

U.S. Department
of Homeland Security

United States
Coast Guard



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National Pollution Funds Center

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16480
07 March 2014

MEMORANDU

From: Fredy Hernandez
CLAIMS MANAG

To: Tony Penn
DEPUTY CHIEF, ASSESSMENT AND RESTORATION DIVISION, NOAA

Subj: Claim: N10036-OC18 – *Deepwater Horizon* Oil Spill Assessment

1. On October 30, 2013, the National Pollution Funds Center (NPFC) received a claim from the National Oceanic and Atmospheric Administration (NOAA) for costs to assess potential natural resources injuries resulting from the *Deepwater Horizon* oil spill (N10036-OC18). The claim totaled \$147,902,421 to implement 38 assessment activities that are detailed in NOAA's 2014 Assessment Plan.
2. On February 3, 2014, the NPFC issued a partial determination that approved 16 of the 38 assessment activities. NOAA later withdrew one additional activity and the NPFC issued a second partial determination on February 19, 2014 that approved nine of the remaining 21 claimed activities. The NPFC is now issuing the enclosed third partial determination and offer to pay \$23,305,087 for five of the remaining 12 claimed activities and associated NOAA agency costs, while we continue to adjudicate the remaining \$53,752,741 claimed for seven activities. This third partial determination was made in accordance with the Oil Pollution Act (OPA, 33 U.S.C. §2701 *et seq.*), the OPA regulations (33 C.F.R. Part 136) and the Natural Resource Damage Assessment Regulations (15 C.F.R. 990 *et seq.*). A copy of the determination and offer to pay the amount of \$23,305,087 is enclosed.
3. If you accept this offer, please complete the enclosed Acceptance/Release Form and return to:
Director (cn)
National Pollution Funds Center
U.S. Coast Guard Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100
4. If we do not receive the signed Acceptance/Release Form within 60 days of the date of this memo, the offer is void. If the settlement is accepted, your payment will be mailed within 30 days of receipt of the Release Form. Please provide account information and instruction for the transfer of funds to your Damage Assessment Restoration and Revolving Fund Account with the signed Form.
5. If you have any questions about this determination, please feel free to contact me at 703-872-6054.

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Enclosures: (1) NPFC determination
(2) Acceptance/Release Form

National Pollution Funds Center Determination

Claim Number and Name:	N10036-OC18, <i>Deepwater Horizon</i> Oil Spill Assessment
Claimant:	National Oceanic and Atmospheric Administration
Claim Type:	NRDA, Upfront Assessment Costs
Claim Manager:	Fredy Hernandez
Offer Amount:	\$23,305,087
Determination Date:	07 March 2014

Summary of the Incident and Claim

On April 20, 2010, the *Deepwater Horizon* mobile offshore drilling unit exploded and sank, discharging an estimated 210¹ million gallons of oil into the Gulf of Mexico until the well was capped on July 15, 2010. Responders to the discharge dispensed approximately 1.84 million gallons of dispersants² to keep, or delay, the oil from reaching sensitive shorelines. The U.S. Coast Guard designated the source of the spill as an offshore facility located on an area leased by BP Exploration & Production, Inc. (BP). BP accepted the designation and advertised its claims process pursuant to the Oil Pollution Act (OPA).

Upon notification of the spill, the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), along with the Department of the Interior, Fish and Wildlife Service (FWS), and five Gulf Coast states³, acting as natural resource trustees designated under OPA and appropriate state laws, initiated an assessment of natural resource damages resulting from the discharges and response to discharges of oil. By the August-September 2010 period, the trustees observed over 950 miles of oiled shoreline habitat, 400 oiled sea turtles, and over 1,500 oiled birds⁴; and identified numerous other natural resources at risk to include fish, marine mammals, oysters, and associated habitats. The trustees have continued to work together to develop and implement assessment plans to determine the nature and extent of these losses.

On October 30, 2013, NOAA presented the National Pollution Funds Center (NPFC) with a claim for costs to implement their 2014 assessment and restoration planning activities. The claim totaled \$147,902,421, represented as the costs with respect to NOAA's Third Interim, Partial Claim for Assessment and Restoration Planning (2014 Assessment Plan or Plan). The Plan describes 38 assessment activities, many of which involve continuation of assessment and injury quantification efforts initiated, or analyses of samples collected in cooperation with, and/or funding from, BP and the Oil Spill Liability Trust Fund (Fund or OSLTF) in 2012 and 2013. NOAA subsequently reduced the claim sum certain for the 38 assessment activities to \$137,915,045⁵.

On February 3, 2014, the NPFC issued a partial determination for this claim that approved \$46,390,569 for 16 assessment activities included in the October 30, 2013 claim, and made the following findings with respect to the incident, NOAA claimant, and claim:

¹ "Deepwater Horizon Oil Spill Early Restoration Plan." *Gulf Spill Restoration Publications*. National Oceanic Atmospheric Administration, December 1, 2011.

² 1.07 million gallons on the surface and 771,000 gallons sub-sea. "The Ongoing Administration-Wide Response to the Deepwater BP Oil Spill." *Deepwater Horizon Incident Joint Information Center*, September 9, 2010.

³ The state trustees are Louisiana, Mississippi, Alabama, Florida, and Texas.

⁴ *Federal Register*, Vol. 75, No. 190, Pgs. 60800-60802, October 1, 2010

⁵ December 3, 2013 and January 31, 2014 emails from NOAA to NPFC

1. The *Deepwater Horizon* oil spill occurred after OPA's date of enactment (August 18, 1990) and is an OPA incident including natural resource damages, which include the reasonable cost of assessing those damages. 33 U.S.C. §§2702(b)(2)(A); 33 U.S.C. § 2706(d)(1)(C);
2. NOAA is a federal trustee designated by the President and its responsibilities include the assessment of natural resource damages under its trusteeship and the development and implementation of a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under its trusteeship. 33 U.S.C. §2706(b)(1); 33 U.S.C. §§2706(c)(1)(A) and (C), and 33 C.F.R. §136.207;
3. NOAA determined that there is jurisdiction to pursue restoration for this incident under OPA. 15 C.F.R. §990.41;
4. NOAA's claim for assessment costs is based on its 2014 Assessment Plan, which the public was given an opportunity to review and to provide comments. 33 U.S.C. §2706(c)(5);
5. NOAA presented its claim for assessment costs (\$147,902,421) based on NOAA's 2014 Assessment Plan to BP on July 11, 2013. This claim was not settled within 90 days by payment by any party, allowing presentment to the NPFC as a claim for uncompensated natural resource damages; and
6. The claim was presented to the Fund within the period of limitations for claims. 33 U.S.C. §§2713(h)(2); 33 C.F.R. §136.101, 15 C.F.R. 990.64(b).

The NPFC issued a second partial determination on February 19, 2014 that approved nine additional activities included in the October 30, 2013 claim. This determination adopts the findings above, and provides the following additional findings specific to five assessment activities included in NOAA's claim submitted to the NPFC on October 30, 2013. The remaining seven activities not included in the February 3, 2014, February 19, 2014, and this determination remain under adjudication⁶.

NPFC Review of Claim and Associated Costs

NOAA's 2014 Plan and claim include 37⁷ assessment activities with a revised total implementation cost of \$137,915,045⁸. Table 1 (attached) lists the 38 claimed assessment activities, identifying the 16 that were approved on February 3, 2014, nine that were approved on February 19, 2014, one that was withdrawn on January 31, 2014, five that are subject to this partial determination, and seven that remain under NPFC adjudication. This section presents the NPFC findings for five of the 37 claimed activities.

A. Offshore Benthic Habitat and Communities

NOAA is assessing injuries to offshore benthic habitats consisting of soft bottom sediments, hard ground corals, and mesophotic reefs⁹, along with associated fauna, that were exposed to oil and dispersants that settled on the sea floor¹⁰. Initial sampling and analyses conducted in 2011-2013

⁶ Strandings; Necropsies, and Management, Transport and Storage of Sea Turtles and Marine Mammals; Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass); Continued Monitoring of Subtidal Oyster Injury (Recruitment); Continued Monitoring and Analysis of Nearshore Oyster Injury; Comprehensive Integration of Oyster Injury Assessment Elements; Contaminant Analytical Chemistry; Restoration Planning

⁷ NOAA withdrew one activity, Supplemental Nearshore Sediment Sampling from the claim on January 31, 2014

⁸ \$147,902,421 (original claimed amount) - \$2,525,312 (costs withdrawn on December 3, 2013) - \$2 (withdrawn on January 16, 2014) - \$7,462,062 (costs withdrawn on January 31, 2014) = \$137,915,045 (revised claimed amount)

⁹ Deep water, low light reefs

¹⁰ 2014 Assessment Plan, page 30

provide evidence of injury¹¹. For 2014, NOAA claims \$14,564,968 under four separate activities (A1-A4, below) for additional surveys and analyses of samples from the three habitat types and associated fauna.

Activity A1. Soft Bottom Sediment

NOAA claims \$6,950,836 for an additional cruise to collect sediment cores from soft bottom habitats for analyses of infauna and hydrocarbon content and complete analyses and processing of data from 2011 samples. This information will be used to determine the geographic and temporal extent and magnitude of injury to soft bottom deep-sea communities, as well as the rate of recovery. NOAA will use the same data analysis techniques used for the 2011 field data¹².

Total claimed costs include \$6,950,836 in contract costs for 2014 field data collection (\$2,217,576), data analysis (\$3,166,696), data quality and control (\$846,039), trustee coordination (\$520,514), and reporting results (\$200,011). NOAA's claim identifies the principal investigators, and their relevant experience, that NOAA plans to contract with for this Activity.

Activity A2. Hard Ground Corals

NOAA's assessment of potential injuries to hard ground corals to date has focused on identifying and evaluating the health of hard ground coral sites within the vicinity of the wellhead. Observations and data collected from cruises conducted in 2011 have identified two hard ground coral sites injured by the spill. In 2014, NOAA plans to further analyze 2011 data and estimate total injury.

NOAA claims \$595,013 for contractors to review and interpret data, including synthesizing information related to baseline hard ground coral abundance and evaluating injury to the habitat type (\$371,608) and reporting findings (\$223,405). NOAA's claim identifies the principal investigators, and their relevant experience, that NOAA plans to contract with for this Activity.

Activity A3. Mesophotic Reefs

NOAA is assessing injury to the mesophotic reefs along the continental shelf at depths ranging from 60 to 90 meters. Assessment activities to date have focused on photographic and video documentation of reef health, and enumeration of resident planktivorous fish abundance. Two well-studied mesophotic reefs (Alabama Alps and Roughtongue Reef) are in an area where surface oil and dispersants were present for a period of months during 2010, and have shown persistently low abundances of resident planktivorous fish. In 2014, NOAA plans to establish baseline conditions using imagery collected prior to the oil spill, plan for and implement a follow-up cruise to evaluate the temporal progression of injury, collect sediment samples at locations near the reefs to assess reef exposure, and analyze and report on data collected from the follow-up cruise.

NOAA claims \$5,884,710 for contractors to carry out these efforts, with total costs allocated for a follow-up cruise (\$4,340,233), analyses of video and photos (\$335,292), completion of data

¹¹ February 18, 2014 email from NOAA to NPFC

¹² Samples will be analyzed for hydrocarbons; and enumeration of sediment samples will provide information on community composition.

quality analyses and control (\$930,331), coordination with and among trustees (\$268,848), and report findings (\$10,006). NOAA's claim identifies the principal investigators, and their relevant experience, that NOAA plans to contract with for this activity.

Activity A4. Benthic Megafauna

NOAA is assessing injuries to benthic megafauna¹³ using red crabs as a representative organism. To date, NOAA has collected red crabs at various locations throughout the Gulf of Mexico and, by evaluating the exposure to oil and assessing reproductive health and histological condition, the data reflects decreased catches and potential injury to benthic megafauna. Further assessment activities planned in 2014 include a follow-up cruise to determine if red crabs are still being exposed to spill-related contaminants and additional data analyses to assess injury.

NOAA claims \$1,134,409 for contract costs to plan and carry out a follow-up cruise (\$327,276), analyze collected samples (\$126,064), complete quality review of data (\$402,216), coordinate with trustees (\$253,025), and report findings (\$25,828).

Determination with respect to Offshore Benthic Habitat and Communities

After reviewing NOAA's 2014 Assessment Plan and additional claim information provided by NOAA, the NPFC finds that (1) Activities A1, A2, A3, and A4 described above are appropriate procedures under 15 C.F.R. §990.27 that are capable of providing valid and reliable information to quantify injury and (2) costs claimed for these activities are reasonable for the proposed level of effort given the complexity of the incident relating the nature and extent of oiling, geographic extent of exposure of natural resources to oil, and magnitude of potential injury. 15 C.F.R. 990.27(c). Therefore, claimed costs of \$14,564,968 for these activities are compensable from the Fund. 33 U.S.C. §2706 (d)(1)(C), 33 C.F.R. §§136.209 and 211, and 33 U.S.C. §2712(a)(4).

G. Marine Mammals

NOAA claims funds for five marine mammal assessment activities in 2014. Four were approved in the NPFC's February 19, 2014 determination (*G1. Estuarine Dolphins, G2. Coastal/ Shelf Dolphins, G4. Oceanic Marine Mammals, and G5. Inhalation*); the fifth is addressed below.

Activity G3. Coastal and Estuarine Cetacean Strandings

NOAA claims \$5,444,345 to (1) support the Marine Mammal Stranding Network's (MMSN) enhanced efforts to collect stranded marine mammals and analyze samples from the carcasses (\$5.2m), and (2) review and coordinate findings and assess total injury (\$1.2m)¹⁴.

NOAA's assessment of potential injuries to marine mammals involves a number of activities involving marine mammals in nearshore, coastal and oceanic waters. Chronic, sublethal effects that are consistent with oil exposure are still being detected in live and dead dolphins in 2013

¹³ Benthic megafauna are the large animals, such as red crabs, that reside on the ocean floor.

¹⁴ The MMSN is an established group of individuals that has historically operated on funds through grants and cooperative agreements under the National Marine Fisheries Service's Prescott Grant Program. Since the incident, the MMSN has operated with additional funding in 2012 under an interagency agreement with the NPFC and, in 2013, with funds from BP.

within the footprint of the spill. Initial findings show a significantly higher number of observed marine mammal carcasses on Gulf beaches from April 2010 through May 2013, with histopathology evaluations of 2013 strandings from Mississippi and Louisiana indicating adrenal abnormalities, bronchopneumonia, *Brucella* sp. infections, chronic lung disease and other long-term health issues associated with oil exposure¹⁵. These findings are consistent with those from the live animal health assessments that show severe ill health, with endocrine, respiratory, and hepatic disease consistent with adverse health effects reported from experimental oil exposure studies.

The costs claimed for this Activity would fund continuation of enhanced MMSN efforts in 2014 along the coasts of Texas, Louisiana, Mississippi, Alabama, and Florida. Evidence of potential injury from exposure to *Deepwater Horizon* oil, however, is limited to animals recovered within those areas of the northern Gulf that were most heavily oiled (i.e., Louisiana, Mississippi, and Alabama)¹⁵. Accordingly, there is no evidence in the Administrative Record that efforts by the MMSN outside of the northern Gulf of Mexico will provide assessment information of use in determining the type and scale of restoration appropriate for the injury. NOAA has not met their burden of demonstrating that continuing proposed enhanced efforts in areas not impacted by oil will provide useful information. Costs totaling \$1,881,074¹⁵ for collection and analysis of stranded marine mammal carcasses located in Texas and western Florida are, therefore, denied.

For the remaining \$3,563,271, the NPFC finds that based on initial findings continued MMSN assessment activity in Louisiana, Mississippi, and Alabama: (1) is capable of providing valid and reliable information as part of a comprehensive evaluation of ongoing injury and recovery (15 C.F.R. §990.27) (2) costs claimed are reasonable for the level of effort proposed given the complexity of the incident relating the nature and extent of oiling, geographic extent of exposure of natural resources to oil, and magnitude of potential injury. The NPFC therefore determines that the claimed cost of \$3,563,271 is compensable. 33 U.S.C. §2706 (d)(1)(C) and (d)(2), 33 C.F.R. §136.211, 33 U.S.C. §2713(a), 33 U.S.C. §2713(c)(2).

NOAA Labor

NOAA claims \$22,080,565¹⁶ for agency labor, travel, supplies, and ship time associated with the 37 assessment activities claimed. NOAA staff consists of more than one hundred administrative support specialists, scientists, restoration specialists, attorneys, and program managers working on the NRDA. NOAA labor includes data management, scientific documentation, legal review of analyses and technical deliverables; oversight of technical support contractors and associated work products; coordination with co-trustees, the public, and representatives from the RP¹⁷; and the preparation or review of technical materials to support public communications and injury assessment. Under this determination, the NPFC has determined that \$5,176,848¹⁸ is associated with the five¹⁹ activities approved by this determination.

¹⁵ March 6, 2014 email from NOAA to NPFC

¹⁶ Revised on December 3, 2013 and January 31, 2014

¹⁷ Coordination under this activity is related to oversight, support, and general information, which differs from coordination costs claimed above for other activities that are for coordination within the technical work groups and related specifically to technical aspects of an injury category.

¹⁸ In the plan NOAA described the level of effort for each activity and later identified agency costs associated with each assessment activity, which the NPFC used to determine the total amount of labor costs compensable for each approved activity.

¹⁹ Soft Bottom Sediment (\$6,950,836); Hard Ground Corals (\$595,013); Mesophotic Reefs (\$5,884,710); Benthic Megafauna (\$1,134,409); Coastal and Estuarine Cetacean Strandings (\$5,444,345)

After reviewing NOAA's 2014 Assessment Plan and additional claim information provided by NOAA, the NPFC finds that the (1) the activity described above for NOAA agency costs is an appropriate activity necessary to complete the approved 2014 assessment activities and (2) costs claimed for this activity are reasonable for the proposed level of effort given the complexity of the incident relating the nature and extent of oiling, geographic extent of exposure of natural resources to oil, and amount of data collected. 15 C.F.R. 990.27(c). Therefore, the NPFC finds that \$5,176,848 of the \$22,080,565 costs claimed for this activity is compensable from the Fund. 33 U.S.C. §2706 (d)(1)(C), 33 C.F.R. §136.209 and .211, and 33 U.S.C. §2712(a)(4).

Reconsideration of Denied Costs

All contract and NOAA agency costs pertaining to the five activities included in this determination that are not being offered for payment are considered denied. You may make a written request for reconsideration of this determination. The reconsideration request 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. Reconsideration will be based upon the information provided and a claim may be reconsidered only once. Disposition of the reconsideration 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 the corresponding claim number N10036-OC18.

Summary

The NPFC has reviewed the claim submitted by NOAA for costs to implement its 2014 Assessment Plan for the *Deepwater Horizon* incident in accordance with OPA (33 U.S.C. §2701 *et seq.*) and associated regulations (15 C.F.R. 990 *et seq.* and 33 C.F.R. Part 136). Through this third partial determination, the NPFC offers \$23,305,087 to implement five activities detailed in NOAA's 2014 Assessment Plan and denies \$1,881,074. The remaining seven activities and associated NOAA labor costs remain under adjudication, and will be subject to future determinations.

This offer constitutes full and final payment for the nine activities addressed in this determination.

Revolving Trust Fund and Return of Unused Funds to the OSLTF

As established by OPA (33 U.S.C. §2706(f)) and the NRDA regulations (15 C.F.R. §990.65), sums recovered by trustees for natural resource damages must be retained in a non-appropriated revolving trust account for use only to implement the nine activities addressed in this determination in accordance with the 2014 Assessment Plan. For this claim, the NPFC will deposit \$23,305,087 into NOAA's Damage Assessment Restoration and Revolving Fund Account, which NOAA has demonstrated²⁰ to be a non-appropriated, revolving trust fund.

²⁰ October 15, 2013 email from NOAA to NPFC

Cost Documentation, Progress Reporting, and Final Report

As the claimant, NOAA shall ensure that all expenditures of OSLTF funds are documented appropriately and spent according to the five activities of the 2014 Assessment Plan approved in this determination. Any funds not spent or appropriately documented shall be returned to the Fund. 33 U.S.C. §2706(f).

One year from the date of this determination, and annually thereafter, NOAA shall provide the NPFC with a report on the status of implementation and expenditures. These annual progress reports should include:

1. Certification by NOAA that all assessment activities have been conducted in accordance with the 2014 Assessment Plan as approved in this determination;
2. A progress report that includes a description of work accomplished, timeline for future activities, and any unexpected problems incurred during implementation;
3. A summary of expenditures by category (i.e., labor, consultant/contractors, and travel); and
4. A narrative description of the work accomplished by each individual and how that work fits into the overall progress of the work for the year. Enough detail should be included to determine reasonableness of costs for each employee when cost documentation is received with the final report.

NOAA shall submit a final progress report within 120 days from the date an approved activity is complete. This report should include:

1. Certification by NOAA that all expenditures of OSLTF funds were in accordance with the plan as approved by the NPFC;
2. A summary of findings;
3. Copies of final reports and/or studies;
4. Documentation of OSLTF funds remaining in the Revolving Trust Fund for this claim, including account balance and interest earned; and
5. Documentation of all expenditures as follows:
 - a. Labor: For each employee –
 - i. A narrative description of the work accomplished by each individual and how that work fit into the plan. Enough detail should be included to determine reasonableness of costs; and
 - ii. The number of hours worked, labor rate, and indirect rate. An explanation of indirect rate expenditures, if any, will be necessary;
 - b. Travel: Paid travel reimbursement vouchers and receipts;
 - c. Contract: Activities undertaken, lists of deliverables, and contract invoices and receipts;
 - d. Purchases/Expendables: Invoices and receipts, along with an explanation of costs; and
 - e. Government Equipment: Documentation of costs, including the rate (i.e., hourly, weekly) and time for all equipment used for which costs were incurred.

With the final report(s), the NPFC will reconcile costs and all remaining funds and/or inadequately documented costs will be returned to the OSLTF.

The NPFC has prepared standardized templates with instructions to facilitate final cost reporting.

Table 1. Summary of Claimed Activities

Resource Category	Claimed Activity	Approved 2/ 3/ 2014	Approved 2/ 19/ 2014	Approved in this Determination	Denied in this Determination	Pending
A. Offshore Benthic Habitat and Communities	1. Soft Bottom Sediment			\$6,950,836		
	2. Hard Ground Corals			\$595,013		
	3. Mesophotic Reefs			\$5,884,710		
	4. Benthic Megafauna			\$1,134,409		
B. Bluefin Tuna	1. Bluefin Tuna Spawning Habitat Analyses	\$692,085				
C. Transport, Fate, and Effects Modeling	1. Oil Fate Modeling and Comparisons with Observational Data	\$2,975,364				
	2. Hydrodynamics Modeling	\$1,414,703				
	3. Exposure and Injury Modeling and Data Inputs	\$1,653,583				
D. Fish and Plankton	1. Analysis of Field Data from 2010-2011	\$2,655,454				
	2. Documentation of Oil Pathway, Water Column Organisms Exposed and Injuries	\$1,458,851				
E. Sargassum	1. <i>Sargassum</i> Communities	\$991,010				
F. Sea Turtles	1. Sea Turtle Exposure and Injury Assessment		\$1,096,604			
	2. Strandings: Management, Transport and Storage of Sea Turtles and Marine Mammals					\$2,722,782
G. Marine Mammals	1. Estuarine Dolphins		\$3,983,212			
	2. Coastal/Shelf Dolphins		\$254,002			
	3. Coastal and Estuarine Cetacean Strandings			\$3,563,271	\$1,881,074	
	4. Oceanic Marine Mammals		\$363,579			
	5. Inhalation		\$439,267			
H. Shoreline	1. Assessing Recovery of Coastal Wetlands	\$2,156,617				
	2. Completing Analysis of Coastal Wetland Injury	\$152,601				
	3. Completing Analysis of Coastal Wetland Erosion	\$902,850				
I. Nearshore Sediment and Biota	1. Characterizing Nearshore Sediment Contamination		\$726,916			
	2. Characterizing Nearshore Biota Contamination		\$323,565			
	3. Completing Analysis of Nearshore Benthic Injury		\$330,969			
	4. Supplemental Nearshore Sediment Sampling			<i>Withdrawn</i>		

Resource Category	Claimed Activity	Approved 2/ 3/ 2014	Approved 2/ 19/ 2014	Approved in this Determination	Denied in this Determination	Pending
J. Integration of Nearshore Exposure and Injury	1. Integrate and Interpret Findings Regarding Nearshore Exposure and Injury and Prepare Reports		\$2,361,607			
K. Oysters	1. Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass)					\$3,514,114
	2. Continued Monitoring of Subtidal Oyster Injury (Recruitment)					\$7,493,605
	3. Continued Monitoring and Analysis of Nearshore Oyster Injury					\$5,551,672
	4. Comprehensive Integration of Oyster Injury Assessment Elements					\$5,098,406
L. Restoration Planning						\$9,805,118
M. Toxicity to Aquatic Organisms	1. Toxicity to Aquatic Organisms	\$8,196,986				
N. Chemistry	1. Contaminant Analytical Chemistry					\$13,769,500
	2. Storage and Long Term Archive of Samples	\$3,668,409				
O. Data Management and Visualization	1. Data Management: Infrastructure	\$2,811,524				
	2. Data Management: Documentation	\$977,948				
P. Injury Assessment Management and Administration	1. Injury Assessment and Legal Case Management	\$4,381,584				
	2. <i>Deepwater Horizon</i> Electronic Content Management and Oil Pollution Act Administrative Record Management System	\$2,900,680				
NOAA Labor		\$8,400,320	\$2,705,853	\$5,176,848		\$5,797,544
Total		\$46,390,569	\$12,585,574	\$23,305,087	\$1,881,074	\$53,752,741

U.S. Department
of Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

U.S. Coast Guard Stop 7100
National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

E-mail: [REDACTED]@uscg.mil

Claim Number: N10036-OC18

Claimant Name: National Oceanic Atmospheric Administration

The National Oceanic Atmospheric Administration (NOAA), the undersigned, accepts the offer of \$23,305,087 as partial payment of the claim listed above.

On October 30, 2013, NOAA presented a claim to the Oil Spill Liability Trust Fund (OSLTF or the Fund) in the total amount of \$147,902,421 for upfront costs to assess potential damages to natural resources resulting from the discharge of oil on or about April 20, 2010, from an area of offshore land leased to BP Exploration & Petroleum (BP) (the *Deepwater Horizon* incident). The NPFC assigned Claim Number N10036-OC18 to this claim. NOAA subsequently reduced the claim amount to \$137,915,045, which includes funding for 37 activities. On February 3, 2014 and February 19, 2014, the NPFC approved partial payments of this claim in the amount of \$46,390,569 and \$12,585,574 respectively. This offer of \$23,305,087, dated March 7, 2014, is a third partial payment of Claim Number N10036-OC18 to fund five additional activities.

The NOAA accepts the settlement offer of \$23,305,087 as full and final compensation for the costs to implement the five assessment activities as described in the March 7, 2014, determination (N10036-OC18).

The NOAA agrees to comply with 33 U.S.C. § 2706(f) by depositing into a revolving trust account the \$23,305,087 awarded in the March 7, 2014, determination.

The NOAA hereby assigns, transfers, and subrogates to the United States all rights, claims, interest and rights of action, that it may have against any party, person, firm or corporation that may be liable for the payment of the \$23,305,087 payable and paid from the Fund for Claim Number N10036-OC18. The NOAA authorizes the United States to sue, compromise or settle in the name of NOAA and the NPFC be fully substituted for, and acquires all NOAA rights arising from the March 7, 2014 determination.

The NOAA acknowledges that the United States has pending legal actions associated with the *Deepwater Horizon* incident in federal district court but warrants that no settlement will be made by any person on behalf of the NOAA with any other party to recover the compensation paid by the OSLTF for this March 7, 2014 determination and NOAA will cooperate fully with the NPFC in any claim and/or action by the United States against any person or party to recover the compensation paid by the OSLTF. The cooperation shall include, but not be limited to, immediately reimbursing the OSLTF any compensation received from any other source for the same claim, and providing any documentation, evidence, testimony, and other support, as may be necessary for the NPFC to recover from any other party or person.

The NOAA certifies that to the best of its knowledge and belief that the information contained in this claim represents all material facts and is true, and it understands that misrepresentation of

facts is subject to prosecution under federal law including, but not limited to, 18 U.S.C. §§287 and 1001.

FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Tony Penn
NOAA Office of Response and Restoration

Date