

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

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5890
20 May 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7013 3020 0000 7550 3831

Ms. Tami Maureen Wells
[REDACTED]

RE: Claim Number: N10036-2013

Dear Ms. Wells:

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 N10036-2013 involving the Deepwater Horizon oil spill. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

Sincerely,

[REDACTED]

Chief, Claims Adjudication Division
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: N10036-2013
Claimant	: Tami Maureen Wells
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Amount Requested	: \$1,533,279.00

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 claims for certain individual and business claims on behalf of BP.

CLAIM AND CLAIMANT:

On 27 January 2014, Ms. Tami Maureen Wells (Claimant) submitted an Optional Oil Spill Trust Fund (OSLTF) claim form seeking \$1,533,279.00 in lost profits and earnings capacity resulting from the Deepwater Horizon oil spill. Claimant informed the NPFC that her claim was for "past and present damages as well as a claim for continuing damages as they occur." Her claim consisted of: \$1,187,779.00 in damages based on "an annual loss of income, minimal reimbursement of public contributions, business start up costs and projected business profits"; \$48,500.00 in real or personal property damages; and \$297,000.00 in subsistence damages.

Claimant submitted a claim with the GCCF for an Interim Payment with Claimant ID # 3586978. This claim was confirmed denied in a letter from the GCCF dated 2 June 2012. The Claimant also filed with the BP Claims Program with Claimant ID 1089637-01 and was confirmed denied in letters dated 15 April 2013 and 23 August 2013.

The NPFC denied the claim on 6 March 2014, on the basis that the Claimant's alleged loss was not 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.

REQUEST FOR RECONSIDERATION:

On 7 May, 2014, in a letter dated May 1, 2014, the Claimant sent a request for reconsideration via mail to the NPFC stating she would like the NPFC to reconsider her claim. The Claimant provided a justification in writing requesting an extension until 31 December 2014 in order to support her official request for reconsideration. The NPFC did not grant this extension, as the request was not received in a timely manner before the due date of 5 May 2014.

RECONSIDERATION CLAIM ANALYSIS:

In her reconsideration request, the Claimant did not provide additional documentation in support of her claim, only a request for additional time in order to provide it.

NPFC Determination on Reconsideration

Under 33 CFR 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 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant requested an extension of 31 December 2014 to provide full documentation along with the factual and/or legal basis for her request for reconsideration. However, as the request was not received in a timely manner, the request for additional time was denied. The Claimant had 60 days from the date listed on the original determination letter (6 March 2014, and it was delivered to her via USPS Certified Mail on 10 March 2014) to request reconsideration of the claim and additional time in order to gather the documentation she deemed essential to justify her loss. Thus, as of the date of this determination, the Claimant has failed to provide the necessary explanation and detailed support for her request for reconsideration in a timely manner in accordance with the governing claims regulations. Therefore, the NPFC again denies the claim because the Claimant has failed to (1) demonstrate a loss in the amount claimed and (2) demonstrate that the loss, if one had been established, was due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. This claim is denied upon reconsideration.

Claim Supervisor: 

Date of Supervisor's review: *5/20/14*

Supervisor Action: *Denial on reconsideration approved*

Supervisor's Comments: