

U.S. Department
of Homeland Security

United States
Coast Guard



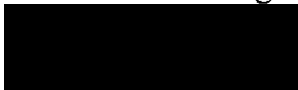
Director
United States Coast Guard
National Pollution Funds Center
Natural Resource Damage (NRD)
Claims Division

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16480

18 January 2012

CERTIFIED MAIL Number: 7011 1150 0000 4666 9359

Ms. Mamie L. Magee


RE: Claim Number: N10036- 1339

Dear Ms. Magee:

The National Pollution Funds Center (NPFC) has reviewed your request for reconsideration of your claim for lost use of natural resources resulting from the Deepwater Horizon oil spill. We have determined that you have not met your burden of proving a 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 began accepting and adjudicating individual and business claims on behalf of BP.

Facts of the Claim

On 25 August 2011, the NPFC received your claim for \$9,000 for loss of use of natural resources due to the Deepwater Horizon spill. You stated that you "were unable to feed my family" from fish you would have caught and eaten if not for the spill. Your claim submitted to the GCCF on 6 January 2011, was denied.

The NPFC subsequently denied your claim on 3 October 2011 because you did not:

- (1) demonstrate a regular pattern of past catch that you or your family relied upon for subsistence food (e.g., statements or affidavits that address the frequency and amount of subsistence catch and consumption);
- (2) establish that you suffered a loss of subsistence use of natural resources as a result of the spill (i.e., you did not state where you typically fished for subsistence food or that such areas were closed, with no alternative locations available, during

the period of your claimed loss); nor (3) explain how you determined your claimed loss of \$9,000 (i.e., the period of your claimed loss and the actual costs incurred to replace your claimed loss or documentation to establish reasonable estimates of replacement costs based on your pattern of subsistence use).

On 30 November 2011, the NPFC received your request for reconsideration of the 3 October 2011 determination.

Claim Submission and Documentation

To support your reconsideration request, you provided a single handwritten letter which stated that you wished to resubmit your claim. Your letter stated only that you fished from the local pier (West Side Pier) in Gulfport on a daily basis to fish for your meals. The oil spill caused you to stop fishing, whereby you drove to food banks twice a week to receive food. You provided no other information or documentation to support your reconsideration request.

Reconsideration of NPFC determinations

Under the claim regulations at 33 C.F.R. §136.115(d), claimants may make a written request for reconsideration of an NPFC determination. The reconsideration must be received by the NPFC within 60 days of the date of the determination and must include the factual or legal basis of the request for reconsideration. Reconsideration will be based upon the information provided and a claim may be reconsidered only once. Your request for reconsideration was received within the required 60 day period.

NPFC Determination

After careful review of the original claim submitted with your request for reconsideration, the NPFC finds that you have not provided sufficient documentation to support your claimed loss of subsistence food. You still have not:

- 1) demonstrated a regular pattern of past catch that you or your family relied upon for subsistence food (e.g., statements or affidavits that address the frequency and amount of subsistence catch and consumption);
- 2) established that you suffered a loss of subsistence use of natural resources as a result of the spill (i.e., you stated that you fished daily from the West Side Pier in Gulfport, MS you have not stated whether that area was closed or, if that area was closed, the length of time of closure or whether alternative locations were available, nor did you state the period of your claimed loss);
- 3) explained how you determined your claimed loss of \$9,000 (i.e., the period of your claimed loss and the actual costs incurred to replace your claimed loss or documentation to establish reasonable estimates of replacement costs based on your pattern of subsistence use).

Due to the deficiency in facts to support your claim, the NPFC denies your claim upon reconsideration. The determination of this request for reconsideration constitutes final agency action. If you have any questions or would like to discuss the matter, you may contact the NPFC at the above address and phone number.

Sincerely,



Natural Resource Damage Claims Division
National Pollution Funds Center
U.S. Coast Guard