

U.S. Department of
Homeland Security

United States
Coast Guard



Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [REDACTED]
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

5890
8 December 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7011 1570 0001 4802 5572

Harry Teaford
[REDACTED]

RE: Claim Number: N10036-1418

Dear Mr. Teaford:

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 the claim number N10036-1418 involving Deepwater Horizon. Please see the attached 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 N10036-1418.

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: (1) Claim Summary / Determination Form
(2) Documentation Presented by Claimant, N10036-1418

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-1418
Claimant	: Harry Teaford
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity and Subsistence
Amount Requested	: \$123,072.00

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 15 September 2011, Harry Teaford (the "Claimant") presented a claim to the Oil Spill Liability Trust Fund (OSLTF) for \$123,072.00. The claim is comprised of 111,072.00 in loss of profits and impairment of earnings capacity and \$12,000.00 in loss of subsistence use of natural resources resulting from the Deepwater Horizon oil spill.¹ The Claimant is a fisherman and seller of smoked/cooked fish who lives in and works from the Village of Islamorada, in the Florida Keys.²

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 § 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:

- (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

¹ Optional OSLTF Claim Form received 15 September 2011 and Claimant email to NPFC dated 16 September 2011.

² Claimant email to GCCFInfo dated 20 October 2010, 3:47 pm.

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

Prior to presentment to the NPFC, the Claimant presented to BP a loss of profits and income claim in July 2010 under claim number 6866-124-278363.³ The amount of this claim was not provided. The Claimant also presented claims to the GCCF —

- On 29 August 2010, Emergency Advance Payment (EAP) Claims for loss of subsistence use of natural resources in the amount of \$15,000.00 and for loss of earnings or profits in the amount of 22,500.00;⁴
- On 31 December 2010, Interim Payment (IP) Claims [IP Q4-2010] for loss of subsistence use of natural resources in the amount of \$8,000.00 and for loss of earnings or profits in the amount of 22,500.00;⁵
- On 1 April 2011, an IP Claim [IP Q1-2011] for loss of earnings or profits in the amount of 13,500.00;⁶
- On 5 July 2011, an IP Claim [IP Q2-2011] for loss of earnings or profits in the amount of 13,500.00;⁷
- On 7 September 2011, an IP Claim [IP Q3-2011] for loss of earnings or profits in the amount of 13,884.00;⁸ and

³ Claimant letter of 9 August 2010 to BP Claims and Claimant email to GCCFInfo of 20 June 2011.

⁴ GCCF Claim Form for Six Months Emergency Advance Payment in the amount of \$22,500.00 for Lost Earnings/Profits and \$15,000.00 for Subsistence dated 29 August 2010.

⁵ GCCF Interim Payment Claim Form for \$8,000.00 for Subsistence dated 31 December 2010 and GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 31 December 2010.

⁶ GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 1 April 2011.

⁷ GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 5 July 2011.

- On 2 November 2011, an IP Claim [IP Q4-2011] for loss of earnings or profits in the amount of 45,000.00.⁹

All claims presented to the GCCF were assigned Claimant ID #3000770.

Both the EAP and IP Claims for loss of subsistence use were denied.¹⁰

The EAP Claim for loss of earnings or profits was paid in full.¹¹ \$2,059.18 was paid for Claim IP Q1-2011¹² and \$4,649.25 was paid for Claim IP Q2-2011.¹³ A Final Payment Offer of \$29,208.43 was made to the Claimant and Final Payment was made on 29 November 2011.¹⁴

On 15 September 2011, the Claimant presented a claim to the Oil Spill Liability Trust Fund (OSLTF) for \$123,072.00.

To support this claim the Claimant presented a large amount of documentation, which is summarized in Enclosure (2).

NPFC Determination

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

The NPFC considered all documentation presented by the Claimant.

Based on the information available to the NPFC, the Claimant received payment of \$22,500.00 for his EAP Claim and has accepted a Final Payment from the RP/GCCF in the amount of \$29,208.43.¹⁵ The Claimant has executed a Release and Covenant Not To Sue in return for this Final Payment.¹⁶ By signing this document, the Claimant has released to the RP/GCCF, any rights to additional recovery regarding this injury.¹⁷ The Release executed by the Claimant specifically states:

[i]n consideration of payment in the amount of \$29,208.43, Claimant hereby releases and forever discharges, and covenants not to sue BP Exploration & Production Inc. (“BP”) and the other Released Parties, [. . .] for any losses, damages, costs, expenses, injuries, claims, causes of actions, liabilities, or other relief that Claimant has or may have [. . .] arising from or relating in any way to the [Deepwater Horizon oil spill].¹⁸

Furthermore, language in the document states that:

⁸ GCCF Interim Payment Claim Form for \$13,884.00 for Lost Earnings/Profits dated 7 September 2011.

⁹ GCCF Interim Payment Claim Form for \$45,000.00 for Lost Earnings/Profits dated 2 November 2011.

¹⁰ GCCF letter of 28 October 2010, denial of EAP Claim for Subsistence Loss and GCCF Denial Letter on Interim Payment Claim, dated 14 September 2011.

¹¹ GCCF Notice of Determination on EAP Claim, dated 18 November 2010.

¹² GCCF Determination Letter on Interim Payment Claim, dated 6 July 2011.

¹³ GCCF Determination Letter on Interim Payment Claim, dated 5 August 2011.

¹⁴ GCCF Determination Letter on Final Payment Claim, dated 30 November 2011.

¹⁵ GCCF Claimant Status page and GCCF Determination Letter dated 21 February 2011.

¹⁶ GCCF Release and Covenant Not To Sue Letter dated 04 March 2011.

¹⁷ GCCF Release and Covenant Not To Sue Letter dated 04 March 2011.

¹⁸ GCCF Release and Covenant Not To Sue Letter dated 04 March 2011.

Released Parties means anyone who is or could be responsible or liable in any way for the [Deepwater Horizon oil spill] or any damages related thereto, whether a person, company or governmental entity, including (but not limited to) BP, other potentially responsible or liable parties, including but not limited to the parties listed in Attachment A to this Release, the federal Oil Spill Liability Trust Fund and any state or local fund, and each of their respective Affiliates as defined above.¹⁹

Therefore, the Claimant has waived rights to further recovery regarding the losses presented to the NPFC. Any payment from the OSLTF requires the acquisition of rights from the RP. Because these rights have been released by the Claimant to the RP/GCCF, the Claimant cannot also recover from the OSLTF.

This claim is denied because the Claimant has accepted final payment from the RP/GCCF and signed a Release and Covenant Not To Sue which makes him ineligible to recover any costs from the OSTLF.

Claim Supervisor: *NPFC Claims Adjudication Division*

Date of Supervisor's Review: *12/8/11*

Supervisor's Action: *Denial approved*

Supervisor's Comments:

¹⁹ GCCF Release and Covenant Not To Sue Letter dated 04 March 2011.

Enclosure (2)

Documentation Provided by Claimant N10036-1418

Listing of documentation provided by the Claimant:

- GCCF acknowledgement letter dated 31 January 2011.
- GCCF letter dated 11 November 2011, forwarding documents to Claimant.
- Claimant email to GCCFInfo dated 2 May 2011.
- Claimant email to GCCFInfo dated 4 May 2011.
- Claimant email to GCCFInfo dated 13 May 2011.
- Claimant email to GCCFInfo dated 18 May 2011.
- Claimant email to GCCFInfo dated 24 May 2011.
- Claimant email to GCCFInfo dated 26 May 2011.
- GCCF undated letter to Claimant regarding documentation.
- State of Florida LIFETIME Hunting and Fishing License, issued 10/05/2009, both sides.
- Claimant email to GCCFInfo dated 17 September 2010.
- Claimant email to GCCFInfo dated 18 September 2010.
- Claimant email to GCCFInfo dated 01 October 2010, 6:11 pm.
- Claimant email to GCCFInfo dated 01 October 2010, 6:09 pm.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 14 June 2010.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 9 August 2010.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 10 August 2010, w/blank certification form.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 23 August 2010.
- Claimant email to GCCFInfo dated 01 October 2010, 6:04 pm.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 03 May 2010.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 17 May 2010.
- (Florida) Agency for Workforce Innovation letter to Claimant dated 17 May 2010.
- Claimant email to GCCFInfo dated 20 October 2010.
- Photograph of boat, dock and two houses, undated.
- Photograph of boat with awning, undated.
- Photograph of dock with partial view of boat, undated.
- Photograph of boat, aft deckspace, undated.
- Photograph of dock showing davit, dock and partial view of boat, with houses in background.
- Claimant email to GCCFInfo dated 01 November 2010, 12:07 pm.
- Claimant letter to GCCF Claims Payment Escalation Team, undated, with two pages of spreadsheet data.
- Claimant email to GCCFInfo dated 01 November 2010, 12:16 pm.
- Claimant letter to GCCF Claims Payment Escalation Team, undated.
- Claimant email to GCCFInfo dated 01 January 2011.
- Claimant letter to GCCF Claims Payment Escalation Team, undated, with two pages of spreadsheet data.
- Claimant email to GCCFInfo dated 02 January 2011.
- 2010: Uncertain footing, Islamorada Free Press, 29 December 2010.

- Claimant email to GCCFInfo dated 05 January 2011.
- Claimant email to GCCFInfo dated 11 January 2011.
- Claimant email to GCCFInfo dated 14 January 2011.
- Claimant email to GCCFInfo dated 28 February 2011.
- State of Florida tax form 1099-G for 2010.
- Chase Bank USA tax form 1099-C for 2010.
- Deepwater Horizon Oil Spill Trust tax form 1099-MISC for 2010.
- Claimant email to GCCFInfo dated 8 March 2011.
- Claimant's 2010 federal tax return; including TurboTax instructions; Payment Vouchers; Form 1040; Schedules A, C, SE, J and M; Forms 4562 (Mortgage Banker), (Fishing/Sale of Smoked Fish), and (Summary); Form 2106 (Mortgage Banker); and various supporting worksheets and reports.
- Claimant email to GCCFInfo dated 07 April 2011.
- Claimant email to GCCFInfo dated 06 April 2011.
- Info@GCCF-Claims.com email to Claimant dated 6 April 2011.
- GCCFInfo email to Claimant dated 08 April 2011.
- Claimant email to GCCFInfo dated 20 April 2011, 9:13 am.
- Claimant email to GCCFInfo dated 13 April 2011.
- Claimant email to GCCFInfo dated 09 June 2011.
- Claimant email to GCCFInfo dated 20 April 2011, 11:18 am, with two pages of spreadsheet data.
- Claimant email to GCCFInfo dated 05 July 2011.
- Claimant email to GCCFInfo dated 07 July 2011.
- GCCF Important Notification dated 07 July 2011.
- GCCF Response to Inquiry dated 08 July 2011.
- Claimant email to GCCFInfo dated 05 March 2011.
- GCCF Important Notification dated 08 July 2011.
- GCCF undated letter to Claimant regarding documentation, date stamped 31 August 2011 at the Garden City Group.
- GCCF undated worksheet on catch for sale and for subsistence, 2 pages.
- Claimant Affidavit on subsistence dated 21 June 2011.
- Third Party Affidavit from Sammie Lynn Kern-Mays dated 21 June 2011.
- GCCF Subsistence Fisherman Catch Authorization Form dated 21 June 2011, 2 pages.
- Florida Driver License issued 9-21-2006 and expires 10-04-2012.
- Florida Vessel Registration for 14 ft Boston Whaler, expires Midnight 10-04-2011.
- Florida Trailer Registration, expires Midnight 10-4-2009. Claimant email to GCCFInfo dated 05 July 2011.
- Claimant email to GCCFInfo dated 30 August 2011.
- Claimant email to GCCFInfo dated 07 September 2011, 11:41.
- Claimant email to GCCFInfo dated 07 September 2011, 13:55, with three pages of spreadsheet data.
- Claimant email to GCCFInfo dated 26 September 2011.
- GCCFInfo email to Claimant dated 06 October 2011.
- Claimant email to GCCFInfo dated 06 October 2011.
- GCCFInfo email to Claimant dated 12 October 2011.
- Claimant email to GCCFInfo dated 16 October 2011.
- Claimant email to GCCFInfo dated 01 November 2011.

- Claimant email to GCCFInfo dated 04 November 2011, 16:38.
- Claimant email to GCCFInfo dated 04 November 2011, 08:44, Re: Change of Tax ID and Name for Claim.
- Claimant email to GCCFInfo dated 04 November 2011, 16:16, Re: Disregard My Previous Request for Change of Tax ID and Business Name Change.
- Claimant letter of 09 August 2010 to BP Claims.
- GCCF Claim Form for Six Months Emergency Advance Payment in the amount of \$22,500.00 for Lost Earnings/Profits and \$15,000.00 for Subsistence dated 29 August 2010.
- GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 31 December 2010.
- GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 1 April 2011.
- GCCF Interim Payment Claim Form for \$13,500.00 for Lost Earnings/Profits dated 5 July 2011.
- GCCF Interim Payment Claim Form for \$8,000.00 for Subsistence dated 31 December 2010.
- GCCF Interim Payment Claim Form for \$13,884.00 for Lost Earnings/Profits dated 7 September 2011.
- GCCF Interim Payment Claim Form for \$45,000.00 for Lost Earnings/Profits dated 2 November 2011.
- GCCF letter dated 30 September 2010.
- GCCF Denial Letter on Interim Payment Claim, dated 14 September 2011.
- GCCF Determination Letter on Interim Payment Claim, dated 6 July 2011.
- GCCF Determination Letter on Interim Payment Claim, dated 5 August 2011.
- GCCF letter dated 11 November 2011, Re: Release and Covenant Not to Sue.
- GCCF Denial of Re-Review Request for Determination, dated 12 July 2011.
- GCCF Denial of Re-Review Request for Determination, dated 27 October 2011.
- GCCF letter of 28 October 2010, denial of Emergency Advance Payment Claim for Subsistence Loss.
- GCCF Determination Letter on Final Payment Claim, dated 30 September 2011.
- GCCF Final Payment Election Form for Harry Hileman Teaford, Jr. signed 04 November 2011.
- Acknowledgement of Important Information About the Attached Release and Covenant Not to Sue, executed by Harry Teaford on 12 November 2011 and by Sammie Mays Teaford on 12 November 2011.
- GCCF Release and Covenant Not to Sue, executed by Harry Teaford on 12 November 2011 and by Sammie Mays Teaford on 12 November 2011.