

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-1401
Claimant	: Sandra Curtis Lowell
Type of Claimant	: Corporate (US)
Type of Claim	: Real or Personal Property
Amount Requested	: \$53,304.00

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 13 September 2011, Sandra Curtis Lowell (the Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) for \$53,304.00 in damage to real or personal property resulting from the Deepwater Horizon oil spill.

The Claimant owned property on Dauphine Island, Alabama. The property consisted of land. The land is not on the beach but is not far from the water.¹ According to the Claimant, the property was valued at \$80,000.00 approximately three years ago.² The Claimant further stated that the oil spill caused the property to lose value and that the “[p]roperty was recently sold for \$28,000.00³ less \$1,304.00 commission and expenses.”⁴ Thus, the Claimant seeks a total loss on the sale of \$53,304.00.⁵ The property was sold on 29 June 2010.⁶

Claimant indicated that the property was not damaged by oil or oil pollution, and that this claim is for losses related to “property depreciation.”⁷ The NPFC has reclassified this claim as a claim for loss of profits and impairment of earnings capacity in the amount of \$53,304.00 based on diminution in property value, as explained below.

Before presenting the claim to the NPFC, the Claimant filed a Full Review Final (FRF) Claim with the GCCF. The claim was assigned Claimant ID #1096701 and claim #94114602.⁸ The FRF claim was denied on 16 July 2011.⁹ As of the date of this determination, the NPFC has been unable to confirm the amount of the FRF claim presented to the GCCF.

REQUEST FOR RECONSIDERATION and Claimant's Claim Analysis:

¹PHONECON Between Claimant and NPFC Staff 16 September 2011

²OSLTF Claim Form signed by the Claimant

³Lots and Land Purchase Agreement dated 16 June 2011 for property at 151 LaSalle Street, Dauphin Island, Alabama

⁴Hand-written letter from Claimant explaining the claim

⁵Total loss (\$80,000- \$28,000- \$1,304=\$53,304)

⁶PHONECON Between Claimant and NPFC Staff 16 September 2011

⁷PHONECON Between Claimant and NPFC Staff 16 September 2011

⁸GCCF On-Line Claim Status

⁹GCCF Denial Letter dated 16 July 2011

The Claimant requested reconsideration which was received by the NPFC on October 26, 2011 via email. The Claimant provided no new information with her request for reconsideration but requested an extension of time to present additional information in support of her request for reconsideration. On October 28, 2011, the NPFC acknowledged receipt of the Claimant's request for an extension of time and the NPFC explained that the Claimant needed to provide a justification for her request for extension as it is not automatically granted. On October 29, 2011, the Claimant responded to the NPFC's email asking for a justification on her request for extension and she stated she was very confused regarding her claim. She further stated the entire ordeal was too involved and that she believes she should turn her matters over to an attorney.

The Claimant stated all she wants is someone to recognize that she had a piece of property which at one time was valued at \$85,000.00 and now that she has reached retirement age and had to sell the property for \$26,338.51, she seeks the difference between her alleged property value and what she sold the property for. The NPFC responded to the Claimant on November 2, 2011 apologizing for the confusion she is experiencing. The NPFC tried to better explain the claims process and provided some general information on types of information she could produce on reconsideration that would assist in demonstrating the value of the property pre and post spill. The NPFC further explained that while the property sold post spill for a much lesser amount than what she asserts the property was worth, the mere sale post spill does not automatically mean the oil spill caused the price differential. The NPFC reiterated that the Claimant had until November 20, 2011 to get any and all new information to our office for consideration.

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 and that the loss was due to the destruction or injury to real or personal property or natural resources. 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. While the Claimant requested reconsideration and an extension of time to provide new information, the Claimant failed to meet the deadline to submit new information in support of her request for reconsideration as of November 20, 2011.

Upon review of all information provided, the NPFC again denies the claim on reconsideration because the Claimant has failed to provide anything new or make any factual or legal arguments in support of her request for reconsideration. While the Claimant asserted loss of income as a result of the Deepwater Horizon oil spill, the Claimant has not provided detailed documentation to demonstrate her alleged loss.

Because the Claimant did not meet her deadline to present new information, this claim is denied on reconsideration.

Claim Supervisor: ***Thomas Morrison***

Date of Supervisor's review: ***11/29/11***

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

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5890
11/29/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7011 1570 0001 4802 6326

Sandra Curtis Lowell
[REDACTED]

RE: Claim Number: N10036-1401

Dear Ms. Lowell:

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 N10036-1401 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Per your request, the NPFC is attaching your original photographs that were provided.

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,

Thomas S. Morrison
Chief, Claims Adjudication Division
U.S. Coast Guard

ENCL: Claim Summary / Determination Form