14/11
FOIA2011-3380-00001593

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 23, 2011
Claim Number	: N10036-0399
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $606,662.00

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. 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 August 23, 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 3, 2011, the National Pollution Funds Center (NPFC) received a claim from BNB [redacted] (Claimant) via its authorized agent, [redacted] of Licensing & [redacted] for lost profits and earnings in the amount of $606,662.00. The Claimant provided an Authorization dated July 28, 2010, authorizing [redacted] to act on its behalf for the submission of the claim.

The Claimant opened its restaurant, [redacted] on May 1, 2010. The Claimant asserted that the Deepwater Horizon incident caused several of its entertainment venues to cancel pre-scheduled concerts between May and December, 2010. The Claimant also asserted loss of tourism, fear of eating seafood from the Gulf region, and negative media reports as affecting its profits, therefore preventing the company from "getting off the ground."

The Claimant's restaurant is located in Panama City Beach, FL. The documentation provided demonstrated that the Claimant signed a one-year lease on March 18, 2010 with [redacted] for the property located at [redacted], Panama City Beach, Florida [redacted].

The basis of claim costs resulted from "'profit & loss' information retrieved from the Panama City Beach Chamber of Commerce" and are "based on restaurants similar in square footage and seating capacity that are located less than one-mile from [redacted] along with the sales history of previous tenants."

The Claimant filed an emergency relief claim with the GCCF July, 2010, and was given claim # [redacted]. It was asked to re-file the claim on August 23, 2010. A full final review claim was later submitted to the GCCF in December, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.
(b) That the claimant's income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.
(c) The amount of the claimant's profits or earnings in comparable periods and during the period when the claimed loss or impairment was suffered, as established by income tax returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
(d) Whether alternative employment or business was available and undertaken and, if so, the amount of income received. All income that a claimant received as a result of the incident must be clearly indicated and any saved overhead and other normal expenses not incurred as a result of the incident must be established.

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.

Under 33 C.F.R. § 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;
(c) Potential income from alternative employment or business not undertaken, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and
(e) State, local, and Federal taxes.

DETERMINATION OF LOSS:

Claimant's Submission

To support the claim, Claimant submitted the following documents:

- NPFC OSLTF Claim Form dated December 13, 2010;
- Cover letter from [redacted] dated 12/13/2010;
- Letter authorizing [redacted] to act on the Claimant' behalf;
- Copy of the [redacted] Menu;
- Copy of lease between Claimant and [redacted] dated 3/18/2010;
- Copy of the Promissory Note between Claimant and [redacted] dated 5/30/2010;
- Copies of the Claimant's Statement of Operations for 5/31/2010, 6/30/2010, 7/31/2010, 8/31/2010, 9/30/2010, 10/31/2010, 11/30/2010, and 12/31/2010;
- Copies of the State of Florida Department of Revenue Sales and Use Tax Return for May-December, 2010;
- A Projected Income for the time period from 3/2010 through 8/2013;
- Answers to the Additional Information Request submitted to the Claimant by the NPFC, dated 3/16/2011.

NPFC Determination

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 Claimant.

Claimant has not provided financial information-- including expenses, profits, or earnings-- in comparable periods to the time when the claimed loss was suffered, as this was a start up business with no prior historical data. 33 C.F.R. § 136.233(c). Additionally, the Claimant has not shown, through the preponderance of the evidence, that the lack of sales, entertainment venue cancelations and out-of-pocket costs totaling approximately $50,000.00 are a consequence of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Additionally, OPA does not pay for "projected losses;" rather, only actual losses incurred as a result of injury to, destruction of, or loss of property or natural resources. 33 C.F.R. § 136.233(b).

Based on the foregoing, this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/24/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments: