

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: 1-800-280-7118  
E-mail: [arl-pf-npfcclaimsinfo@uscg.mil](mailto:arl-pf-npfcclaimsinfo@uscg.mil)  
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
Number: 7011 1570 0001 4802 7255

5890/DWHZ  
15 November 2011

Chanel Farria  
[REDACTED]

RE: Claim Number: N10036-1467

Dear Ms. Farria:

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 N10036-1467 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 N10036-1467.

Mail reconsideration requests to:

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

Sincerely,

Claims Adjudication Division  
National Pollution Funds Center  
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

## CLAIM SUMMARY / DETERMINATION FORM

Claim Number	N10036-1467
Claimant	Chanel Farria
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Impairment of Earnings Capacity
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. 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 04 October 2011, Chanel Farria (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking \$40,000.00 for loss of profits and impairment of earnings capacity allegedly resulting from the Deepwater Horizon oil spill.

The Claimant worked for New Orleans Job Corps as a reading, math, and culinary vocation teacher.<sup>1</sup> The Claimant helped train individuals to enter the job market, go to school, or go into the military for a career.<sup>2</sup> The Claimant alleged that the New Orleans Job Corps could not place students in the culinary arts because of the disruption to seafood and decreased demand for restaurant and culinary services in New Orleans.<sup>3</sup> The Claimant asserted a reduction in students being placed in jobs which led to the termination of the Claimant at the Job Corps. The Claimant then collected unemployment from the State of Louisiana.<sup>4</sup> The Claimant alleged impairment of earnings based on her loss of employment with New Orleans Job Corps.<sup>5</sup>

### ***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:

<sup>1</sup> Letter from the Claimant dated 10 November 2010.

<sup>2</sup> Screenshot of New Orleans Job Corps website.

<sup>3</sup> Letter from the Claimant dated 10 November 2010.

<sup>4</sup> Unemployment benefits screenshot.

<sup>5</sup> Optional OSLTF claim form dated 26 September 2011.

- (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 the OSLTF**

To support her claim, the Claimant submitted:

- 1) Optional OSLTF claim form dated 26 September 2011.
- 2) Letter from the Claimant dated 10 November 2010
- 3) Letter from the Claimant dated 04 October 2011
- 4) Letter from the Claimant dated 04 August 2011
- 5) Employees income from 01 March 2010 through 30 April 2010
- 6) Career Transition System from 01 June 2010 through 01 December 2010
- 7) Career Transition System from 01 July 2009 through 01 December 2009
- 8) Career Transition System from 01 May 2010 through 31 May 2010
- 9) GCCF form 2000-C claim form
- 10) New Orleans Job Corps screenshot
- 11) List of Benefit Payments (unidentified source) from 31 July 2010 through 16 October 2010
- 12) Response to NPFC request for additional information questions dated 31 October 2011

- 13) Tax Return Comparison for 2008 and 2009
- 14) 2010 W-2 from Choice Foundation
- 15) 2010 W-2 from Westaff USA, Inc.
- 16) 2010 W-2 Career Systems Development Corp
- 17) 2010 1099-G from Louisiana Workforce Commission

Claimant seeks lost profits and impairment of earnings capacity in the amount of \$40,000.00.

Prior to presenting her claim to the NPFC, the Claimant filed an Emergency Advance Payment (EAP) with the GCCF on 05 October 2010 in the amount of \$20,000.00.<sup>6</sup> She was assigned Claimant ID #3098664 and claim #153251. This claim was denied on 02 November 2010.<sup>7</sup> Additionally, the Claimant filed an Interim claim (ICQ32011) on 19 August 2011 in the amount of \$40,000.00. She was assigned claim #9440418. The claim is still under review by the GCCF.<sup>8</sup> The Claimant filed a Full Review Final claim (FRF) on 04 November 2010 with GCCF #9038114 for \$20,000.00. This claim is currently under review by the GCCF.<sup>9</sup>

Based upon the evidence provided by the Claimant, it appears that the subject matter for each of the GCCF claims is the same as the subject matter of her claim before the NPFC, i.e., that she lost earnings as a result of the Deepwater Horizon oil spill. The NPFC deems each of Claimant's three submitted GCCF claims to be properly presented to the responsible party and properly presented to the NPFC. Accordingly, this Claim Summary determination for NPFC Claim N10036-1467 considers and addresses the earnings claimed in the three claims presented to the responsible party, specifically; GCCF Claim #'s 153251 (EAP), 9440418 (ICQ32011), and 9038114 (FRF).

### **NPFC Determination**

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that any 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 the documentation submitted by the Claimant.

In connection with the alleged damages of \$40,000.00,<sup>10</sup> the NPFC requested tax returns for 2008 through 2010 in order to have a comparison of historical earnings.<sup>11</sup> The Claimant responded to the questions asked by the NPFC via certified letter<sup>12</sup>; however as of the date of this determination, the Claimant has not provided any of her tax returns for 2008 through 2010. The Claimant provided three W-2s<sup>13</sup> for 2010 totaling \$11,659.16<sup>14</sup> and a 2010 1099-G for unemployment in the amount of \$2,401.00.<sup>15</sup> Based on the documentation provided by the Claimant, the NPFC is unable to compare actual earnings of 2010 to prior years earnings.

---

<sup>6</sup> Report from the GCCF dated 02 November 2011.

<sup>7</sup> GCCF Denial Letter dated 02 November 2010.

<sup>8</sup> Report from the GCCF dated 02 November 2011.

<sup>9</sup> Report from the GCCF dated 02 November 2011.

<sup>10</sup> Optional OSLTF claim form dated 26 September 2011.

<sup>11</sup> NPFC request for additional documentation number two.

<sup>12</sup> USPS 7011 1150 0000 4636 4940.

<sup>13</sup> (1) Choice Foundation \$6,884.16 (2) Westaff USA Inc. \$230.00 (3) Career Systems Development Corp \$4,545.00.

<sup>14</sup> \$6,884.16 plus \$230.00 plus \$4,545.00 equals \$11,659.16.

<sup>15</sup> 2010 form 1099-G from Louisiana Workforce Commission.

Accordingly, the Claimant has not established her sum certain as presented to the NPFC by a preponderance of the evidence.

The Claimant alleges that the Deepwater Horizon oil spill caused a “hiring freeze” on the Louisiana culinary industry for restaurants, hotels etc.<sup>16</sup> The Claimant worked for New Orleans Job Corps which trains individuals to find employment.<sup>17</sup> The Claimant asserted that students could not be placed in jobs, thus she was terminated from the Job Corps in May 2010.<sup>18</sup>

The NPFC sent a certified letter dated 06 October 2011 and asked the Claimant for a letter from her employer stating the cause of her termination.<sup>19</sup> The Claimant responded 07 November 2011 and stated that the New Orleans Job Corps was not at liberty to provide her with the requested letter.<sup>20</sup> NPFC staff tried to contact the New Orleans Job Corps on 09 and 10 November 2011. NPFC staff left two messages to return the calls 09 and 10 November 2011. As of the date of this determination, the New Orleans Job Corps has not returned any of the phone calls. As such, the Claimant has not provided any documentation that would support her assertion of a New Orleans “hiring freeze” or the impact of the Deepwater Horizon oil spill upon her job with the Job Corps. Based on the foregoing, the Claimant has not established by a preponderance of the evidence that her alleged loss of earnings was due to the oil spill.

This claim is denied because the Claimant failed to meet her burden to demonstrate (1) that she has an alleged loss in the amount claimed, and (2) 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: *NPFC Claims Adjudication Division*

Date of Supervisor’s Review: *11/15/11*

Supervisor’s Actions: *Denial approved*

Supervisor’s Comments:

---

<sup>16</sup> Letter from the Claimant dated 10 November 2010.

<sup>17</sup> Letter from the Claimant dated 10 November 2010.

<sup>18</sup> Letter from the Claimant dated 10 November 2010.

<sup>19</sup> USPS 7011 1150 0000 4636 4940.

<sup>20</sup> Response to the NPFC request for additional information dated 31 October 2011.