

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center

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16480

May 13, 2013

CERTIFIED MAIL Number: 7011 2000 0001 1246 6717

Sherilyn Claverie


RE: Claim Number: N10036-1920

Dear Ms. Claverie:

The National Pollution Funds Center (NPFC) has reviewed your claim for lost subsistence use of natural resources following the Deepwater Horizon oil spill. We have determined that you are not eligible to recover funds from the Oil Spill Liability Trust Fund (the Fund) because, based on the location of your residence, you are subject to the Court Supervised Settlement Program (CSSP)¹ initiated by the United States District Court, Eastern District of Louisiana, and are a member of the settlement class.

Background

On or about April 20, 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 claims process under the federal Oil Pollution Act (OPA). On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating individual and business claims on behalf of BP.

On or about March 8, 2012, the United States District Court, Eastern District of Louisiana, issued a "Transition Order" (TO) limiting the GCCF's ability to accept, process, or pay claims. The TO created a process to facilitate the transition of the claims from the GCCF to a CSSP, whereby claimants within each of four designated zones are part of the settlement program and are subject to court jurisdiction and the CSSP unless they opt out. The CSSP began processing claims on June 4, 2012.

NPFC Determination

On April 25, 2013, the NPFC received your claim for \$5,000 for lost subsistence use of natural resources following the Deepwater Horizon oil spill. The home address that you provided in

¹ For more information about the CSSP, visit: <http://www.deepwaterhorizoneconomicsettlement.com/>

your claim submission indicates that you reside within one of the four zones included in the CSSP and are a member of the settlement class even though you may not have yet received an offer of settlement nor been paid. Therefore, your claimed losses are subject to the court's jurisdiction and you are not eligible to recover funds from the OSLTF. In order for the NPFC to adjudicate your claim you must provide evidence that you have opted out of the court program.

Request for Reconsideration

If you provide evidence that you have opted out of the court program you may ask the NPFC to reconsider this determination to deny your claim. The NPFC notes, however, that providing such evidence will not guarantee payment as our initial review of your claim indicates that the documentation that you provided does not support your claimed damages. To provide you with further guidance on the type of documentation that should be submitted to support your claim for loss of subsistence use, I have included a copy of the information which is also made available to the public online at: http://www.uscg.mil/npfc/Claims/DWH_faqs.asp#faq-15.

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 (N10036-1920) 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 the NPFC at the above address or by phone at 800-280-7118.

Sincerely,



RICHARD NANCE
Claims Manager
Natural Resource Damage Claims Division

Enclosure

FAQ-15: If I opt out of the Deepwater Horizon oil spill class action settlement and wish to present a loss of subsistence use claim to the NPFC, how can I best support my claim for loss of subsistence use of fish, shellfish or other natural resources as a result of the oil spill?

A: Document that you are a subsistence user. (a) Identify the specific natural resource(s) that you use for subsistence purposes, (b) describe the frequency or degree of subsistence use (for self and/or household), (c) explain your use of the resource(s) for food, shelter, clothing, medicine, or other minimum necessities of life, and (d) provide supporting information such as appropriate license/authority to harvest, affidavits and/or statements from you or others that attest to your subsistence use.

Explain how the oil spill impacted your use. For example, fish consumption advisories or access restrictions may have prevented you from fishing or gathering shellfish or caused you to use alternative fishing areas. Claims in connection with impacts in areas well outside the spill zone, or well after fish, shellfish or resources were determined to be safe may not be compensated by NPFC.

Describe your efforts to mitigate the lost subsistence use. Describe your efforts to find reasonable alternatives to replace the lost resources, such as fishing or gathering shellfish from nearby areas unaffected by the spill. Or describe why mitigation was not feasible (e.g., due to a lack of comparable substitute resources in nearby areas, an inability to travel to or access alternate locations, a lack of information about viable alternate sites, etc.).

Describe how you determined the amount claimed. Determine your loss as the reasonable cost you incurred to replace the lost fish, shellfish or other natural resources you used for subsistence. Reasonable replacement costs are the costs you actually incurred either to acquire substitute resources (e.g. food purchased at a market in lieu of fishing or gathering) or the additional, incremental costs associated with traveling farther to fish, gather shellfish or collect other resources from areas unaffected by the spill.

The costs you claim should be reduced by any other compensation you received for the subsistence loss; all income you derived using the time that otherwise would have been used to obtain natural resources for subsistence use; and saved overheads or other normal expenses of your subsistence use.