

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
Arlington, VA 20598-7100
Staff Symbol: (CN)
Phone: 800-280-7118
E-mail: ar1-pf-npfclaimsinfo@uscg.mil

16480

27 February 2012

CERTIFIED MAIL Number: 7011 1150 0000 4666 9366

Ms. Sheila M. Hines
[REDACTED]

RE: Claim Number: N10036- 1513

Dear Ms. Hines:

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 17 October 2011, the NPFC received your claim for "\$10,000 - \$15,000 or more" for lost subsistence use of natural resources following the Deepwater Horizon oil spill. You presented your claim to the GCCF, which was denied on 20 April 2011.

The NPFC subsequently denied your claim on 17 November 2011 because you did not:

- (1) Establish that you suffered a loss of subsistence use of natural resources as a result of the spill (i.e., you provide no evidence to support your claim that you had a pattern of subsistence use of natural resources, and that you suffered subsistence use losses due to the oil spill); nor
- (2) Explain or document how you determined your claimed loss of \$15,000 (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).

Request for Reconsideration

On 4 January 2012, the NPFC received a request for reconsideration of the 17 November 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 that you had only received your initial determination letter via email on 21 December 2011 due to a change of address. You provided no other information or documentation to support your reconsideration request. Despite attempted correspondence acknowledging this lack of documentation and informing you of the necessary information previously addressed in the initial determination letter, no further information was received by the NPFC¹.

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, absent any additional information 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) Established that you suffered a loss of subsistence use of natural resources as a result of the spill (i.e., you provide no evidence to support your claim that you had a pattern of subsistence use of natural resources, and that you suffered subsistence use losses due to the oil spill); nor
- 2) Explained or documented how you determined your claimed loss of \$15,000 (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).

¹ Telephone correspondence on 12 January 2012 and 17 February 2012 to indicate missing documentation

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