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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0200
24 February 2011

[redacted]

RE: Claim Number: N10036-0200

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0200 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0200.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 02/15/2011
Claim Number	: N10036-0200
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $21,775.00

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 03 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $21,775.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. [1]

The Claimant asserted that he operated a crane for the construction division of [redacted] on land, on inland platforms and on floating platforms. He alleged that he was not able to get to the platforms and floating rigs to work as a result of the Deepwater Horizon incident. [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 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

[1] OSLTF claim form dated 24 November 2010.

[2] Undated Claimant note referencing Claimant ID No [redacted] attached to OSLTF claim form.

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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 undertake, 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 support his claim, claimant presented the following documentation:

1. Optional OSLTF claim form;
2. Undated Claimant note referencing Claimant ID No. [redacted] attached to OSLTF claim form;
3. 2009 [redacted] Inc W-2 Form for the Claimant;
4. 2009 [redacted] W-2 Form for the Claimant; and
5. 01/07/2010 to 11/10/2010 Payroll Hours/Dollars History in the name of the Claimant. No employer name is shown on the document.

Claimant seeks $21,775.00 in lost wages as a rig worker allegedly resulting from the Deepwater Horizon incident. [3]

On 07 June 2010, the Claimant filed a claim with the responsible party, BP.

On 02 September 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) for $30,000.00 in lost earnings and profits with the GCCF. He was assigned Claimant ID [redacted] and Claim [redacted] On 24 September 2010, GCCF sent the Claimant an oil drilling moratorium letter, and, on 25 November 2010, GCCF denied the EAP claim. The NPFC verified this information.[4]

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the 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. 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. The NPFC considered all of the documentation submitted by the Claimant.

The documentation presented by the Claimant does not support the allegation that he lost hours as a result of the Deepwater Horizon incident. On 29 December 2010, the NPFC sent a letter requesting, among other things, documentation from the Claimant to support his assertion the NPFC sent, via

[3] OSLTF claim form dated 24 November 2010.
[4] On 07 December 2010, the Claimant also filed a Final Payment claim with the GCCF. This claim is still under review.

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certified mail, a request for additional information to the Claimant in order to obtain the necessary information in order to be able to adjudicate the claim. To date, the Claimant has not responded to the NPFC's request for additional information although the NPFC did receive the certified mail delivery receipt back which shows the Claimant received the request for additional information letter on 4 January 2011. The NPFC accordingly proceeded to evaluate the claim based on the evidence presented.

The Claimant has not provided additional documentation as requested by the NPFC nor answered any of the questions to support the claim in order to demonstrate he had a loss of profits and earnings that resulted from the Deepwater Horizon incident. Therefore, this claim is denied because the Claimant has failed to meet his burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/24/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]

5890
12/14/2010

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0201

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0201 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0045.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/14/2010
Claim Number	: N10036-0201
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $75,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT:

On 01 December 2010 Claimant, [redacted] presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $75,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil spill. [redacted] is an engineering technician who contacted BP and the Unified Command in order to offer assistance in stopping the oil leak by presenting his concept of a modular "repair unit" that functions hydraulically and was designed to stop the flow of oil at the source. The Claimant is claiming lost earnings and wages as a result of his contribution to provide a concept to assist in stopping the oil leak.

APPLICABLE LAW:

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

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 136.235, 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 support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated December 1, 2010; a copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated November 24, 2010, a copy of all communications with both BP, GCCF, and /or the Unified Command, a copy of the Claimant's prototype along with photos and an Executive Brief with a chronology timeline of events since his initial offer of assistance to BP with his idea to stop the leak. The GCCF assigned claim identification # [redacted] to [redacted] claim submission. On November 24, 2010, the GCCF issued a denial to [redacted] stating that the Claimant has not demonstrated that he has lost profits or income as a direct result of the oil-spill.[1]

NPFC Determination

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 claim is denied because the alleged loss in the amount of $75,000 is 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. Claimant's alleged loss is a request for compensation of his time and effort in providing a product and concept to stop the oil-spill leak, and not the result of the Deepwater Horizon incident. Such efforts to provide ideas and concepts for stopping the oil-spill leak are not damages that may be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/14/10

Supervisor Action: Denial affirmed

Supervisor's Comments:

[1] *See* GCCF denial letter dated November 24, 2010.

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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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0202
26 April 2011

[redacted]

RE: Claim Number: N10036-0202

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0202. Please see the enclosed 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 N10036-0202.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form
(2) Summary of Documentation Provided

FOIA2011-3380-00000801

CLAIM SUMMARY/DETERMINATION FORM

Date	21 April 2011
Claim Number	N10036-0202
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits & Earning Capacity
Claim Manager	[redacted]
Amount Requested	$133,100.00

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 07 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC). The OLSTF claim form alleged $133,100.00 in loss of profits and impairment of earnings capacity resulting from the Deepwater Horizon oil spill.

The Claimant operates as a condo management company for the condo owners of [redacted] In this role, the company, situated in Perdido Key, FL, "is responsible . . .[for] manag[ing] approximately 107 rental units . . . ."[1] The Claimant generates revenues from management fees on the rental of these units and from the sale of these units by an on-site realtor. With respect to sales, the Claimant reportedly receives fifty percent of the gross commissions generated.[2]

Although the Claimant concedes that management fees were down due to the "recessionary environment" and units were closed for renovations prior to the Deepwater Horizon oil spill, the Claimant asserted that it estimated 2010 to be a growth year.[3] The Claimant alleged that the Deepwater Horizon oil spill significantly impacted rental reservations and resulted in cancellations for both local and out-of-state vacationers.[4]

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 Section 2702(b) of OPA.

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[1] Claimant Summary Narrative, dated 30 July 2010.
[2] Id.
[3] Id.
[4] The Claimant explained that this claim covers losses through October 2010. EMAIL from the Claimant to the NPFC, dated 14 April 2011.

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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 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 undertake, 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 support this claim, the Claimant presented a considerable amount of documentation to the NPFC in the form of initial submission documentation as well as ongoing additional information specifically requested by the NPFC. This list of documentation provided is located in Enclosure (2).[5]

[5] Of particular note, the Claimant presented the NPFC with logs of cancellations purportedly due to the Deepwater Horizon oil spill. The cancellations, which bore the notations "OIL," were logged between May and December 2010, though logs provided extended into 2011.[5] The Claimant also provided documentation on the impact of the Deepwater Horizon oil spill on tourism, including newspaper articles and photos indicating the actual presence of oil in the form of tar balls.

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On 30 July 2010, the Claimant presented an interim claim for $353,345.00 in lost rental revenues and sales commission to the responsible party, BP, and was assigned BP Claim # [redacted].[6]

On 23 August 2010, the Claimant presented a six-month Emergency Advance Payment (EAP) claim for $353,345.00 to the GCCF.[7] The Claimant was assigned GCCF Claimant ID # [redacted] and Claim [redacted] The Claimant received payment of $69,600.00 as compensation for the EAP claim via a check dated 29 September 2010.

On 11 October 2010, the Claimant requested reconsideration of the EAP claim for a revised sum of $156,122.00.[8]

On 07 December 2010, the Claimant presented this claim for $133,100.00 in alleged lost profits from cancelled reservations resulting from the Deepwater Horizon oil spill. This claim covers the Claimant's alleged losses from May through October 2010.

On 08 February 2011, while this claim was pending, the Claimant presented an interim claim for $173,674.00 in lost profits to the GCCF. The interim claim covered Claimant's alleged losses through December 2010. On 04 April 2011, the Claimant was remitted payment of $125,128.25 as compensation for the interim claim from the GCCF.[9] The Claimant was also offered $175,343.24 as a Final Payment Offer form the GCCF.[10]

The Claimant accepted the remitted payment as compensation for the interim claim, but the Final Payment Offer remains outstanding.[11]

To date, the Claimant has received total compensation from the RP/GCCF of $194,728.25.

NPFC Determination

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. The NPFC considered all of the documentation submitted by the Claimant.

The NPFC reviewed all documentation provided and requested additional documentation on several occasions to further facilitate the adjudication of the claim. The Claimant was able to provide the NPFC with all documentation and records requested. The NPFC also requested contact information for a specific sample size of those person(s) that were documented as having cancelled reservations due to the oil spill. The NPFC made contact with seventeen customers that were claimed to have cancelled reservations due to the Deepwater Horizon oil spill. Each customer contacted, confirmed to the NPFC that their cancellations had been due to several factors associated with the oil spill, compelling them to cancel their vacation plans which included varying nights of stay at Eden Condominiums.[12]

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[6] Letter from Claimant to GCCF requesting reconsideration of claim with accompanying loss calculation tables, dated 11 October 2010.
[7] The Claimant's original claim with BP was transferred to the GCCF when the GCCF assumed responsibility over BP's claims process.
[8] Letter from Claimant to GCCF requesting reconsideration of claim with accompanying loss calculation tables, dated 11 October 2010.
[9] GCCF letter to the Claimant, Re: Interim/Final Payment claim, dated 05 April 2011.
[10] Id.
[11] GCCF Filing Report, dated 18 April 2011.
[12] Spreadsheet detailing NPFC correspondence with Claimant's customers.

During this same period of time, the NPFC ensured that proper presentment of all documentation had been made available to the RP/GCCF for this claim.

Upon completion of the NPFC's adjudication of this claim, the NPFC has determined that the Claimant has received full compensation from the RP/GCCF for the losses claimed. The NPFC's calculation of total losses for the period of May 2010 through December 2010 came to an amount less than what the RP/GCCF has paid to date to the Claimant, therefore the claim is denied because the NPFC has determined that the Claimant has been fully compensated by the RP (BP/GCCF) for all potential losses incurred from May 2010 through December 2010.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***4/26/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

ENCLOSURE 2

1. OSLTF Claim Form signed by Claimant and dated 23 November 2010;
2. Notice of Emergency Advance Payment Determination and accompanying check in the amount of $69,600 from GCCF made payable to Claimant, dated 29 November 2010;
3. U.S. Corporation Income Tax Return (Form 1120) for 2008 and 2009;
4. Invoice from [redacted] dated 30 July 2010;
5. Business Tax Receipt Renewal for Escambia County, FL;
6. Reservations Reports from 01 January 2010 to 10 April 2010, 01 June 2010 to 01 July 2010 and 01 June 2009 to 01 July 2009;
7. Various correspondence and cost schedules associated with east side planter project;
8. Letter from Claimant authorizing BP to correspond with [redacted] with regard to its claim, undated;
9. Board of Directors Meeting Minutes for 26 May 2010;
10. Comparison of 2009 actual revenue vs. 2010 expected revenue for May through December;
11. Correspondence listing pending sales at the time of the oil spill, dated 19 July 2010;
12. July Rental Summary comparison for 2009 and 2010;
13. Table of cancellations due to oil spill for May through August 2010;
14. Summary of actions to mitigate damages;
15. Monthly profit and loss comparisons for 2008 and 2009;
16. Summary of May and June actual and July through December Estimated Lost Revenues;
17. BP Interim Claim Summary Narrative dated 30 July 2010;
18. Various articles from the Mobile Press-Register detailing the environmental impact of the oil spill;
19. Claimant Guest Contact Listing
20. Monthly profit and loss comparisons for January through June, 2009 and 2010;
21. Monthly profit and loss comparisons for 2007 and 2008;
22. U.S. Corporation Income Tax Return (Form 1120) for 2007;
23. Letter from Claimant to GCCF requesting reconsideration of claim with accompanying loss calculation tables, dated 11 October 2010;
24. Invoice from [redacted], dated 11 October 2010;
25. Monthly profit and loss comparisons for July and August, 2009 and 2010;
26. Lost Profits Analysis for Interim Claim with Estimates for September and October 2010;
27. Table of cancellations due to oil spill for May through October 2010;
28. Escambia County Notice of Notice rescinding Oil Impact Notice for Pensacola Beach and Perdido Key, dated 16 August 2010;
29. Folio number and rate schedule;
30. Reservations report detailing arrivals for all of 2010;
31. Reservations report detailing arrivals for all of 2009;
32. Reservations report detailing arrivals for all of 2008;
33. Letter from Claimant to NPFC in response to request for additional information, dated 21 January 2011.

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890/DWHZ
Claim # N10036-0203
04 January 2010

[redacted]

Re: Claim Number: N10036-0203

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Pleased see the enclosed 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 N10036-0203.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00000807

CLAIM SUMMARY / DETERMINATION FORM

Date	04 January 2011
Claim Number	N10036-0203
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manage	[redacted]
Amount Requested	$15,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 02 December 2010, [redacted] (Claimant), submitted an Oil Spill Liability Trust Fund (OSLTF) claim form claiming a loss of profits or impairment of earning capacity in the amount of $15,000.00 to the National Pollution Funds Center (NPFC). Claimant is employed by the [redacted] located in Santa Rosa Beach, Florida. Evidence submitted by the Claimant indicates that she began working for the [redacted] around 16 February 2010. Claimant did not indicate her job position or duties with her current employer, but stated in her claim form that she earns tips as a form of compensation. Based on earnings statements provided by Claimant, it indicates that she receives tips from "banquets".[1] Claimant asserts that the hotel's occupancy declined following the Deepwater Horizon incident, causing her tip income to decline proportionately. Claimant is making a claim for reduced wages and tips as a result of the Deepwater Horizon incident.

On 18 October 2010 [redacted] received a GCCF emergency advance payment in the amount of $10,100.00.[2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by

[1] Claimant provided earnings statements from 16 February 2010 through 15 November 2010 for her employment with the [redacted]

[2] GCCF Claim [redacted] Check [redacted] dated 10/18/10.

ENCLOSURE

09/13/2011 FOIA2011-3380-00000808

payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated 02 December 2010 claiming lost profits or earnings in the amount of $15,000.00, a copy of her emergency advance payment letter from the Gulf Coast Claims Facility (GCCF) dated 18 October 2010, earnings statements from her employment during 2010 and earnings statements from a co-worker for employment during 2009. Claimant also submitted a copy of an emergency advance payment that her co-worker received from GCCF. [3]

Claimant asserts that she earned reduced wages and tips from her employment at a hotel as a result of the Deepwater Horizon incident. Her "tips are directly proportional to occupancy" and "not as many people vacationed here because of the oil spill."[4] Claimant indicated on her OSLTF claim form that she was not satisfied with the emergency advance payment provided to her by GCCF. As a result, she has submitted a claim in the amount of $15,000.00 to the NPFC.

[3] The claimant provided the following from [redacted] Earnings statements from 09 March 2009 through 15 October 2009 and Notice of emergency advance payment from GCCF dated 09 September 2010 for an approved payment of $15,000.00.
[4] Claimant Optional OSLTF claim form dated 02 December 2010.

Claimant filed an initial claim with GCCF on 12 October 2010. The GCCF assigned her Claimant ID [redacted] and Claim [redacted] On 18 October 2010, GCCF issued the Claimant an emergency advance payment of $10,100.[5] This information was confirmed by the NPFC.

NPFC Determination

This claim is denied. 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. § 136.233, a claimant must establish a loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant. Here, as described below, Claimant has not demonstrated a loss of profits or impairment of earning capacity.

Claimant's claim is based upon the GCCF payment of $15,000.00 received by her co-worker. Claimant provided earnings statements from her co-worker for periods worked during 2009. Claimant also provided her own earnings statements from 2010 as a comparison to show a reduction in earnings. Based on the banquet tips shown on the earnings statements, Claimant earned $10,890.00 in banquet tips from 01 May 2010 through 15 October 2010. As a comparison, her co-worker earned banquet tips of $7,771.00 during the same period in 2009. Based on the earnings statements provided, Claimant earned greater banquet tips during 2010 than her co-worker did during the prior year. Her comparison to her co-worker's tip income from 2009 does not indicate a reduction in tip income.

Documentation provided by Claimant also shows that her hourly wages and hours did not decline in comparison to her co-worker's amounts from 2009. When comparing her hours worked to her co-worker from 01 May through 15 October, Claimant's work hours during 2010 exceed those of her co-worker during 2009. From 01 May 2010 through 15 October 2010, Claimant worked 707 hours primarily at an hourly rate of $4.50 an hour. She received a rate increase to $8.00 an hour starting from 01 September 2010. Her co-worker worked 656 hours during the same period in 2009 at an hourly rate of $8.00 per hour. The supporting documents provided indicate that Claimant did not sustain a reduction in wages, either due to reduced hours or wage rates.

The evidence presented by the Claimant does not establish either that she has lost profits or that her earning capacity was impaired as a result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Review: 1/5/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

[5] GCCF Claim [redacted] Check [redacted] dated 10/18/10.

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
[redacted]
Fax: 202-493-6937
5890
1/19/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0204

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Please see the enclosed Claim Summary / Determination Form 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 N10036-0204.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00000811

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/19/2011
Claim Number	: N10036-0204
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $2,400.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated Ms. Murphy (Claimant). On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 7 December 2010, [redacted] (Claimant) presented a lost profits and earnings claim in the amount of $2,400.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she earned reduced wages and tips from her employment as a Housekeeper/Room Attendant at the [redacted] Gulfport MS. The Claimant is making a claim for reduced wages and tips as a result of the Deepwater Horizon incident. [1]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

[1] Letter to whom it may concern from [redacted] dated 16 November 2010

(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 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 support her claim, the Claimant provided the following:
1. A faxed copy of an Optional OSLTF claim form,
2. 3 Earnings Statements form [redacted]
   a. Pay period ending 2/28/2010 for $631.47 Net Pay
   b. 2 copies of Pay period ending 6/06/2010 for $637.25 Net Pay and;
   c. Pay period ending 11/21/2010 for $367.73 Net Pay
3. A handwritten statement on [redacted] letterhead stating where the claimant worked, the phone number and occupation.
4. A copy of her Individual Tax Return 1040A for 2009 and
5. An illegible copy of an ID.

NPFC Determination

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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity and show, among other things, that their income was reduced as a consequence of injury to, destruction of, or loss of property or natural resources, and the amount of that reduction.

The claim is denied because the evidence presented by the Claimant does not demonstrate that her alleged loss is the direct result of the Deepwater Horizon incident. Additionally, the NPFC requested additional information, in writing on 13 December 2010 which the Claimant has failed to respond to therefore the Claimant has failed to meet the burden of providing supporting documentation that demonstrates an actual loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervis[redacted]

Date of Supervisor's review: *1/19/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/21/2010
Claim Number	: N10036-0206
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $7,500.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

The claimant, [redacted] presented a claim to the Oil Spill Liability Trust Fund (OSLTF) via the National Pollution Funds Center (NPFC) on or about 7 December 2010, claiming loss of profits and earning capacity in the amount of $7,500.00. Specifically, the Claimant is asserting that she lost bonuses that she had earned in previous years because her employer, [redacted] lost profits due to the Deepwater Horizon oil-spill.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages resulting from that incident. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost as a result of the incident.
(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 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 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 136.235, 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.

Claimant's Submission

The claimant in her submission, represented that she presented her claim to the GCCF and that the claim was denied. Although she did not include the claim submission or the denial letter, she did provide her GCCF claim number and that is sufficient proof of her submission to GCCF.

The claimant's submission to the Fund includes W2 forms from 2008 and 2009, check stubs from November 2007 (showing a bonus paid in the amount of $5,645.83), from June 2010 (showing a bonus paid in the amount of $173.08) and from November 2010 (showing a bonus paid of $1,160.07). The claimant also included a statement from her employer, [redacted] that indicates that employees of the company had to "use vacation and sick time to make up for lost wages…..and lose their bonus and raise" as a result of the "BP oil spill in April of 2010." This statement also indicated that [redacted] experienced a "large decreased amount in profits" due to the oil-spill.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $7,500.00 is 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. Claimant's alleged loss of profits is the result of her employer's business decision to not issue bonuses to employees. Furthermore, the NPFC spoke with the Manager of [redacted] who did state he made the assumption that their profits were down due to the oil-spill although that has not been validated or founded by the [redacted].

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/22/10

Supervisor Action: DENIAL APPROVED

Supervisor's Comments:

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
[redacted]

5890
12/22/2010

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0206

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0206 involving Deepwater Horizon. Please see the attached claim summary 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 N10036-0206.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

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]
Fax: 202-493-6937

5890
1/4/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7003 3110 0000 0018 9418

[redacted]
Diberville, MS 39540

RE: Claim Number: N10036-0207

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0207 involving the Deepwater Horizon incident. Compensation is denied because you have not proven that the oil-pollution incident caused you any compensable damages.

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 or within 30 days of your receipt of this letter, whichever date is earlier, 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 N10036-0207.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/4/2011
Claim Number	: N10036-0207
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM:

The claimant seeks loss of employment income. She works at an apartment management business. The location of her work is unknown. She alleges that the oil spill caused the business to lose prospective residents, which caused her to lose work hours, bonuses, and commissions. She provided her 2009 W2s, a current pay stub, copies of her driver's license and social security card, and a letter from her employer stating that the oil spill caused her to lose income.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

09/13/11 FOIA2011-3380-00000820

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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.

DETERMINATION:

The claimant did not provide sufficient documentation to support her claim. And she did not respond to our request for additional information within the given time frame. The claim is denied because the claimant has not proven that the oil spill caused her to suffer compensable damages.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/4/11

Supervisor Action: Denial approved

Supervisor's Comments:

09/13/11 FOIA2011-3380-00000821

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]
Fax: 202-493-6937

5890
1/4/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7007 2680 0002 9613 4966

[redacted]
Mobile, AL 36695

RE: NPFC Claim Number: N10036-0208

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0208 involving Deepwater Horizon oil spill. Compensation is denied because you have not proven that the oil-pollution incident caused you any compensable damages.

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 N10036-0208.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/4/2011
Claim Number	: N10036-0208
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM:

The claimant seeks a sum certain of $6,000 alleging loss of income. [redacted] wrote in her letter of December 7, 2010 that she is a teacher and she supplements her income by tutoring 10 to 12 students for one or two hours a week during the summer months. In 2010 [redacted] alleges that she lost income because the Deepwater Horizon oil spill caused one or more parents to be laid-off work and this resulted in a loss of students to tutor. [redacted] says that she earns $25 an hour.

[redacted] provided a log she made of her monthly student tutoring sessions. The Tutoring Log shows each month from January 2010 to October 2010 in a matrix with students' first names only on the vertical axis and time period and day of the week on the horizontal axis. The monthly log shows that in January and February of 2010 she earned $800 each month then $1000 for March and April 2010. For May 2010 [redacted] earned $175 and the log shows six hours of cancellations. There were no earnings for June, July and August 2010. For September [redacted] shows that she earned $100 and for October she earned $75. The log ends in October 2010.

On December 9, 2010 the NPFC requested the following evidence in support of [redacted] claim:

1. A copy of the claim to the Gulf coast Claims Fund.
2. Tutoring logs from prior years, if any.
3. A copy of bank check deposits for tutorial lessons.
4. Copies of tax returns showing income earned for past three years.
5. A copy of a teaching certificate or tutoring credentials.
6. Any other evidence to show that tutoring was an on-going business.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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.

DETERMINATION:

The claimant did not provide sufficient documentation to support her claim and she did not respond to our request for additional information within the given time frame. The claim is denied because the claimant has not proven that the oil spill caused her to suffer compensable damages.

Claim Supervisor: [redacted]

Date of Supervisor's review: 11/17/10 Denial Memo

Supervisor Action:

Supervisor's Comments:

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)
[redacted]
Fax: 202-493-6937

5890
08 February 2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0210

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0210 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for the rationale regarding this denial.

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 N10036-0210.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 03 February 2011
Claim Number	: N10036-0210
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $300,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [redacted] (Claimant), on behalf of [redacted] presented a lost profits & earnings claim in the amount of $300,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] asserted that she lost profits "in the middle of launch on products and services after marketing/promoting cost were paid to drive travel services and businesses and tourist to Gulf Coast" and that she was "not insured for B.P. oil-spills and loss profits."[1]

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

[1] See, Optional OSLTF Claim Form, dated 05 December 2011

FOIA2011-3380-00000826

(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 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 support her claim, Claimant presented:

1. The NPFC Optional OSLTF Claim Form dated 05 December 2010, received 06 December 2010. Optional OSLTF Claim Form, 05 December 2010
2. GCCF correspondence to Corla International Travel dated 31 August 2010
3. Corla International Travel correspondence to GCCF, undated
4. Corla International Travel correspondence to GCCF, dated 30 November 2010
5. Various email correspondence between [redacted] and GCCF.
6. U.S. Individual Income Tax Returns, Form 1040, which includes Schedule C (Profit or Loss from Business) for tax years 2007 to 2009.
7. Summary level profit and loss statements showing total income and total expenses for April to November 2010, internally prepared.
8. [redacted] monthly bank statement, account [redacted] for the period April 24, 2010 to May 21, 2020, for [redacted] (dba [redacted] Major Cash Debit Phone Card)
9. [redacted] monthly bank statements, account #0129634261, for the following periods: 5/7/10- 5/12/10, 6/14/10-7/14/10, 7/15/10-8/13/10, 8/14/10-9/14/10, 9/15/10-10/13/10, and 10/14/10-11/10/10. Period 5/13/10-6/13/10 missing.
10. Various documents relating to "[redacted] Major Cash" debit phone card program
11. OSI (Original Spiritual Images) product listing
12. [redacted] receipt dated 03 November 2010

13. State of Alabama business license for years 2009-10 and 2010-11 for three separate businesses, [redacted], [redacted] phone card, and Original [redacted]

NPFC Determination

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 claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings occurring as a direct result of the Deepwater Horizon incident. The NPFC made an official request for additional information on 22 December 2010. Claimant received an email copy of this request on 29 December 2010 and was given thirty (30) days in which to provide the requested information, request an extension or contact NPFC for a status update and has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA. Therefore, this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/8/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center
United States Coast Guard

US COAST GUARD STOP 7100
4200 WILSON BLVD STE 1000
[redacted]

Fax: 202-493-6937
5890
1/5/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0211

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0211 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for the rationale regarding this denial.

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 N10036-0211.

Mail reconsideration requests to:

DIRECTOR (ca)
NATIONAL POLLUTION FUNDS CENTER
US COAST GUARD STOP 7100
4200 WILSON BLVD STE 1000
ARLINGTON VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

ENCL: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/4/2011
Claim Number	: N10036-0211
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $15,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $15,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] asserts that she has a loss of wages due to the Deepwater Horizon incident. [redacted] submitted 2008 and 2009 Wage and Tax Statements (W-2 Forms) from [redacted], as well as four check stubs for pay periods in April 2010 and May 2010. On the Optional OSLTF Claim Form (Claim Form), [redacted] noted that the claim was submitted and denied by the GCCF. [redacted] has not shown how the $15,000.00 in damages occurred during this time period, even after the Claims Manager requested an extensive amount of additional information.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support the claim, the Claimant submitted the NPFC OSLTF Claim Form dated November 29, 2010; 2008 and 2009 W-2 Forms from [redacted], as well as four check stubs for pay periods in April 2010 and May 2010. The Claimant noted on the Claim Form that the claim was submitted and denied by the GCCF. After the NPFC issued a formal request for additional information, [redacted] provided a copy of her GCCF denial dated November 2, 2010 with GCCF identification [redacted]

NPFC Determination

The claims regulations provide that all claimants bear the burden of providing all evidence needed to support their claim. 33 CFR 136.105 (a). This claim is denied because the claimant failed to meet her burden of proof to show that her alleged loss of profits in the form of loss of overtime hours, were due to the oil spill. The claimant argued that her loss of hours was directly tied to her employer's loss of profits due to the oil spill. Despite this argument, no evidence was submitted to support this assertion. Further, the claimant was not able to show a nexus between her employer's loss of profits and the oil spill. Finally, although the claimant claimed a sum

certain in the amount of $15,000.00 none of the documentation submitted in support of the claim supported a loss in this amount.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/5/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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]
Fax: 202-493-6937
5890
1/7/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7082 6320

[redacted]
Houma, LA 70363

RE: Claim Number: N10036-0212

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0212 involving the Mobile Offshore Drilling Unit Deepwater Horizon. Compensation is denied for the reasons stated in the enclosed Claim Summary / Determination Form.

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 N10036-0212.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: 1/6/2011
Claim Number	: N10036-0212
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $50,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM:

In the claim form submitted, claimant states that his employer was impacted by the oil spill when projects were cancelled. Specifically, claimant writes *"We had work due to a project that needed to be completed. We began the project two weeks prior to the spill and it lasted unitl mid June. However, no other jobs were booked following the spill and other jobs were cancelled immediately following the spill."* Along with the filled out claim form, claimant provided:

- Gulf Coast Claims Facility Form – Claimant # [redacted]
  - Block C.1 For All Claimants:
    - Occupation: Contractor – Construction
    - Employment Location: Amelia, LA 70380
    - Date on which claimant began losing earnings or profits: 4/20/2010
    - Earnings or profits earned before losses began: $107,000.00 per year
    - Amount and source of earnings or profits received from any source since the claimant began losing earnings or profits: $10,000.00 – Wages
  - [redacted] Check History Listing dated 27 October 2010 for pay dates 1/1/2009 – 12/31/2009.
    - Gross Earnings: $105,637.50
  - [redacted] Check History Listing dated 27 October 2010 for pay dates 1/1/2010 – 10/28/2010.
    - Gross Earnings: $47,193.75
  - Form W-2 for 2009 showing:
    - Employer: [redacted]
    - Block 1 (Wages, tips, other compensation) $105,637.50
  - GCCF Denial Letter dated 22 November 2010

09/13/11 FOIA2011-3380-00000834

On 8 December 2010 claim manager sent two emails acknowledging the claim had been received by the NPFC and the claim's assigned claim number. This email was sent to the email address provided in the claim submission. In the email, claimant was presented with a number of questions regarding the evidence missing from the claim submission along with a hyperlink to the NPFC's website where the claimant's guide could be accessed. On 9 December 2010, after claimant had failed to acknowledge receipt of email messages, a certified letter was sent to claimant informing him of information requested. As of this date, claimant has failed to respond to requests.

APPLICABLE LAW:

Damages that may be paid from the OSLTF are those that are described by the Oil Pollution Act of 1990 (OPA) and that result from a discharge or substantial threat of discharge of oil into or upon the navigable waters, adjoining shorelines or the exclusive economic zone. 33 USC 2702. The NPFC may pay a claim for OPA damages from the Oil Spill Liability Trust Fund (OSLTF) if the claim has been presented first to the responsible party and that claim is denied or not settled after 90 days. 33 USC 2713.

OPA damages that may be paid include "damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant" 33 USC 2702(b)(2)(E).

Pursuant to the implementing OSLTF claims regulations, 33 CFR § 136.233, a claimant must establish the following to prove a loss of profits or impairment of earning capacity:

(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 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.

DETERMINATION OF LOSS:

The claimant did not provide sufficient documentation to support his claim and failed to respond to our request for additional information within the given time frame. The claim is denied because the claimant has not proven that the oil spill caused him to suffer compensable damages.

DETERMINED AMOUNT: **$0.00**

09/13/11 FOIA2011-3380-00000835

Claim Supervisor:	[redacted]
Date of Supervisor's Review:	1/7/11
Supervisor Action:	Approved.
Supervisor's Comments:	Claim is denied.

09/13/11 FOIA2011-3380-00000836

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
[redacted]
Fax: 202-493-6937
5890
12/20/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0214

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0214 involving Deepwater Horizon. Please see the claim analysis for further details.

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 N10036-0214.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date : 12/20/2011
Claim Number : N10036-0214
Claimant : [redacted]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [redacted]
Amount Requested : $64,260.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

On May 28, 2010, Th[redacted] issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective May 30, 2010 . Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells. On August 23, 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRF).[1]

CLAIM AND CLAIMANT:

The claimant [redacted] (Claimant), worked as an Ordinary Seaman for [redacted] from July 7, 2008 through June 3, 2009. Due to a non-work related injury, Claimant's employment was terminated by [redacted] Once he was released by his doctor, and ready to return t[redacted]

[1] [redacted] Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of th[redacted] Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also [redacted] Effective 08 June 2010[redacted]

[2] See letter from [redacted] dated 11/24/2010, and submitted to the NPFC by the claimant, [redacted] on 12/06/2010.

09/13/11 FOIA2011-3380-00000838

recruiters informed him that there was a mandatory hiring freeze, ultimately as a result of the moratorium put into effect.[3]

While working for [redacted] Claimant performed general upkeep/maintenance of the vessel in which he worked.[4] He worked a rotating schedule of 28 days on-hire, followed by 14 days off-hire, where he received a salary of $255.00 per day.[5] When the GCCF denied his claim, he submitted an optional Oil Spill Liability Trust Fund (OSLTF) claim form seeking $64,260.00, asserting that his loss of profits and impairment of earnings capacity resulted from the Deepwater Horizon oil spill.

APPLICABLE LAW:

Under the Oil Pollution Act of 1990 (OPA), 33 USC § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge or substantial threat of discharge of oil into navigable waters and adjoining shorelines or the exclusive economic zone, as described in Section 2702(b) of OPA.

The OSLTF which is administered by the NPFC, is available, pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136, to pay claims for uncompensated damages. Damages pursuant to 33 CFR §136.231 include claims for loss of profits or impairment of earnings capacity due to injury, destruction or loss of real or personal property or natural resources.

With certain exceptions, a claimant must first present their claim to the responsible party. 33 USC § 2713(a). If the claim is not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 USC § 2713(c).

Under 33 CFR § 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 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

---

[3] See [redacted] and letter from [redacted] dated 11/24/2010, and submitted to the NPFC by the claimant, [redacted] on 12/06/2010.

[4] See letter from [redacted] dated 11/24/2010, and submitted to the NPFC by the claimant [redacted] on 12/06/2010.

[5] See letter from [redacted] dated 6/24/2010 and letter from [redacted] dated 11/24/2010, both submitted to the NPFC by the claimant, [redacted] on 12/06/2010.

09/13/11 FOIA2011-6380-00000839

overhead and other normal expenses not incurred as a result of the incident must be established.

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 136.235, the amount of compensation allowable for a claim involving loss of profits or impairment of earnings 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:

A. Overview

Claimant submitted, and the NPFC reviewed, the following list of documentation:

Items 1-6 were submitted as part of the initial claim:

1. NPFC OSLTF Claim form, submitted 06 DEC 2010 (and two additional copies)
2. Copy of the handwritten "Pay Description" sheet
3. Copy of the Gulf Coast Claims Facility (GCCF) Denial letter for Claim [redacted]
4. Copy of the [redacted] letter certifying previous employment
5. Copy of the [redacted] etter certifying mandatory hiring freeze due to moratorium
6. Copy of GCCF Moratorium claims information

Items 7-12 were submitted on December 12, 2010, pursuant to a request by the NPFC to Claimant for additional information:

7. 1/22/2009 Pay stub from [redacted]
8. 5/22/2009 Pay stub from [redacted]
9. Handwritten calculation of claimed loss of pay
10. 2008 Education Credits Tax return
11. 2008 Self-Employment Tax Return
12. 2009 Federal Tax Return

13. Email correspondence between Claimant and [redacted]

    a. *12/09/2010: Introduction and issuance of Additional Information request to Claimant.*
    b. *12/10/2010: Claimant's response and explanation of requested documents faxed to the NPFC on 12/09/2010*
    c. *12/13/2010:* [redacted] *response to email and fax.*

d. 12/15/2010: Claimant change of SUM CERTAIN; [redacted] email to [redacted] explaining that Moratorium was put into place for safety, not oil spill.

B. Analysis

Under 33 USC § 2702(b) and 33 CFR Part 136, a claimant must prove that his loss of income is due to the injury, destruction or loss of real or personal property or natural resources resulting from the discharge or substantial threat of discharge of oil. All documentary evidence submitted by Claimant indicates that his loss directly resulted from a directive issued by the Department of the Interior imposing a six month offshore drilling moratorium in order to implement new safety requirements.[6] As a result, Claimant's claim is determined to be a direct result of the moratorium, not a direct result of an oil discharge. The claim is not compensable under the OPA.

AMOUNT: *$0.00*

DETERMINATION: [redacted] claim for $64,260.00 to the OSLTF is denied.

Claim Supervisor: [redacted]

Date: 12/20/10

Supervisor's Comments: DENIAL APPROVED

[6] See [redacted] MORATORIUM.

FOIA2011-3380-00000841

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]
Fax: 202-493-6937
5890
12/28/2010

VIA MAIL AND EMAIL [redacted]

[redacted]
Clearwater, FL 33765

RE: Claim Number: N10036-0215

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0215 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0215.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/28/2010
Claim Number	: N10036-0215
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 07 December 2010, [redacted] (Claimant), submitted a lost profits & earnings claim in the amount of $20,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant has provided an Oil Spill Liability Trust Fund (OSLTF) claim form, a copy of his Merchant Mariner Credential identification, a copy of his employer's local business tax receipt showing license renewal for a 1-15 passenger boat registered to [redacted] for 2010-2011, a statement from [redacted] confirming employment and supporting Claimant's alleged income loss, a copy of various electronic deposits for salary from May 2010 through September 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant submitted the NPFC OSLTF Claim Form dated 7 December 2010, a copy of his Merchant Mariner Credential identification, a copy of his employer's local business tax receipt showing license renewal for a 1-15 passenger boat registered to [redacted], a statement from [redacted] onfirming employment and supporting Claimant's alleged income loss, a copy of various electronic deposits for salary from May 2010 through September 2010.

NPFC Determination

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 claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings. The NPFC made an official request for additional information on 8 December 2010. The Claimant called in and spoke with [redacted] regarding the nature of the request for additional information. The Claimant had 14 days in which to provide the requested information and has failed to provide the information necessary for the NPFC to make a proper adjudication under OPA.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/29/10

Supervisor Action: Denial Approved

Supervisor's Comments: [redacted]

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)
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0216
07 March 2011

[redacted]

RE: Claim Number: N10036-0216

Dear [redacted]

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 N10036-0216 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0216.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00000846

CLAIM SUMMARY / DETERMINATION FORM

Date	: 02 March 2011
Claim Number	: N10036-0216
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $50,000.00

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 08 December 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $50,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that he was laid off from his job as a result of the Deepwater Horizon oil-spill. He provided pay stubs that indicated that he was working for the Dallas, [redacted]. following the Deepwater Horizon oil-spill. [redacted] provides technical outsourcing for clients in the energy, engineering, and scientific sectors.[1] The pay stubs indicated that the Claimant worked for [redacted] through at least 30 July 2010.

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.

[1] [redacted] (last visited 02 March 2011).

09/13/11 FOIA2011-3380-00000847

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 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 undertake, 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

To support his claim, Claimant submitted the following documentation:

- OSLTF claim form, dated 29 November 2010;
- Denial Letter from the GCCF, dated 24 November 2010;
- Online GCCF status indicating additional information requested, dated 28 October 2010;
- Various paystubs from [redacted] for 24 May 2010 through 30 May 2010, 14 June 2010 through 20 June 2010, 28 June 2010 through 4 July 2010, and 19 July 2010 through 25 July 2010;
- Paystub from [redacted] for 19 January 2009 through 25 January 2009;
- 2009 Form 1099-Misc from [redacted]
- 2009 Form W-2's from [redacted] and [redacted]
- Employer wage reports from Claimant's Alabama unemployment compensation records, dated 27 October 2010 and 18 November 2010;
- Letter from Claimant to "Siir" [sic] indicating that all the supporting documentation for his claim was already submitted on 28 October 2010, dated 15 November 2010;
- Certification cards for the following:
  - McMillan Offshore Survival Training – Water Survival Training
  - Clicksafety – C4 Hazwoper Supervisor; OSHA 500 Hour
  - American Safety & Health Institute – Adult CPR, AED, and First Aid
  - Welltech Saftety & National Training Systems – Code of Safe Practices

- [redacted] – Construction Site Safety Technician
- National Center for Construction and Research – Construction Site Safety Supervisor; Construction Site Safety Technician; Safety Technology; Field Safety
- [redacted] – Fire Extinguisher Training; Fork Lift Training
- OSHA – Construction Safety & Health

– Transportation Worker Identification Credential;
– Identification Badge from National Center for Construction Education and Research;
– 2009 U.S. Individual Tax Return Form 1040A; and
– 2008 U.S. Individual Tax Return Form 1040.

Claimant seeks a total of $50,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 20 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $50,000.00 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 28 October 2010, the GCCF requested additional information from Claimant. This claim was denied by the GCCF on 24 November 2010.[2]

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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. 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. The NPFC considered all documentation presented by the Claimant.

In connection with a review of this claim, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate his claim. The letter requested, among other things, written confirmation from the Claimant's employer that he lost his job due to the Deepwater Horizon oil-spill and information regarding whether the Claimant's employer had filed a claim with the GCCF. This letter was sent to the Claimant on 21 December 2010 and again on 3 February 2011. To date no response has been received by the NPFC.

The NPFC proceeded to adjudicate the claim with the evidence submitted. The evidence does not support the allegation that the Claimant lost $50,000.00 in earnings as a result of the Deepwater Horizon oil-spill.

The claim is denied because Claimant has not proven the alleged loss in the amount of $50,000.00 is 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 and because the Claimant failed to meet his burden to properly support his claim for lost profits and earnings.

[2] Claimant has Interim Payment and Final Payment claims under review with the GCCF

09/13/11 FOIA2011-3380-00000849

Claim Supervisor: [redacted]

Date of Supervisor's Review: *3/6/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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]
Fax: 202-493-6937

5890
2 February 2011

VIA CERTIFIED MAIL
Number [redacted]

[redacted]
Foley, AL 36535

RE: Claim Number: N10036-0217

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0217 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0217.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

09/13/11 FOIA2011-3380-00000851

CLAIM SUMMARY / DETERMINATION FORM

Date	1 February 2011
Claim Number	N10036-0217
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$25,500.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 2010, [redacted] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $25,500.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant worked for [redacted] where he advised that he was "guaranteed 6 months of work and was laid off after 1 month". [1]

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.

[1] See, Optional OSLTF Claim Form received 08 December 2011

09/13/11 FOIA2011-3380-00000852

(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 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.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant presented the NPFC Optional OSLTF Claim Form on 08 December 2010, some earnings statements and payroll journals from [redacted] and [redacted] and the GCCF Claim Submission packet.

Claimant submitted a claim with the GCCF on 20 October 2010 for an Emergency Six-Month payment in the amount of $25,500.00, Claimant ID # [redacted], Claim # [redacted], which was denied.

Claimant asserted that he was laid off from his job at the construction company.

NPFC Determination

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

The NPFC reviewed the evidence presented by the Claimant and spoke with a representative from [redacted]. During this conversation it was determined that Claimant was hired with forty-nine (49) other people to fill a subcontractor position for a prime contractor under BP, [redacted].[2] Claimant was to work with the oil-spill cleanup response using heavy equipment. The owner of the construction company advised the NPFC that the contract was ended prematurely by [redacted] and subsequently only four (4) personnel were retained, excluding this claimant. This claim is denied because the Claimant lost his employment as a direct result of his employer's contract loss and because the Claimant has failed to meet his burden in establishing a loss of profits and earnings that is the direct result of the Deepwater Horizon incident.

[2] Telephone conversation with [redacted] on 16 January 2011.

09/13/11 FOIA2011-3380-00000853

Claim Supervisor [redacted]

Date of Supervisor's Review: ***February 1, 2011***

Supervisor's Action: ***Denial approved***

Supervisor's Comments:

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: 1-800-280-7118
E-mail: [redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7082 9802

5890/DWHZ
Claim # N10036-0218
31 January 2011

[redacted]
Grayson, KY 41143

Re: Claim Number: N10036-0218

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0218 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0218.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	31 January 2011
Claim Number	N10036-0218
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$93,098.12

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues. [1]

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

09/13/11 ENCLOSURE FOIA2011-3380-00000856

CLAIM AND CLAIMANT

[redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form dated 29 November 2010 seeking $93,098.12 in lost earnings resulting from the Deepwater Horizon incident. Claimant is a Health Safety Security Environment (HSSE) specialist and provides services to offshore drilling rigs as a third-party contractor through [redacted]

Claimant was hired by BP as a third-party contractor on 08 May 2010. Claimant was hired to provide "HSSE" services aboard the Mobile Offshore Drilling Unit [redacted] a drilling unit tasked with drilling a relief well in connection with the Deepwater Horizon incident. Claimant indicated that two weeks after entering into the service contract with BP, he was relocated to an office in [redacted] Texas, to support document handling functions associated with cleanup activities. Claimant asserts that he was relocated from the offshore unit to a land-based office because his position on the rig was replaced by a full-time BP employee. After a few weeks of working in the [redacted] Texas office, his job position was again terminated to create work for full-time BP employees. Claimant indicates his last day working for BP as a contractor was 03 July 2010. Claimant asserts $93,098.12 in lost earnings due to the Deepwater Horizon incident and resulting moratorium.

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 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 undertake, 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 support his claim, Claimant submitted an OSLTF claim form dated 29 November 2010 seeking reimbursement for $93,098.12 in lost earnings. Additionally, Claimant submitted the following documentation: a letter From Claimant TO: [redacted] SUBJ: Released from BP due to Moratorium Imposed to GoM, an EMAIL of 16 July 2010 from Claimant to [redacted] RE: Work Order Extension accepting the terms and time frame of the project, Claimant's description of earnings from 2008 to 2010, a copy of Claimant's KY license, a copy of Claimant's Passport, EMAIL from Claimant to the GCCF regarding CLAIM [redacted], a copy of Claimant's curriculum vitae.

Claimant originally submitted to BP and was issued BP Claim # [redacted]. Subsequently, Claimant also submitted an Emergency Advance Payment claim to GCCF on 03 July 2010 which was assigned identification # [redacted] and was issued Claim # [redacted]. After filing a claim with GCCF, Claimant was instructed to submit a claim to the GCRPF. Claimant states he filed a claim with the GCRPF and was subsequently denied.

With his claim submission to the NPFC, Claimant provided an email dated 16 July 2010, after his termination from BP, indicating that BP had offered him another work assignment lasting through 30 November 2010.[2] It appears that Claimant accepted the offer, but it is unclear if he was actually employed in association with this offer. Claimant did not explain the relevance of this job offer but stated on his OSLTF claim form that he is "actively looking for work".

[2] See, email correspondence dated 16 July 2010 from Claimant to [redacted] regarding acceptance of an assignment from BP lasting through 30 November 2010.

NPFC Determination

The claim is denied. Under 33 U.S.C. § 2702(b) and 33 C.F.R. Part 136, a claimant must prove that his loss of income resulted from injury to or destruction of a natural resource. The supporting documentation presented by Claimant fails to prove this. Claimant asserts that his employment with BP was terminated as a result of the moratorium, and that his position with BP was filled by full-time BP employees who were displaced from their normal assignments offshore as a result of the moratorium on offshore drilling. Hence, the crux of claimant's economic loss is predicated on BP's staffing and business decisions in the wake of the moratorium, rather than being directly caused by the Deepwater Horizon incident.

Thus, the claim is denied because the evidence presented by the Claimant does not prove that his alleged loss is due to the injury, destruction or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil. To the contrary, the evidence presented indicates that the Claimant was terminated as a result of BP business decisions relating to, and evolving from, the DOI imposed drilling moratorium.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/1/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

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]
Fax: 202-493-6937
5890
1/25/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7082 5170

[redacted]
Destin, FL 32541

RE: Claim Number: N10036-0219

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0219 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

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 N10036-0219.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 24, 2011
Claim Number	: N10036-0219
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,790.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 8, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $20,790.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from an undetermined work assignment due to investors backing out as a result of the Deepwater Horizon incident. Claimant was able to find short-term employment working for an oil-spill response organization assisting in the cleanup efforts.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated November 30, 2010
- 2008 and 2009 Tax Return Transcript
- Two pay stubs
- Photocopy of Driver's License and Social Security Card

NPFC Determination

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 is making a claim that he moved to Destin, Florida to work on an undetermined project and was never able to start working due to the investors pulling out as a result of the Deepwater Horizon incident.

Based on the documents and information presented, the Claimant has not established that a loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident and even if a loss had occurred, his financial losses are a result of his employer's business decision to cancel the project. [redacted]

Claim Supervisor:

Date of Supervisor's review: *1/25/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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

[redacted]g.mil

BY MAIL AND EMAIL

12 January 2011

[redacted]

Claim Number: N10036-0220

EMAIL: [redacted]

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0220 involving the Deepwater Horizon incident. 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 N10036-0220.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	12 January 2011
Claim Number	N10036-0220
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$22,848.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 201[redacted] (Claimant) presented his claim for lost profits or earnings for $22,848.00 to the National Pollution Funds Center (NPFC). Claimant asserts that [redacted], his employer, guaranteed him work for six months as an oil-spill responder. However, after he was trained, he never worked as a responder. Claimant collected Florida unemployment compensation before the Deepwater Horizon incident. He forfeited the unemployment compensation to work as an oil-spill responder. Claimant claims he lost earnings for the six month's work he was guaranteed.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions, a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

09/13/11 ENCLOSURE FOIA2011-3380-00000865

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, Claimant provided NPFC an OSLTF Claim dated 30 November 2010, a handwritten undated "To Whom It May Concern" letter explaining his experience as an oil-spill responder, a copy of his Florida driver's license, PEC badge and Hazwoper Training Certificate dated 09 July 2010, copies of money orders for rent, bills from [redacted], utility bills for the City of Lynn Haven and Gulf Power, his Florida unemployment compensation documents, and his Federal Income Tax Returns for 2008 and 2009.

Claimant seeks compensation for the income he would have made as an oil-spill response worker if the contract had not been terminated.

Claimant submitted an Emergency Advance Payment claim to GCCF 22 October 2010 and was issued GCCF Claimant ID [redacted] and Claim [redacted] On 02 November 2010 the GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

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

Claimant was previously unemployed and then sought work as an oil-spill response worker. Claimant did not lose his job as the result of the Deepwater Horizon incident. To the contrary, he was offered an opportunity to make income as a result of the spill but the promised work did not materialize. The claim is denied because the alleged loss of earnings is 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.

Claim Supervisor: [redacted]

Date of Review: 1/13/11

Supervisor's Actions: Final Approval

Supervisor's Comments:

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: 800-280-7118
E-mail: [redacted]
Fax: 202-493-6937

5890 DWHZ
24 January 2011
Claim # N10036-0221

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7010 1060 0001 7083 3564

[redacted]
Woodbury, GA 30293

RE: Claim Number: N10036-0221

Dear [redacted],

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0221 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0221.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00000868

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 January 2011
Claim Number	: N10036-0221
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $33,782.86

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010 the Department of the Interior issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues.[1]

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

On 08 December 2010, the Claimant presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $33,782.86 in lost profits and earnings capacity resulting from the Deepwater Horizon incident.

At the time of the Deepwater Horizon incident, the Claimant was working for [redacted] as the Master of the [redacted] under contract with [redacted] to provide offshore

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

09/13/11 ENCLOSURE FOIA2011-3380-00000869

support and drilling mud. On 8 July 2010, the Claimant claims his job ended as a result of the Deepwater Horizon because "no more jobs for boats were available due to the spill." [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 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 undertake, 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 support his claim, the claimant provided the following documentation:

1. The Claimant's NPFC OSLTF Claim form submitted 08 December 2010.
2. 12/13/2010 memo providing [redacted] Boat Hiring Division Points of Contact

[2] Claimant's Optional OSLTF claim form submitted to NPFC on 08 December 2010.

09/13/11 FOIA2011-3380-00000870

3. 12/13/2010 memo documenting oil spill incident # [redacted] time and date and date relieved of duty.
4. [redacted] Hiring and Separation Notification Data sheet with date stamp 12/15/2010
5. The Claimant's GCCF Claimant Id # [redacted] Information Received on 16 December 2010:
   a. 31 August 2010 claim transfer notification letter from BP to GCCF
   b. 23 October 2010 GCCF claim denial letter
   c. The Claimant's Social Security Card
   d. The Claimant's TWIC Card
   e. The Claimant's Drivers License
   f. Letter from [redacted] Church to GCCF dated 20 November 2010
   g. Letter from [redacted] Church to GCCF dated 11 November 2010
   h. Tenant Letter to the Claimant dated 16 November 2010
   i. The Claimant's letter to GCCF dated 30 October 2010
   j. [redacted] Human Resources Administration Letter to whom it may concern dated 26 October 2010 documenting that "there are no position available at this time and depending upon developments now that the moratorium has been lifted … as to when positions will be once again."
   k. [redacted] pay stubs dated 07/08/2010, 06/30/2010, 06/24/2010 showing zero dollars of earned income.
   l. Pay stubs from an unknown company for the Claimant for pay periods 05/10/10 to 05/16/10, 06/01/10 to 06/14/10, and 07/05/10 to 07/11/10 showing year to date gross earnings of $18,975.00.
   m. USCG US Merchant Marine Officer License Serial No. [redacted] Issue No. 3 for the Claimant dated 25 May 2007 with expiration date of 25 May 2012.
   n. Corrective Lens Mariner requirement document for mariner # [redacted] signed by the Claimant.
   o. Radar Observer (unlimited) endorsement to license with expiration date of 25 May 2012.
   p. FCC Marine Radio Operator Permit effective 03-02-2007 with expiration date of 03-02-2012.
   q. The Claimant's birth certificate.
   r. The Claimant's 2009 IRS e-file form 8879.
   s. The Claimant's 2009 IRS Form 1040 Tax Return
6. [redacted] Pay Stub to the Claimant dated 13 October 2010.
7. 2009 [redacted] Pay Stub to the Claimant dated 12/14/2009, 1/4/2010, 1/12/2009, 3/8/2010
8. 12/13/2010 the Claimant's Memo documenting basis for claimed amount of $330 per day times 102 days underway missed from July to 13 December 2010 ($33, 660.08) minus income earned as a truck driver of $3,177.14 for a total claimed of $30,482.86.
9. 2009 W-2 Form from [redacted] to the Claimant.
10. 2008 W-2 Form from [redacted] to the Claimant.
11. 2008 W-2 Form from [redacted] for [redacted] to [redacted].
12. 2008 W-2 Form from [redacted] to the Claimant.
13. 2008 W-2 Form from [redacted] to the Claimant.
14. 2008 W-2 Form from [redacted] to the Claimant.
15. Letter To Whom It May Concern dated January 4th, 2011 from [redacted], General Counsel/HR Manager, [redacted] for the Claimant confirming past employment and reapplication for employment. The letter states that "because of the lack of work in the Gulf of Mexico for our vessels and the circumstances following the BP oil spill we have been unable to offer {the Claimant} further employment. However, should these factors be resolved in the near future employment may be available."

On 23 September 2010, the GCCF informed the Claimant that the GCCF "does not handle claims for Claimants seeking damages as a result of the moratorium on off-shore drilling." On 23 October 2010, the GCCF denied the Claimant's claim.

On 08 November 2010, the claimant presented a claim for $33,782.86 for lost profits and earning capacity to the NPFC resulting from the Deepwater Horizon incident. The claimant alleges that since his drilling

job ended on 08 July 2010, "no more jobs for boats were available due to the spill [the Deepwater Horizon incident]."[3] The claimant seeks lost income from the inability to work.

NPFC Determination

This claim is denied. Under 33 C.F.R. 136.105(a) and 136.105(e)(6), the claimant bears the burden of proving to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Under 33 C.F.R. 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

Before the Deepwater Horizon incident, the Claimant was the Master of [redacted] offshore support vessel [redacted] that supplied the offshore rigs.

A few days before the Deepwater Horizon incident, the [redacted] spilled oil in Mobile, Alabama during an in-port replenishment as the Claimant and his crew were preparing to get underway in support of [redacted]. The incident is documented at the National Response Center. [4] The response to their oil spill delayed their departure. [redacted] chose not to wait and transferred the contract to another vessel.

Soon thereafter, the Claimant and his crew were laid off by the vessel owner ([redacted]). There is no indication from [redacted] that the layoff was related to the Deepwater Horizon incident. NPFC was able to confirm that the Claimant was terminated by [redacted] Human Resources on 09 July 2010. [redacted] Human Resources did not cite the Deepwater Horizon incident as the cause.[5]

Both [redacted] and NPFC have been in contact [redacted] point of contact in an attempt to acquire confirmation that [redacted] employment has been directly impacted by the Deepwater Horizon incident. No confirmation was received.

The claim is denied because the evidence presented by the Claimant does not prove that his alleged loss is due to the injury, destruction or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil. To the contrary, the evidence presented indicates that the Claimant was terminated either as a business decision by his employer or as a result of the DOI imposed drilling moratorium and subsequent permitting delays associated with new BOEMRE regulations and permitting process.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 1/24/11

Supervisor's Actions: Denial Approved

Supervisor's Comments:

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[3] The claimant's Optional OSLTF Claim Form.
[4] National Response Center Incident Report # [redacted] taken at 0811 on 28 June 2010 showing suspected responsible party as [redacted]. Released Material: Dirty Oil.
[5] Phone conversation between [redacted], NPFC, and [redacted] on 14 December 2010.

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0222
07 March 2011

[redacted]

RE: Claim Number: N10036-0222

Dear [redacted]

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 N10036-0222 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0222.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Marine Science Technician 1
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	03 March 2011
Claim Number	N10036-0222
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$4,612.08

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 08 December 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $4,612.08 in lost earnings allegedly resulting from the Deepwater Horizon incident.

Since January 2010, the Claimant has worked as a financial services advisor for [redacted] by providing financial planning and investment services to clients in and around the crossroads of [redacted] and [redacted] in Panama City Beach, FL. Claimant's income in this position derives almost entirely from monthly commissions on the financial products he sells. Following the Deepwater Horizon oil-spill, Claimant's monthly commissions began to decrease. Claimant asserted that the overall economic impact of the oil-spill on the Panama City beach region has caused a decrease in his potential clients' disposable income, leading to fewer sales.[1]

Claimant calculated his claimed lost earnings by determining his average monthly income between the pay periods ending 28 May through 26 November 2010 (post-spill average monthly earnings), then subtracting this figure from his average monthly earnings for the pay periods ending 09 January through 30 April 2010 (pre-spill monthly earnings), then multiplying the difference in average monthly earnings by twelve.[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 Section 2702(b) of OPA.

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[1] Letter from Claimant to the NPFC explaining the nature of his employment and alleged loss, dated 08 December 2010; Letter from Claimant to the NPFC responding to request for additional information, dated 13 January 2011.

[2] [redacted] paycheck history and earnings summaries, with handwritten lost earnings calculations.

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 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 undertake, 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

To support his claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form, signed by Claimant and dated 08 December 2010;
- Letter from Claimant to NPFC explaining the nature of his employment and alleged loss, dated 08 December 2010;
- GCCF Denial Letter dated 02 November 2010;
- [redacted] paycheck history and earnings summaries, with handwritten lost earnings calculations;
- Letter from Claimant to NPFC responding to request for additional information, dated 13 January 2011;
- GCCF Final Payment Claim submission form, signed by Claimant and dated 12 January 2011;

- [redacted] equity commission schedules and guidelines;
- 2009 W-2s from [redacted], [redacted] and [redacted] and [redacted] and
- Federal income tax return (Form 1040) for 2009.

Claimant seeks $4,612.08 in lost earnings allegedly as a result of the Deepwater Horizon oil-spill.

On 12 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $5,000.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 02 November 2010, his claim was denied by the GCCF.[3]

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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. 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. The NPFC considered all documentation presented by the Claimant.

The claim is denied because the Claimant has not proven that his alleged loss in the amount of $4,612.08 is 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.

Although the Claimant speculates that the oil-spill decreased the quality and quantity of prospective customers in his business areas, he does not provide any evidence that this alleged decrease in business resulted from the Deepwater Horizon oil-spill, as opposed to, other extraneous economic factors. Furthermore, the Claimant's calculated loss, projects his average monthly losses over a twelve month period despite the fact that less than eight months had elapsed between the date of the oil-spill and the date the Claimant presented his claim, which means that at least a quarter of his claimed loss derives from prospective future losses which is not an OPA compensable damage since the loss wasn't realized by the Claimant.[4]

The claim is denied because the alleged loss in the amount of $4,612.08 is 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 and because some of the loss claimed is prospective which is not an OPA compensable damage.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***3/5/11***

Supervisor's Actions: ***Denial approved***

[3] The NPFC assumes this information to be accurate. Claimant has a Final Payment claim under review with the GCCF.

[4] 33 C.F.R. § 136.235 limits the amount of OSLTF compensation allowable for lost earnings claims to "*actual* net reductions or loss of earnings or profits *suffered.*" (emphasis added).

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
4/12/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0274

Dear [redacted]

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 N10036-0274 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[redacted]
Chief, Claims Adjudication Division
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 4/7/2011
Claim Number	: N10036-0274
Claimant	: [redacted]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $61,000.00

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 December 13, 2010, [redacted] on behalf of [redacted] (Claimant), presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking $61,000.00 in lost profits & earnings resulting from the Deepwater Horizon oil-spill.

Claimant operated as a food service business serving the local community and businesses.[1] Formed in 2005, Claimant's customer base included regulars who placed orders at the counter or by phone for delivery and businesses who ordered lunch to be delivered.

Claimant asserted that a loss of business occurred due to the Deepwater Horizon oil-spill. Claimant asserted that they lost business from the local businesses who had food delivered and local patrons who no longer came in. The Claimant also maintained that the increase in the cost of seafood negatively impacted the business. The Claimant further stated that their regular menus contained many choices with seafood in them, and as such, they had to continue to purchase the supplies for these menu items in case they were ordered.[2] On 17 May 2010, the Claimant closed its doors due to lack of business. Claimant hopes to re-open in the future, but is attempting to secure a contract with a local business first.

REQUEST FOR RECONSIDERATION:

On March 17, 2011, the Claimant sent a letter via regular mail requesting reconsideration of the NPFC's initial denial dated March 8, 2011. The NPFC denied the claim originally because the Claimant failed to provided sufficient evidence to prove the alleged loss of profits in the amount of $61,000.00 and the Claimant failed to demonstrate that the alleged loss was 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.

[1] Letter of Responses to Additional Information request sent by the NPFC on 06 January 2011
[2] *Id*

The basis for the Claimant's reconsideration is that [redacted] was not truthful when he told the NPFC representative that [redacted] did not rebid the contract to continue serving meals for the company. Additionally, the Claimant argues that the NPFC did not give a specific reason for the denial but that as she understands it, she was denied due to what [redacted] relayed to the NPFC.

RECONSIDERATION CLAIM ANALYSIS:

The Claimant requested reconsideration via a letter by sent regular mail dated March 17, 2011. To support her request for reconsideration, the Claimant provided a copy of a letter from the Better Business Bureau dated December 16, 2009 regarding a complaint made by a customer against [redacted] a copy of a letter dated November 30, 2006 from [redacted] to [redacted] offering [redacted] the opportunity to sell meals at their facility from January 8, 2007 through January 21, 2007, a copy of one page of the Claimant's 2010 Form 1065 U.S. Return of Partnership Income, and a copy of an email dated February 18, 2010 from [redacted] within the company. [3]

NPFC Determination on Reconsideration

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury, 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. 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. The NPFC considered all of the documentation presented by the Claimant.

On reconsideration, the Claimant provided some new but limited information however, none of the information provided was associated with the required comparable financial data as previously requested by the NPFC (i.e., Profit and Loss statements, accounting of how she arrived at her amount requested and what saved expenses she had during the period being claimed).

Again, the burden is on the Claimant in accordance with 33 C.F.R. § 136.235 (a-d), to provide the necessary financial information including a calculation of saved expenses in support of any loss claimed. In the initial claim submission the Claimant asserted that she cannot afford to pay for the Profit and Loss statements in support of her claim as her accountant has advised her that it would be approximately $1,250.00 for each year needed. On reconsideration, the Claimant again stated that she would be willing to sign a release form if the Coast Guard wanted to pay to get the needed financial data from her accountant.

Lastly, the Claimant argues on reconsideration that [redacted] lied about her not rebidding her contract although the Claimant has failed to provide information to the contrary.

The NPFC again denies the claim because (1) the Claimant has not provided comparable business financial information as required by regulation that demonstrates a loss of profits in the amount requested and (2) the Claimant has failed to demonstrate that had she proven a loss of profits and earnings in the amount requested, that the loss was due to the injury, destruction or

[3] This email references another email dated February 10, 2010 that was not provided therefore the full context of the email trail is unknown

loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Determined amount: $0 ***Denied Amount: $61,000.00***

Claim Supervisor: [redacted]

Date of Supervisor's review: ***4/12/11***

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

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
[redacted]

5890
3/9/2011

VIA ELECTRONIC MAIL AND REGULAR FIRST CLASS MAIL

[redacted]

[redacted]

RE: Claim Number: N10036-0224

Dear [redacted]

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 N10036-0224 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0224.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 9, 2011
Claim Number	: N10036-0224
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $14,517.00

FACTS:

On or about April 20, 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 August 23, 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 December 11, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $14,517.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her as job a real estate closing agent for [redacted] in Orange Beach, AL as a result of the Deepwater Horizon incident.

The Claimant filed a claim with the responsible party and was given claim [redacted]. The Claimant was compensated a total of $4,840.00. When the claim was turned over to the GCCF the Claimant was sent a denial letter on October 29, 2010.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

09/13/11 FOIA2011-3380-00000882

(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 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 support the claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim form, submitted 7 December 2010;
- Correspondence from BP, confirming paid amount of $1,380 and additional payment of $2,760, dated 3 August 2010;
- Verification of employment and confirmation of termination due to Deepwater Horizon Incident by employer;
- (3) Three paystubs with [redacted] for 13 March 2010 - 9 April 2010 and 22 May 2010 - 4 July 2010;
- Payroll summary for April 2010 - 22 June 2010;
- 2008 and 2009 Income Tax Returns;
- Denial Letter by GCCF, dated 29 October 2010;
- 2010 W-2's;
- Bank statement showing deposits.

NPFC Determination

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.

Based on the documentation provided by the Claimant, the NPFC understands that the Claimant was a real estate closing agent for [redacted]n Orange Beach, AL. On June 4, 2010, the Claimant was terminated from [redacted]. The Claimant provided a letter from the employer confirming that the termination was due to Deepwater Horizon oil-spill. However, the Claimant did not provide any underlying data showing that the company experienced a loss as a result of the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of a discharge of oil thereby causing her own alleged financial loss.

This claim is denied because the Claimant has failed to demonstrate that her alleged loss was a consequence of the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of a discharge of oil and not other factors.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***3/9/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department
of Homeland
Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0225
02 March 2011

[redacted]

Re: Claim Number: N10036-0225

Dear [redacted]

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 N10036-0225 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0225.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form
(2) Summary of Documentation Provided by Claimant

CLAIM SUMMARY/DETERMINATION FORM

Date	02 March 2011
Claim Number	N10036-0225
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$143,053.10

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 08 December 2010, [redacted] on behalf of [redacted] (Claimant), presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking $143,053.10 in lost profits & earnings resulting from the Deepwater Horizon oil-spill.

Claimant operates as a computer service business serving the needs of businesses by offering Consulting and Management services as well as products from industry partners.[1] Formed in 2002, the Claimant's customer base varies from individuals who come in for product service to large businesses in need of Consulting and Management services. The business relies on the needs of businesses and individuals in the community[2].

Claimant asserted that a loss of business occurred due to the Deepwater Horizon oil-spill. Claimant maintained that they lost business from hotels, condos, fishermen, restaurants, rental companies, and tourists. The Claimant stated these different types of customers were adversely affected by the Deepwater Horizon oil-spill and could no longer afford the Claimant's services[3].

Claimant further alleged that individuals and businesses in the community that normally require their services were no longer able to afford to hire the Claimant.

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.

[1] Information retrieved from [redacted]
[2] Undated NPFC OSLTF Form submitted by Claimant
[3] *Id*

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 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 undertake, 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

To support the claim, the Claimant provided various documents [which the Claimant indicated, were previously requested by the GCCF.[4]] tax returns, Balance Sheets, Profit and Loss Statements, and miscellaneous supporting documents. The NPFC requested additional financial information specific to Claimant's alleged losses. The Claimant responded by providing various financial data specific to the lost wages. All of the documentation presented by Claimant is listed in Enclosure (2).

Claimant filed an Emergency Advance Payment (EAP) claim for $143,053.10 in lost profits and earnings with the RP/GCCF on 07 October 2010. The claim, with assigned Claimant Identification Number [redacted] was denied in a letter from GCCF dated 07 December 2010.

[4] Enclosure (2)

NPFC Determination

This claim is denied. 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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the Claimant has not provided sufficient evidence to prove the claimed loss of $143,053.10. The Claimant asserted that the customers normally serviced in the community were no longer able to hire the Claimant due to the Deepwater Horizon oil-spill. Claimant stated that he lost business from hotels, condos, rental properties, restaurants, and regular tourists on vacation which caused him to experience a loss in profits and earning capacity. The Claimant has not provided documentation to support the assertions.

The information provided by the Claimant does not definitively identify the claimed loss in profits and earning capacity to the Deepwater Horizon oil-spill. Documentation presented by the Claimant suggests the majority of the business in 2009 was new business rather than repeat business and therefore historical comparables are limited. In further examining the list of customers provided by Claimant for the years 2008, 2009 and 2010, it appears that the biggest sources of revenue are derived from customers in the medical practitioner field. When comparing these customers' total revenue by year to the total revenue earned by Claimant also by year, it is evident that the revenue generated by these major customers relative to the claimant's overall income remained steady or unchanged during the impacted period.

The few instances where a noticeable decline in revenue relationship has been calculated, does not demonstrate that the relationship declined due to the Deepwater Horizon oil-spill as opposed to numerous other economic factors. The trend of revenue was analyzed for these instances over the time period of 2008 through 2010 and it varied bidirectionally which would indicate normal business trending. Therefore, it is both impractical and unfeasible to interpret that the Claimant's clients were unable to hire the Claimant due to the adverse effects of the Deepwater Horizon oil-spill based upon the data provided. As such, the Claimant has failed to meet his burden to demonstrate that his alleged loss of profits and earnings was 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.

Claim Supervisor: [redacted]

Date of Review: *3/2/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

Enclosure (2)

Summary of Documentation Provided by Claimant N10036-0225

1. NPFC OSLTF Claim form, undated
2. Profit and Loss Statement for the period 01 January 2010 through 22 November 2010
3. Monthly Profit and Loss Statement from January 2010 through November 2010.
4. Monthly Profit and Loss Statements for 2009
5. Annual Profit and Loss Statement for 2008.
6. Photocopy of a card of some type. The photocopy is blacked out and illegible
7. Loan application approval for a $25,000 loan dated November 4, 2010 from [redacted] under the Deepwater Horizon Disaster [redacted]
8. Payment coupon for the $25,000 loan received from [redacted] Finance Corporation under the Deepwater Horizon Disaster [redacted] due on 11/4/2011
9. Loan Closing Checklist for Deepwater Horizon Small Business Emergency [redacted]
10. Loan Settlement Statement for Deepwater Horizon Small Business Emergency Bridge Loan
11. Statement of Use of Proceeds for Business purposes and certification of payment for Deepwater Horizon Small Business Emergency Bridge Loan dated November 8, 2010
12. Promissory note for Deepwater Horizon Small Business Emergency Bridge Loan in the amount of $25,000 dated November 8, 2010
13. Assignment of Proceeds from Other Sources for Deepwater Horizon Small Business Emergency Bridge Loan dated November 8, 2010.
14. Listing of Sales by Customer for the years 2008, 2009, and 2010
15. Letter from Claimant answering questions asked on AI sent on 20 December 2010
16. Print out from Claimant's website from the "About" Section describing Claimant's business
17. Detail Transaction Report for the G/L account Sales Tax Payable as of 27 December 2010 and 31 December 2009.
18. Balance Sheet Detail Report for the years ended 2008, 2009, and 2010
19. S-Corporation Tax Returns for the years ended 2007 and 2008

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0226
21 December 2010

[redacted]
New Orleans, LA 70129

Email: [redacted]

Re: Claim Number: N10036-0226

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Please see the enclosed Claim Summary / Determination 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 N10036-0226.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	21 December 2010
Claim Number	N10036-0226
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$15,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 2010 [redacted] (Claimant) presented an Oil Spill Liability Trust Fund claim form for lost earnings in the amount of $15,000.00 to the National Pollution Funds Center (NPFC). Claimant is an employee of [redacted] in New Orleans. He asserts that the Deepwater Horizon incident resulted in his losing hours, bonuses, and a yearly lump sum payment. Additionally, he asserts that he incurred an additional loss inasmuch as had to use his vacation hours to make up lost hours.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, Claimant presented to the NPFC an OSLTF Claim Form dated 08 December 2010, copies of a To Whom It May Concern letter from [redacted] and copies of his [redacted] paycheck stubs from 31 December 2009 through 29 September 2010 and W-2 from [redacted] for 2009.

Claimant applied to the GCCF for an Emergency Advance Payment and was issued GCCF Claimant ID # [redacted] and was issued Claim # [redacted]. Claimant informed the NPFC that his claim was denied. This information was independently verified by the NPFC on 21 December 2010.

NPFC Determination

The claim is denied. 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 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 claim is denied because the Claimant has not provided sufficient evidence to indicate that his alleged loss in the amount of $15,000.00 is 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. In short, Claimant has not proved that his loss is the result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Review: 12/22/10

Supervisor's Actions: Denied Affirmed

Supervisor's Comments:

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: 800-280-7118
E-mail: [redacted]
Fax: 202-493-6937

5890
Claim # N10036-0227
24 January 2011

VIA MAIL and EMAIL: [redacted]

[redacted]
Whistler, AL 36612

RE: Claim Number: N10036-0227

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0227 involving the Deepwater Horizon Incident. Please see the enclosed 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 N10036-0227.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Adjuster

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 21 January 2011
Claim Number	: N10036-0227
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $114,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 07 December 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form, on behalf of her business, [redacted] Claimant is seeking $114,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident as several of her employees left to go work for the oil-spill clean-up while other parents were unable to afford to keep their children enrolled.[1][2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to 33 U.S.C. § 2715(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

---

[1] Claimant's Optional OSLTF Claim Form dated 07December 2010

[2] Claimant's email correspondence with [redacted] dated 07 December 2010

09/13/11 FOIA2011-3380-00000895

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the following:

1. NPFC Optional OSLTF Claim form, submitted 29 November 2010;
2. 2008 and 2009 Income Tax Returns;
3. Copy of the claimants ID and social security card;
4. Copy of the business license;
5. Breakdown of expenses;
6. Letter of explanation by claimant, dated 29 November 2010;
7. Letter from claimant to the parents and human resource department informing the closure of business dated 22 October 2010.

On 11 July 2010, Claimant, with GCCF Claimant Identification Number # [redacted], presented the GCCF with an Emergency Six Month payment request claim, # [redacted] in the amount of $12,970.00 and received a payment in the amount of $5,200.00. Claimant subsequently submitted a Quick Pay Final claim, # [redacted] and received a payment in the amount of $25,000.00 on 21 December 2011. Total compensation by the responsible party amounts to $30,200.00.

NPFC Determination

This claim is denied. The OSLTF is available to pay certain uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4). Further, under 33 U.S.C. § 2751(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

The claim is denied because the Claimant has accepted full compensation from the responsible party under the Quick Payment Final Claim process. By doing so, Claimant signed a release and has, therefore, waived her rights to seek compensation from the OSLTF.

Claim Supervisor [redacted]

Date of Supervisor's Review: *1/24/11*

Supervisor's Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0228
22 February 2011

[redacted]

Re: Claim Number: N10036-0228

Dea[redacted]

The National Pollution Funds Center, in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0228 involving the Deepwater Horizon oil-spill. Please see the enclosed 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 N10036-0228.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 February 2011
Claim Number	: N10036-0228
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $19,200.00

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 08 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $19,200.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant is a massage therapist who operates her own business in Naples, FL. Claimant is based out of an office near the beach where she derives most of her income from tourist clientele. She offers both in-office appointments and out-calls to nearby hotels. Claimant asserted that after the Deepwater Horizon incident, tourism in the greater Naples area declined, leading in turn to a drop in her customer volume, though she has not indicated exactly how she calculated her amount requested.

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 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

In support of her claim, Claimant submitted the following documentation:

- OSLTF claim form, signed and dated 25 November 2010;
- Copy of Florida Driver's License;
- Copy of Social Security card;
- Letter from Claimant to GCCF requesting re-evaluation of her claim, undated;
- Various financial correspondence from [redacted]
- [redacted] collection notice;
- Letter from GCCF to Claimant informing that claim had been transferred from BP to GCCF, dated 23 August 2010;
- Letter from GCCF to Claimant denying emergency advance payment claim, dated 24 November 2010;
- Claimant Status page from GCCF website;
- 2009 Federal income tax return (Form 1040);
- Business calendar for 2010, showing daily appointments and gross receipts;
- Letter from Claimant to NPFC explaining the nature of her business, financial hardship, and attempts to mitigate damages;
- Google Maps data displaying the location of Claimant's office and nearby hotels;
- Business calendar for 2009, showing daily appointments and gross receipts;
- Spreadsheet with chart comparing 2009 to 2010 gross income,

- Correspondence from five (5) past clients indicating that they would not utilize Claimant's services in 2010.

The Claimant seeks $19,200.00 in lost earnings as a result of the Deepwater Horizon incident.

On 19 July 2010, the Claimant originally filed a claim with the responsible party, BP.

On 24 August 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $19,200.00 in lost earnings with the GCCF. She was assigned GCCF Claimant ID# [redacted] and Claim [redacted] On 24 November 2010, this claim was denied by the GCCF. The NPFC verified this information.[1]

NPFC Determination

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

The evidence presented by the Claimant does not establish that her losses resulted from the Deepwater Horizon incident. While the documentation presented indicates decreased sales for June through December 2010 as compared to that same period in 2009, the NPFC is unable to validate these records (which are written notations on Claimant's calendar listing customer name and amount paid); the only authoritative financial documentation provided by Claimant is her 2009 tax return. The NPFC also cannot verify that any of Claimant's scheduled appointments had been cancelled specifically because of the oil-spill as of the date of this determination.

The claim is denied because the alleged loss in the amount of $19,200.00 is 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. Claimant has failed to meet her burden to demonstrate that her alleged loss is the direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted] for

Date of Supervisor's Review: ***2/19/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[1] The Claimant has a Final Payment claim under review with the GCCF.

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]
Fax: 202-493-6937
5890
12/28/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]
Mobile, AL 36605

RE: Claim Number: N10036-0229

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0229 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0229.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	:	12/28/2010
Claim Number	:	N10036-0229
Claimant	:	[redacted]
Type of Claimant	:	Private (US)
Type of Claim	:	Loss of Profits and Earning Capacity
Claim Manager	:	[redacted]
Amount Requested	:	$12,480.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [redacted] (Claimant), submitted a lost profits & earnings claim in the amount of $12,480.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant has only provided an Oil Spill Liability Trust Fund (OSLTF) claim form, a copy of her driver's license, social security card, and spill response contractor badges, and a copy of two pay stubs demonstrating employment from June 11, 2010 through July 6, 2010. The Claimant's submission fails to support the amount requested nor does the claim submission have any explanations and rationale on what the Claimant is seeking and why.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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

NPFC Determination

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 claim is denied because the Claimant has failed to provide supporting documentation for the claim and has also failed to establish a loss of profits or impairment of earnings.

Claim Supervisor: [redacted]

Date of Supervisor's review: 12/29/10

Supervisor Action: Denial Approved

Supervisor's Comments: [redacted]

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
[redacted]
Fax: 202-493-6937

5890
2/14/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0230

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0230 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

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 N10036-0230.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/11/2011
Claim Number	: N10036-0230
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $5,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 8, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $5,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he was released from employment with [redacted] as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, December 2, 2010.
- Correspondence from [redacted] dated October 25, 2010 describing a mandatory reduction in work hours
- Separation Notice from [redacted] dated November 15, 2010
- Copy of 2008 W2
- "Payroll Check Register" (earnings statements) for the weekly pay periods of January 18, 2010 through October 29, 2010

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon Incident. On January 3, 2011, the NPFC emailed a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim.

The Claimant has not provided additional documents nor answered any of the questions to support his claim in order to demonstrate he has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident. Based on the information provided, the alleged financial loss is a result of the employer's business decision to terminate the Claimant's employment.

Claim Supervisor [redacted]

Date of Supervisor's review: ***2/14/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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)
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0231
14 March 2011

[redacted]

RE: Claim Number: N10036-0231

Dear [redacted]

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 N10036-0231 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-00231.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	07 March 2011
Claim Number	N10036-0231
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$20,000.00

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 08 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $20,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that since 2003 he has worked as an auto body repair technician for [redacted] Lynn Haven, Florida.[1] He stated that he is paid on a commission basis.[2] Claimant alleged that as a result of the Deepwater Horizon oil-spill, the number of tourists and local residents frequenting [redacted] declined, leading to a reduction in his workload and earnings.[3]

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 Section 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.

[1] Claimant response to NPFC request for information, dated 30 January 2011.
[2] Claimant letter "to whom it may concern," dated 08 December 2010.
[3] OSLTF claim form.

09/18/11 FOIA2011-3380-00000909

(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 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 undertake, 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

To support his claim, Claimant submitted the following documentation to the NPFC:

— OSLTF claim form, dated 07 December 2010;
— Claimant letter "to whom it may concern," dated 08 December 2010;
— GGCF denial letter, dated 15 November 2010;
— 2009 W-2 from [redacted];
— Pay stubs from [redacted] for 09-15 January 2010; 23-29 January 2010; 30 January through 05 February 2010; 27 February through 05 March 2010; 24 July through 30 July 2010, 31 July through 06 August 2010; 19-25 August through 2010; 09-15 October 2010; 27 November through 03 December 2010;
— Claimant response to NPFC request for information, dated 30 January 2011;

Claimant seeks $20,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 24 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $20,000.00 in lost earnings with the GCCF. He was assigned GCCF Claimant ID # [redacted] and Claim # [redacted] On 15 November 2010, his claim was denied by the GCCF.[4]

[4] GCCF denial letter dated 15 November 2010.

FOIA2011-3380-00000910

NPFC Determination

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.

Claimant appears to have suffered a reduction in earnings. His 2009 W-2 indicates that he earned $70,577.90 in wages, tips and other compensation while his pay stub from 27 November through 03 December 2010 indicates YTD earnings of $57,672.50—a reduction of $12,905.40.[5] Claimant does not provide W-2's from prior years or pay stubs for later periods in December 2010 as a means to further verify and gauge his alleged loss of earnings in 2010.

Additionally, Claimant did not provide evidence supporting his assertion that these alleged losses resulted from the injury, destruction or loss of real property, personal property, or natural resources as a result of a discharge or substantial threat of a discharge of oil and not other factors.

The claim is denied because the Claimant failed to demonstrate that the alleged loss in the amount of $20,000.00 is 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.

Claim Supervis[redacted]

Date of Supervisor's Review: *3/11/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[5] 2009 W-2 fro[redacted]h); Pay stub from P[redacted]for 27 November through 03 December 2010.

09/19/11 FOIA2011-3380-00000911

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
[redacted] 1000
[redacted] 00
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0232
28 February 2011

[redacted]

RE: Claim Number: N10036-0232

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0232. Please see the enclosed 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 N10036-0232.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 February 2011
Claim Number	: N10036-0232
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,000.00

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 10 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $20,000 in loss of profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant worked for [redacted], based in Houma, LA. [redacted] provides offshore and remote land catering services.[1] Claimant was let go from his job due to a decrease in business at [redacted].[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:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) 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.
3) 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

[1] [redacted] at http://coastalcateringllc.com/ (last visited 24 February 2011).
[2] PHONECON between [redacted] and NPFC Representative on 18 February 2011.

09/13/11 FOIA2011-3380-00000913

returns, financial statements, and similar documents. In addition, comparative figures for profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

4) 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- OSLTF claim form dated 08 December 2010;
- 2008 and 2009 W-2's from [redacted]
- Earnings statements from Claimant's employment at [redacted] for the following pay periods: 23 March 2010 through 5 April 2010, 6 May 2010 through 12 May 2010, and 17 May 2010 through 23 May 2010; and
- Copies of Claimant's Driver's License and Occupational License.

Claimant seeks a total of $20,000 in loss of earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 15 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $10,000 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID # [redacted] and Claim # [redacted] This claim was denied by the GCCF on 07 December 2010.[3]

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the claimant bears the burden of proving 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 Claimant.

[3] Claimant has an Interim claim under review at the GCCF.

FOIA2011-3380-00000914

The NPFC contacted Coastal Catering who advised that the decrease in its business had no relation to the Deepwater Horizon oil-spill.[4] The [redacted] representative indicated that, immediately after the Deepwater Horizon oil-spill, [redacted] business actually improved because the company serviced oil-spill clean-up workers. After the oil-spill clean-up ended, [redacted] did let many of its employees go because of a decrease in work. The [redacted] representative stated that this decrease was due to the effects of the oil moratorium and permitting delays on offshore drilling.

The claim is denied because the evidence presented by the Claimant does not demonstrate that the claimant's loss was a result of injury destruction or loss of natural resources or real or personal property. Based on information by the employer, the Claimant's alleged loss is a direct result of the employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Supervisor's Review: *2/27/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[4] PHONECON between Coastal Catering and NPFC Representative on 18 February 2011.

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0233
14 March 2011

[redacted]

RE: Claim Number: N10036-0233

Dear [redacted]

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 N10036-0233 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0233.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely:

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure (1): Claim Summary/Determination Form.
Enclosure (2): Employment Information provided by [redacted]

CLAIM SUMMARY / DETERMINATION FORM

Date	07 March 2011
Claim Number	N10036-0233
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,000.00

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 07 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC), seeking $10,000 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that she moved to Mississippi in September 2009 because her husband had been offered a job there. She further asserted that she took a job as a server with [redacted] in Gulfport, Mississippi on September 16, 2009. Claimant allegeed that "[she] worked there up to the oil spill," and she left on 03 July 2010 to relocate to Alabama with her husband who had been laid off.[1]

Claimant indicateed that after two months in Alabama, she moved back to Gulfport, Mississippi because her husband had been offered work there. She further indicated that she took a job as a [redacted] cashier in [redacted] in late September 2010. Claimant also stated that she is taking online classes to get a job in the medical field.

Claimant's $10,000.00 loss broadly encompasses lost wages, loss of lifestyle and residence, moving expenses, storage costs, and mental and emotional damages.[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 Section 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

[1] Handwritten job description provided by Claimant in response to additional information request by NPFC, undated.

[2] OSLTF claim form dated 28 November 2010.

09/13/11 FOIA2011-3380-00000917

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 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 undertake, 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

To support her claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form, dated 28 November 2010;
- Paystubs from [redacted] for periods ending 10 September 2010 through 31 December 2010;
- Paystub from [redacted] for the period ending 06 July 2010;
- GCCF denial letter, dated 12 November 2010;
- Alabama individual income tax return for 2007, 2008 and 2009;
- Mississippi individual income tax return for 2009;
- Federal individual income tax return (Form 1040A) for 2009;
- W-2 earnings from 2007 through 2009;
- Receipt for storage facility in Foley, AL;
- Handwritten job description provided by Claimant in response to additional information request by NPFC, undated;

- Letter from Claimant addressed to GCCF explaining past employment and search for employment after leaving [redacted]
- Bank statements from [redacted] and
- Financial aid and student resources information from [redacted]

Claimant seeks $10,000.00 in lost profits and earnings capacity allegedly resulting from the Deepwater Horizon oil-spill.

30 September 2010, Claimant filed an Emergency Advance Payment claim for $3,000.00 with the GCCF. She was assigned GCCF Claimant ID [redacted] and Claim [redacted]. On 12 November 2010, her claim was denied by the GCCF.[3]

NPFC Determination

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.

Claimant asserted that her damages include loss of wages, loss of income for two months, loss of residence, loss of consumer revenue, loss of lifestyle and residence, moving costs, storage costs, and mental and emotional damages.[4] Claimant's own narrative indicated that these alleged damages result from her voluntary decision to leave her employment at [redacted] Resort in Gulfport, Mississippi to move to Alabama with her husband who had been laid off. A letter from [redacted] confirms that the Claimant left her employment voluntarily.[5]

The claim is denied because the alleged loss in the amount of $10,000.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/11/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] GCCF denial letter dated 12 November 2010.
[4] OSLTF claim form dated 28 November 2010.
[5] Fax from [redacted] to NPFC, dated 04 March 2011 ("[redacted] left her job on July 3, 2010. The job was still available when she left.").

FOIA2011-3380-00000919

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0234
18 March 2011

[redacted]

RE: Claim Number: N10036-0234

Dear [redacted]

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 N10036-0234 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0234.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 March 2011
Claim Number	N10036-0234
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$6,000.00

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 12 December 2010, [redacted] Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form seeking $6,000.00 in lost profits and earning capacity, allegedly resulting from the Deepwater Horizon oil spill, to the National Pollution Funds Center (NPFC).

Since August 2008, Claimant worked for the [redacted] at the [redacted] Center in Niceville, Florida.[1] She asserts that as a result of the Deepwater Horizon oil spill, some parents lost income and/or jobs and removed their children from [redacted]. She alleges that since May 2010, her hours were reduced from 8 to 4 a day as a result of the Deepwater Horizon oil spill's impact on [redacted] business.[3]

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 Section 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.

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[1] Undated letter provided by Claimant in response to the document request sent by NPFC.
[2] Letter from Claimant explaining her claim, dated 29 November 2010.
[3] Id.

(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 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 undertake, 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

To support her claim, Claimant submitted the following documentation to the NPFC:

— OSLTF claim form, dated 10 December 2010;
— Handwritten letter to NPFC dated 29 November 2010 explaining her claim;
— Pay stubs from [redacted] Child Care Center for 2009 and 2010;
— Letter from [redacted], Director of [redacted] at [redacted] Child Care Center, to NPFC dated 29 November 2010 explaining the Claimant's reduction in her hours.[4]

On 04 January 2011, the NPFC sent Claimant a letter requesting additional information to further evaluate her claim. On 20 January 2011, Claimant provided copies of her GCCF Denial Notice dated 23 November 2010, pay stubs from [redacted] for 2009 and 2010, W-2 for 2009 from [redacted] and answers to questions in the NPFC letter requesting additional information.

Claimant seeks $6,000.00 in lost earnings and wages allegedly resulting from the Deepwater Horizon oil spill.

[4] Contrary to her title on the letter, [redacted] indicated that she was the assistant-director of [redacted] in a phone conversation with the NPFC on 08 February 2011.

On 20 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $3,000.00 in lost earnings with the GCCF. She was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 23 November 2010, her claim was denied by the GCCF.[5]

NPFC Determination

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.

Claimant alleges that because parents of the children at [redacted] lost income and/or jobs and consequently removed their children from [redacted] her hours were reduced from 8 to 4 a day. She attributes her loss of hours to the Deepwater Horizon oil spill. Although Claimant may have suffered a reduction in hours since May 2010, there is insufficient evidence establishing that her alleged loss resulted from the Deepwater Horizon oil spill.

Claimant did provide a letter from [redacted] indicating that "[Claimant's reduction in hours] was due from losing enrollment from at least four children because their parents lost jobs because of the oil spill."[6] On 08 February 2011, the NPFC contacted Ms. [redacted] who indicated that [redacted] the director of [redacted] would be able to answer questions about the impact of the Deepwater Horizon oil spill on [redacted]

On 24 February 2011, the NPFC spoke with [redacted] who agreed to provide financial records confirming that [redacted] was impacted by the Deepwater Horzon oil spill.[7] To date, this information has not been received by the NPFC.

The claim is denied because the alleged loss in the amount of $6,000.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 3/18/11

Supervisor's Actions: Denial Approved

Supervisor's Comments:

[5] GCCF denial notice Re: Claimant's Emergency Advance Payment claim, dated 23 November 2010.
[6] Letter from [redacted] to NPFC, dated 29 November 2010.
[7] NPFC Email Subject: N10036-0234 M, dated 24 February 2011.

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
[redacted]
Fax: 202-493-6937

5890
2/2/2011

BY MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0235

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0235 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

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 N10036-0235.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]

Thomas McCrossen
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 2, 2011
Claim Number	: N10036-0235
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $35,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 12, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $35,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from employment as a shrimper in Bayou La Batre, Alabama as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated 12 December 2010.
- Schedule C from 1040 Income Tax Return filings from 2007, 2008 and 2009.
- Vessel Certificate of Documentation for F/V [redacted] issued 21 October 2009.
- Alabama State Driver's License.
- Alabama Conservation License.
- Florida Vessel Registration for 45 foot vessel through 14 April 2011.

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon Incident. The NPFC emailed a request for additional information to the Claimant to assist in the adjudication of the claim on January 3, 2011. The documentation requested consisted of the following:

1. Income Tax Return Filings for 2007, 2008 and 2009 including all attachments and Schedules. We have only received the Schedule C's.
2. Provide all applicable fishing licenses obtained.
3. Settlement Sheets providing a detailed breakdown of owner's share of proceeds, compensation to boat captain if applicable, payments to deckhands and payment of expenses.
4. Trip Ticket Landing Data from State Authority to listing all trip tickets from 2007 through the present period.
5. If the above is not available, provide the actual Trip Tickets/ Catch Records/ Dealer Receipt Forms for the same period.
6. If operating a wholesale business, provide a detailed sales ledger for 2009 and 2010.

The NPFC also requested the Claimant answer the following questions:

1. How was your business / fishing activity impacted by the Deepwater Horizon incident?
2. Describe the type of fishing activity you are involved with (i.e. fish, crabs, oysters, shrimp, etc…)
3. Describe your method of fishing for each type of seafood product caught. (i.e. fishing nets, fishing with long lines, oyster dredging, etc…)
4. Identify the areas where you normally fish.
    a. Include any alternative areas you have considered if your normal areas have been closed.
    b. If applicable, identify any closures that affected that your fishing operations.
5. Provide the names of all deckhands.
6. Have other individuals related to your fishing employment filed claims with BP/ GCCF? If so, identify the status of their claims and if they have been considered for payment.
7. Identify the expenses that you are responsible for and pay out of pocket.
8. If your fishing activity includes a wholesale/ dealer business, identify the following:
    a. Type of products sold/ delivered
    b. Your main customers base
    c. Identify if your business activity provides distribution and delivery
    d. Identify what assets are owned to facilitate your wholesale business.
9. Describe your employment history starting from 2008 through the current period.
10. Have you been unemployed for any period of time from 2008 through the current period? If so identify the specific dates you were unemployed and describe the reason for your unemployment.
11. Describe your current employment/ work status.
12. Identify if you have participated in the Vessel of Opportunity program for response to the Deepwater Horizon incident. Describe dates of participation and compensation received.
13. Explain how the claimed lost profits were estimated.

The Claimant has not provided additional documents nor answered any of the questions to support his claim and alleged loss. Therefore, this claim is denied because the Claimant has

failed to meet his burden in establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/2/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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)
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0236
18 February 2011

[redacted]

RE: Claim Number: N10036-0236

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0236 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0236.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0236
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $4,500.00

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 13 December 2010, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Fund Center (NPFC), seeking $4,500 in loss of profits and earning capacity as a result of the Deepwater Horizon incident.

Claimant worked as an in-home caregiver in Mobile, AL. Claimant asserted that she is no longer employed because of the Deepwater Horizon incident. Claimant indicated that her employer, the husband of the woman she cared for, lost wages at his job and thus became unable to compensate her. Claimant stated that she earned around $500 in cash per week before the incident and began to lose wages on 01 May 2010. She asserted that her earnings dropped to $250.00 per week and, ultimately, her employment ended on 01 September 2010.[1]

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.

[1] Letter of explanation and hardship dated, 3 December 2010; Letter to the GCCF explaining claimant's loss, dated 19 November 2010.

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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 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 undertake, 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 support her claim, Claimant submitted the following documentation:

- GCCF claim denial letter, dated 15 November 2010;
- Correspondences from Claimant, dated 19 November 2010 and 3 December 2010;
- Correspondence from [redacted] claimed caregiver client, dated 2 November 2010;
- 2009 U.S. Individual Income Tax Return, Form 1040 only;
- Photocopy of Alabama state driver's license and social security card;
- Receipt copies for caregiver services from 05 March 2010 to 03 September 2010

Claimant seeks a total of $4,500.00 in loss of earnings allegedly resulting from the Deepwater Horizon incident.

On 16 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for $4,500.00 in lost profits and earnings with the GCCF. She was assigned GCCF Claimant ID #[redacted] and Claim #[redacted]. On 16 November 2010, her claim was denied by the GCCF.[2]

[2] Claimant has a Final Payment claim and an Interim Payment Claim under review at the GCCF.

09/13/11 FOIA2011-3380-00000931

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the Claimant bears the burden of proving 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.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon Incident. On January 3, 2011, the NPFC sent via certified mail, a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim. To date, no response has been received by the NPFC.

The Claimant has not provided the requested additional documentation nor answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS.7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
Arlington, VA 20598-7100
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0237
21 December 2010

[redacted]

Email: [redacted]

Re: Claim Number: N10036-0237

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the enclosed claim summary / determination 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 N10036-0237.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	21 December 2010
Claim Number	N10036-0237
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$2,300.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 10 December 2010, via a letter dated 29 November 2010, [redacted] (Claimant) presented her claim for lost earnings for $2,300.00 to the National Pollution Funds Center (NPFC). Claimant is the Office Manager for [redacted] in Miramar, Florida. She asserts that she neither received her yearly raise nor her full yearly bonus as a result of the Deepwater Horizon incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

ENCLOSURE

09/28/11

FOIA2011-3380-00000934

(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 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 support her claim, Claimant presented a letter to NPFC dated 29 November 2010 and copies of an e-mail from GCCF dated 29 November 2010, earnings statements from [redacted] for years 2006 through 2009, and W-2's from 2007 through 2009. Claimant also presented a claim to GCCF and was assigned claim number [redacted] GCCF issued a denial.[1]

Claimant alleges she did not receive the raise she normally receives on June 1st of each year, which would have amounted to approximately $2,000.00 for the year. Additionally, while Claimant did receive her 15% yearly bonus, it amounted to approximately 300.00 less than what she would have received if she had received the raise. The Claimant alleges that she did not receive her yearly raise or the full amount of her bonus as a result of the Deepwater Horizon incident.

NPFC Determination

Claimant's claim is denied. 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.

[1] See e-mail from GCCF dated 29 November 2010 about reconsideration of the denial.

09/13/11 FOIA2011-3380-00000935

The NPFC considered all the documentation submitted by the Claimant. The claim is denied because the Claimant has not proved that her alleged loss in the amount of $2,300.00 is 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.

Claim Supervisor: [redacted]

Date of Review: 12/21/10

Supervisor's Comments: DENIAL APPROVED

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]
Fax: 202-493-6937
5890
2/3/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]
Naples, FL 34114

RE: Claim Number: N10036-0238

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0238 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding this denial.

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 N10036-0238.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	February 3, 2011
Claim Number	N10036-0238
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$72,000.00

FACTS

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 13, 2010, [redacted] (Claimant) contacted the National Pollution Funds Center (NPFC) to present a claim for lost profits and reduced earnings capacity in the amount of $72,000.00. The Claimant asserted that she sells a one-of-a-kind license/vessel in the State of Florida that allows the owner of that vessel and license to sell beer, wine, tobacco and other items requested by boaters while the boaters are underway in the Gulf of Mexico. The Claimant stated that she had a handshake agreement, including a $100.00 deposit, with [redacted] on May 14, 2010 to purchase the vessel for $72,000.00. The Claimant provided a handwritten letter from [redacted] dated June 4, 2010 stating that he no longer wished to purchase the vessel due to "the poor outlook of the economic situation in the Gulf of Mexico." As per the Claimant's description of the nature and extent of damages claimed on the NPFC OSLTF form, she is requesting $72,000.00 for the loss of the sale of her vessel/business.

The Claimant filed a claim with BP (claim #[redacted]) on June 3, 2010 and was compensated $5,238.84 under the emergency advance payment. On August 24, 2010, the Claimant filed a claim with the GCCF and was compensated $10,700.00.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant provided the following documentation:

- NPFC OSLTF form dated November 27, 2010
- Certificate of U.S Merchant Marine Officer
- Certificate of Title for [redacted]
- Proof of alcoholic beverage license dated May 4, 2010
- 2008 & 2009 Income Tax Return Filings
- Copies of all correspondane to and from BP explaining the compensation received
- Bank statements showing a wire transfer of $52,000.00
- Contract cancellation letter from [redacted]

- Explanation of business
- Thirty-two (32) pages of unexplained line item bank statements

NPFC Determination

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.

Claimant submitted her claim under the category "lost profits & earning capacity"; however, the claim is based on a prospective loss and not one that she has realized. Claimant has not yet sold the subject property and affiliated license for a sum less than the original purchase price. As a result, any loss that she might experience remains prospective.

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. As described above, the Claimant has failed to meet their burden in establishing an actual loss of profits and earnings as a direct result of the Deepwater Horizon incident therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Review: ***2/3/11***

Supervisor's Comments: ***Denial approved***

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]
Fax: 202-493-6937

5890 DWHZ
N10036-0239
03 February 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0239

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0239 involving Deepwater Horizon. Please see the enclosed 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 N10036-0239.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 03 February 2011
Claim Number	: N10036-0239
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $50,400.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 01 December 2010, [redacted] (Claimant), submitted an Optional Oil Spill Liability Trust Fund Claim Form dated 01 December 2010. A sum certain and a damage type were not indicated, but Claimant's correspondence of 08 December 2010 indicated his claim is for loss of wages resulting from the Deepwater Horizon incident in the amount of $51,400.00.[1]

APPLICABLE LAW

Under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2702(a), a responsible party is liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA.

The Oil Spill Liability Trust Fund (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 removal costs and damages.

General Claims Requirements

33 C.F.R. § 136.105(a) and § 136.105(e)(6) provide that 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.

Lost Profits and Impairment of Earning Capacity Claim Requirements

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.

[1] In his handwritten letter dated 8 December 2010, Claimant indicated that he had filled out a claim for loss [of] wages and forgot to put the amount and that the amount is $50,400.

09/13/11 FOIA2011-3380-00000942

Under 33 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) 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.
3) 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 profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
4) 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.§ 136.235, 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- An Optional NPFC OSLTF Claim Form dated 1 December 2010;
- Claimant's Louisiana Personal Driver's License;
- A handwritten letter dated 8 December 2010 explaining that his claim is for loss of wages and identifying sum certain of $50, 400.00;.
- An unsigned letter dated 20 November 2010 indicating that Claimant has not worked from October 2010 through January 2011, that Claimant is normally a deckhand on the boat [redacted], that Claimant would have earned $6,000 per month from October 2010 through January 2011, and that the boat [redacted] is being repaired;
- Thirteen (13) checks to Claimant from the Boat [redacted] over the period 8-11-2010 to 10-15-2010;
- 2008 Form 1099 from [redacted] (dba [redacted]) showing fishing boat proceeds of $1,759.00;
- 2009 Form 1099 from [redacted] (dba [redacted]) showing fishing boat proceeds of $2,820.00;
- 2010 Form 1099 from [redacted] (dba [redacted]) showing fishing boat proceeds of $1,200 and nonemployee compensation of $42,500 (total 1099 miscellaneous income of $43,700.00); and
- A one-page document, received 14 January 2011, responding to Coast Guard information request letter dated 7 December 2010.

Claimant has submitted a claim to the NPFC for lost earnings related to his position as a deck hand on the boat [redacted].

Claimant's claim form indicates having presented his Emergency Advance Payment (EAP) claim to the GCCF on 24 August 2010 and that the claim was denied. The GCCF issued him Claimant ID # [redacted] and EAP Claim # [redacted]. The NPFC has independently confirmed with the GCCF that Claimant presented an Emergency Advance payment claim in the amount of $5,000.00,[2] which was received on 7 September 2010 and denied by the GCCF on 19 November 2010.[3]

NPFC Determination

This claim is denied. 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. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the alleged loss in the amount of $50,400.00 is 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. Claimant's alleged loss of profits and earnings is not supported by documentation. Documentation provided indicates that Claimant earned $1,759.00 in 2008; $2,820.00 in 2009; and $43,700.00 in 2010. His 2010 income is a combination of fishing and Claimant's participation in oil spill response with a vessel of opportunity. Rather than a loss of profits and earnings, evidence indicates Claimant has benefitted from the oil spill incident. Because Claimant has not demonstrated an uncompensated loss, he cannot be compensated from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's review: 2/4/11

Supervisor Action: Denial Affirmed

Supervisor's Comments:

[2] GCCF – U.S. Coast Guard Report as of 1/5/2011, pages 16 and 17.
[3] GCCF Denial Letter, Claimant ID [redacted] dated 19 November 2010.

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0240
24 February 2011

[redacted]

Re: Claim Number: N10036-0240

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0240 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for further information.

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 N10036-0240.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure (1): Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 23 February 2011
Claim Number	: N10036-0240
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $18,537.00

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 14 October 2010, [redacted] (Claimant) presented an Emergency Advance Payment claim to the RP with Claimant Identification Number [redacted] in the amount of $12,000.00. That original claim was denied by the RP. Claimant then presented a subsequent claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $18,537.00 for lost profits and earning capacity resulting from the Deepwater Horizon oil-spill. This claim was presented on 10 December 2010.

Claimant worked for [redacted] headquartered in Abbeville, LA, since 2009. Claimant asserted that due to the Deepwater Horizon incident, he was terminated on 14 October 2010.

Correspondence dated 14 October 2010 from [redacted] confirms the date of termination and gave the reason as "Reduction in Force (Lay-off)" with comments that stated "[redacted] was terminated due to the fact that the BP project in Venice was canceled and there is not enough work in Fourchon to support all of the employees within the division."[1]

APPLICABLE LAW:

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

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 136.235, the amount of compensation allowable for a claim

[1] See [redacted] Termination-Personnel Action Notice, dated 14 October 2010.

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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 support the claim, the Claimant presented various paystubs from Offshore Cleaning Systems, prior to and following the date of the Deepwater Horizon incident. Claimant also provided tax return documentation notating "Hair Stylist" as principle business for 2009. The GCCF denial letter dated 29 October 2010 with Claimant ID [redacted] was provided as well as the termination notice from Offshore Cleaning Systems.

NPFC Determination

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 as a direct result of the Deepwater Horizon Incident. The NPFC considered all the documentation submitted by Claimant.

We contacted [redacted] and spoke with a [redacted] who advised that though the work was offshore, there was no relation to the oil-spill. He proceeded to discuss the lack of work that began immediately after the drilling moratorium that was and still is being delayed due to the subsequent permitting process policy changes. He did advise that the impact of the moratorium and permitting processes has been considerably detrimental to their business.

The claim is denied because Claimant failed to demonstrate a loss of profits or impairment of earnings capacity as a direct result of the Deepwater Horizon oil-spill. Based on information by the employer, the Claimant's alleged loss is a direct result of the employer's business decision to terminate his employment.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/24/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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)
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0241
March 08, 2011

[redacted]

Re: Claim Number: N10036-0241

Dear [redacted]

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 N10036-0241 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0241.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	01 March 2011
Claim Number	N10036-0241
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$120,900.00

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 10 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $56,000 in lost profits and earnings and $64,900.00 in real or personal property damages allegedly resulting from the Deepwater Horizon oil-spill. The total amount claimed is $120,900.00.

The Claimant asserted that he operates a limousine service and rents two properties in [redacted] He alleged that as a result of the Deepwater Horizon oil-spill, "[he] received numerous cancellations . . . for both [his] limousine service and rental properties."[1] He further alleged that the spill negatively impacted tourism in the Gulf Coast and his business relies heavily on tourism which suffered losses as a result of the impact.[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 Section 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:

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[1] OSLTF claim form attachment.

[2] Since Claimant seeks lost profits from rental cancellations, his $64,900.00 in real or personal property damage is interpreted as a claim for lost profits. So Claimant actually seeks $120,900.00 in lost profits allegedly as a result of the Deepwater Horizon oil-spill.

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(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 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 undertake, 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

To support his claim, Claimant submitted the following documentation to the NPFC:

- OSLTF claim form, dated 10 December 2010 with attachment;
- Claims submission to GCCF for Claimant # [redacted] and # [redacted];
- Denial letter from GCCF dated 06 December 2010;
- Warranty Deed for property at [redacted], Destin, Florida;
- Various Letters from Claimant regarding claims handling dated 01 October, 13 October, 08 November and an undated letter received by the NPFC on 10 December 2010;
- Listing of rentals and cancellations for condominium rentals for [redacted] condominium from April 2010 through October 2010;
- Listing of limousine cancellations from June 2010 through August 2010;
- Various merchant statements from limousine business as follows:
  - Statements from "[redacted]" from: July 2008, August 2008 and October 2008 through December 2008, February 2009 through July 2009 and September 2009.
  - Statements (unformatted text) from [redacted] from: March 2010, May through August 2010.

Claimant seeks $120,900.00 in lost profits from his limousine and rental business allegedly resulting from the Deepwater Horizon oil-spill.

On 29 September 2010, Claimant filed a six-month Emergency Advance Payment claim for $56,000.00 with the GCCF. He was assigned Claimant ID # [redacted] and Claim # [redacted]. On 06 December 2010, this claim was denied by the GCCF.[3]

NPFC Determination

This claim for lost profits and earnings capacity is denied. 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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the Claimant has not demonstrated that his alleged loss in the amount of $120,900.00 is 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.

During the course of reviewing this claim, NPFC was able to confirm that the Claimant's business has a website, but was unable to confirm the Claimant's business as a registered Florida Business entity. The NPFC dispatched a letter to the Claimant, requesting additional information regarding the seasonal nature of his business and volume of tourist clientele. That letter also stated that if Claimant did not provide the requested information within 14 days, the claim would be adjudicated based on the information available. The NPFC confirmed that the US Postal Service delivered the request on 10 February 2011. Subsequent NPFC attempts to contact the Claimant by phone have been unsuccessful. As of the date of this determination, the NPFC has not received any response to its request for additional information.

Based on the documentation provided, there is no evidence that the Claimant's alleged loss is 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 and the Claimant has not provided sufficient documentation to prove his losses therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/8/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Denial letter from GCCF dated 06 December 2010. Claimant has an Interim Payment claim under review at the GCCF.

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
[redacted]
Phone: [redacted]
E-mail: [redacted]
Fax: 202-493-6937
5890
1/7/2011

VIA MAIL AND EMAIL: [redacted]

[redacted]
New Orleans, LA

RE: Claim Number: N10036-0242

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0242 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0242.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	07 January 2011
Claim Number	N10036-0242
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$20,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 29 November 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $20,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserts he has a loss of wages due to the Deepwater Horizon oil-spill. Claimant states he was working for [redacted] a catering company on an offshore rig which received the evacuees from the Deepwater Horizon rig on the eve of the explosion. Claimant further asserts that due to the mental anguish suffered from his experiences, he was unable to return to the offshore job and subsequently found employment with [redacted] which pays significantly less than [redacted]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant presented the NPFC Optional OSLTF Claim Form dated November 19, 2010, W2s from 2008, various pay stubs from both referenced employers which presumably belong to Claimant along with letters from the Claimant explaining the mental impact of the Deepwater Horizon incident and the subsequent decreased wages.

NPFC Determination

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 alleged loss in the amount of $20,000.00 is 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. Claimant states in his personal statement that he voluntarily left his employment with [redacted] due to personal injury which he states made it impossible to return to work resulting in

his obtaining employment elsewhere for a lesser salary. The Claimant's alleged financial losses are due to his personal decision to find alternative employment due to personal injury and mental damage which is not a compensable damage under OPA therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/7/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]
202-493-6937

5890
18 January 2011

VIA MAIL and EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0243

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0243 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0243.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00000956

CLAIM SUMMARY / DETERMINATION FORM

Date	12 January 2011
Claim Number	N10036-0243
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$35,412.50

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, [redacted] (Claimant) presented a lost profits & earnings capacity claim in the amount of $35,412.50 to the National Pollution Funds Center (NPFC) for reimbursement. [redacted] is asserting that he is unable to earn a full income and is having difficulty finding other jobs as a result of the Deepwater Horizon incident. [redacted] is employed as a Foreman/Supervisor in the role of Fitter/Welder for [redacted] states that although his employer has not filed a claim, he has totaled his losses from the oil-spill and his estimates are close to $36,000.00.[1]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

[1] See, typed letter with handwritten date 30 December 2010

09/13/11 FOIA2011-3380-00000957

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, [redacted] presented the NPFC Optional OSLTF Claim Form dated 06 December 2010, tax return documents from 2008-2009, pay stubs from 2009-2010, a copy of Claimant's valid identification and two (2) letters explaining his situation. The GCCF assigned claim identification [redacted] to his claim submission for a total requested amount of $40,000.00 which was denied. [redacted] also provided a copy of what appears to be the [redacted] internet homepage.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $35,412.50 is 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. Accordingly, conversations with [redacted] a representative for Human Resources with [redacted] revealed that the company has not filed a claim because it has actually shown higher profits in 2010 than in 2009 and, additionally, [redacted] has had no company-induced reduction of hours as the workload has been consistent and available. Therefore, [redacted] has failed to meet his burden of proof to demonstrate a loss as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Review: *1/14/11*

Supervisor's Comments: ***Denial approved***

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
[redacted]
Fax: 202-493-6937
5890
Claim # N10036-0244
18 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0244

Dear [redacted],

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0244 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0244.
Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 January 2011
Claim Number	: N10036-0244
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $13,385.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 2010, [redacted] (Claimant) presented an Oil Spill Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $13,385.00 in costs and damages resulting from the Deepwater Horizon incident. On his OSLTF claim form, claimant elected the following types of claims: subsistence use, natural resources, profits and earning capacity, and public services.[1]

Claimant is on disability and receives $764.00 a month. He asserts that he saved this money and bought a van to shuttle customers to and from the coast to buy shrimp, crab and lobster during the tourist and fishing seasons. Claimant alleges that he made extra money from this service and had a regular customer base. Claimant indicates that he is still making payments on his van.

As a result of the Deepwater Horizon incident, claimant alleges that "people don't want to buy anymore seafood from the coast at this time [because] they are scared about contamination of the seafood. . . ."[2] The claim for $13,385.00 represents claimant's lost earnings from reduced demand for coastal seafood among his customers.[3]

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.

---

[1] Since an individual *in a personal capacity* cannot claim costs and damages for natural resources and public services, we disregard claimant's election of these claim types. Additionally, there is no evidence that claimant was in any way engaged in removal actions. We accordingly disregard his election of this claim type.

[2] Claimant GCCF Claim Form page 7.

[3] Claimant's submission does not support a personal claim for subsistence loss. We accordingly treat claimant's loss as a claim for lost profits and earning capacity.

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 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 undertake, 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 support his claim, claimant submitted the following documentation:

1. OSLTF claim form dated 02 November 2010;
2. Handwritten release to the GCCF;
3. GCCF denial letter for claimant's request for Emergency Advance Payment dated 09 November 2010;
4. Claimant's faxed letter to GCCF dated 25 September 2010;
5. GCCF letter to claimant confirming receipt of claim submission dated 10 September 2010;
6. GCCF claim submission application (27 pages);
7. Copy of claimant's driver's license;
8. Certificate of title for 1994 Pont TSP;
9. Copy of claimant's supplemental security income payment;

10. [redacted] receipt of payment, pay date 01 September 2010;
11. [redacted] receipt of payment, pay date 02 August 2010;
12. GCCF claim packet with claimant's handwritten address;
13. Handwritten letter in claimant's handwriting;
14. List of claimant's customers;
15. [redacted] invoice for $57.00 paid on 01 October 2010;
16. Envelop with GCCF address handwritten.

Claimant originally filed an Emergency Advance Payment claim for lost wages and earnings claim with GCCF in the amount of $3,500.00 on 09 September 2010. Claimant requested an Emergency Advance Payment on this claim. On 09 November 2010, GCCF denied claimant's request. On 08 December 2010, claimant filed his claim for damages in the amount of $13,385.00 with the NPFC.[4]

As a result of the Deepwater Horizon incident, claimant alleges that "people don't want to buy anymore seafood from the coast at this time [because] they are scared about contamination of the seafood. . . ."[5] The claim for $13,385.00 represents claimant's lost earnings from reduced demand for coastal seafood among his customers.

NPFC Determination

This claim is denied. 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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC has considered all the documentation submitted by the Claimant.

The claim is denied because the claimant has failed to submit financial documents to demonstrate that he had a viable business prior to the Deepwater Horizon incident. Specifically, claimant has not provided evidence of a history of any revenue streams from his enterprise. Without submitting such evidence, the claimant cannot establish either a financial loss or a causal link to the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/18/11

Supervisor Action: Denial Affirmed

Supervisor's Comments:

[4] Claimant has interim and final claims under review with GCCF.
[5] Claimant GCCF Claim Form page 7.

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890/DWHZ
Claim # N10036-0245
18 January 2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

Re: Claim Number: N10036-0245

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary 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 N10036-0245.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Attachment: (1) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	13 January 2011
Claim Number	N10036-0245
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$9,000.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit (MODU) Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility associated with the MODU and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident or incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 15 November 2010, [redacted] (Claimant), presented a handwritten letter to the NPFC requesting a claim against the OSLTF. Due to not requesting an amount for compensation, [redacted] was contacted and provided a sum certain of $9,000.00. As of 04 December 2010, the NPFC considered this presentment as a claim. The Claimant asserts that he moved his family to the Gulf Coast from Georgia on 15 April 2010, leaving behind a fulltime job, with hopes to "make more money than I was making in Georgia" through selling "tubes and cores that people use to ship fishing poles and lures and other things.[1] [redacted] further asserts that just after his move, the "oil spill happened and I was unable to find employment in my line of work" in Santa Rosa Beach therefore, due to the oil spill, he is claiming lost profits and earning capacity.[2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] See, undated handwritten letter from Claimant received on 15 November 2010
[2] See, undated handwritten letter from Claimant received on 15 November 2010

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(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 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 support his claim, Claimant presented W-2s from 2008-2009, two (2) pay stubs from [redacted] in Atlanta, GA, two (2) handwritten letters documenting his situation, a copy of his Certificate of Live Birth from the state of Georgia and a piece of mail presented to document residency in the state of Florida. [redacted] also presented a copy of a valid identification card that was issued on 21 May 2010 in the state of Georgia.

NPFC Determination

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 claim is denied because the alleged loss in the amount of $9,000.00 is 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. [redacted] left his fulltime employment to move to the Gulf Coast in hopes of finding other employment. [redacted] claims that the reason he was unable to find employment was due to the oil-spill although [redacted] has failed to meet his burden of proof with regard to this claim. Furthermore, [redacted] presents an identification card issued in the state of Georgia, more than a month after he allegedly moved to the state of Florida seeking work. Claimant has failed to demonstrate he had a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Review: *1/17/11*

Supervisor's Comments: ***Denial approved***

FOIA2011-3380-00000967

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0246
10 February 2011

[redacted]

RE: Claim Number: N10036-0246

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0246 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0246.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00000968

CLAIM SUMMARY / DETERMINATION FORM

Date	: 10 February 2011
Claim Number	: N10036-0246
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $54,688.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 06 December 2010, Claimant presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $54,688.00 in lost profits resulting from the Deepwater Horizon incident.

Claimant owns and operates a sign business called "[redacted]" in East Point, Florida. The Claimant asserts that her business relies heavily on seafood and tourism. Additionally, she indicated that fishing tournaments and seafood festivals also contribute to sales, both of which she asserts were impacted by the incident.[1]

As a result of the Deepwater Horizon incident, the Claimant alleges that certain customers in the seafood and tourism-related industries decreased advertising. Consequently, these customers did not purchase signage from [redacted] as they had in prior periods, causing a loss of sales and profits for the business.

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

[1] Email from Claimant to [redacted] (NPFC) dated18 January 2011 Subj: claim information (in response to NPFC request for Additional Information dated 04 January 2011.

09/03/11 ENCLOSURE FOIA2011-3380-00000969

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 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 undertake, 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 support her claim, the Claimant submitted the following:

- Optional OSLTF Claim form dated 06 December 2010;
- U.S. Individual Income Tax Return, 2007-2009 with schedules and attachments;
- "Sales Trend (Before Tax)" report, by customer, by month for 2009;
- Sales Trend report (same as 2009) for the fourth quarter of 2010 (through 12/6/10);
- Correspondence from claimant to the NPFC, fax date 08 December 2010;
- Denial claim letter from the GCCF to claimant dated 07 December 2010;
- Correspondence from GCCF to claimant dated 23 August 2010;
- U.S. Small Business Administration, Economic Injury Disaster Loan, containing monthly sales from January 2007 to December 2010 (fax date 06 December 2010); and

NPFC requested additional information on 04 January 2010 and received the following:

- Sales by customer report, by month, for July 2007 to December 2010;
- Correspondence dated 18 January 2011 (in response to request for documents);
- Photocopy of correspondence from U.S. Small Business Administration dated 23 January 2011. Letter grants claimant a disaster loan for $20,400 to be paid over 15 years; and
- Profit and loss statement 2007-2010.

Claimant seeks $54,688.00 in lost profits allegedly as a result of the Deepwater Horizon incident's impact on her sign business.

On 09 June 2010, Claimant originally filed a claim with BP. On 08 September 2010, Claimant filed a 1-month Emergency Advance Payment (EAP) claim for $5,710.00 in lost profits with GCCF. GCCF assigned her Claimant ID [redacted] and Claim [redacted] to her EAP claim. On 20 October 2010, Claimant filed four additional supplemental EAP claims for lost profits with GCCF. These claims were assigned GCCF Claim #'s [redacted] and [redacted] On 07 December 2010, GCCF denied her EAP claims. The denial of Claimant's EAP claims by the GCCF was verified by the NPFC.

NPFC Determination

This claim is denied. 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 the 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. 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. The NPFC considered all of the documentation presented by the Claimant.

As shown in the table below, the claimant's business had been experiencing a decline in sales for the three years prior to the Deepwater Horizon Incident, as well as 2010, the year of the Deepwater Horizon Incident.

Description	Total Monthly Sales			
	2007	2008	2009	2010
January	$ 9,362	$ 8,983	$ 10,611	$ 2,982
February	20,122	11,627	6,251	6,798
March	19,495	12,168	9,149	11,778
April	11,739	16,055	11,733	11,810
May	19,116	16,127	13,612	14,164
June	12,250	14,163	11,980	4,435
July	14,684	12,348	11,756	7,957
August	16,034	14,208	7,349	10,677
September	11,907	16,531	8,902	4,903
October	16,008	8,594	8,387	7,060
November	12,308	3,905	11,552	3,899
December	9,252	8,589	4,842	5,078
Total	$ 172,277	$ 143,298	$ 116,124	$ 91,541
Overall Sales Trend		-16.82%	-18.96%	-21.17%

As discussed above, the claimant has asserted that the sales decline in 2010 was due to the loss of customers in the seafood and tourism industries, both of which were allegedly impacted by the Deepwater Horizon Incident.

In order to determine the source of the sales decline in 2010, we reviewed and analyzed the detailed sales ledger for [redacted] from January 2008 through December 2010. Due to the high volume of small transactions, our review was limited to individual transactions equal to or over $200.00. This level was further refined in our final analysis by examining only those customers with three year sales totals over $1,000. This test population totaled $251,441, or approximately 72% of the total sales for the three years ended December 2010. This sample size exceeds traditional statistical sampling guidelines.

Our analysis of the claimant's sales ledger did not support the claim that customers and related sales were lost principally from the tourism and seafood industries. As shown in the table below, over 90% of the sales decline in 2010 was driven by customers in the government and building/construction/real estate industry sectors.

Major Industry Sector	Sample Selction - Significant Sales 2008	2009	2010	Change 2009-10	% of Total Change
Government Entities	$ 18,983	$ 56,666	$ 15,860	$ (40,806)	66.2%
Real Estate/Construction & Related	$ 7,825	$ 15,560	$ 270	$ (15,290)	24.8%
Sub Total	$ 26,808	$ 72,225	$ 16,130	$ (56,096)	91.0%
Tourism & Related	$ 15,955	$ 15,141	$ 6,015	$ (9,127)	14.8%
Seafood & Realted	$ 4,415	$ 9,449	$ 5,596	$ (3,853)	6.3%
All Other Segments	$ 37,238	$ 17,511	$ 24,959	$ 7,448	-12.1%
Total	$ 84,415	$ 114,327	$ 52,699	$ (61,628)	100.0%

Based on our review of the sales ledger, we noted that the entire sales decline in the government sector came from one customer, [redacted]. [redacted] sales decline in 2010 came from several county departments, including [redacted].

In the building/construction/real estate industry sector, the entire sales decline in 2010 came from one construction project called, [redacted]. We understand that this construction project began in 2008 and was completed sometime in 2009. As such, signage purchased for this project in 2009 would not likely continue in 2010. Sales for this customer were zero in 2010.

Based on the above findings, we re-evaluated sales for 2009 and 2010, carving out those sales for [redacted] and [redacted] That analysis is below.

Description	Recorded Sales		
	2009	2010	Change 2009-10
Total Sales, All Customers	$ 116,124	$ 91,541	$ (24,583)
Less Sales to Select Customers:			
Government - [redacted]	52,305	8,267	(44,039)
Construction - [redacted]	12,391	-	(12,391)
Sub Total	64,696	8,267	(56,430)
Total Sales, Net of Select Customers	$ 51,428	$ 83,275	$ 31,847

As shown in the table above, after excluding customer sales that declined for reasons other than the Deepwater Horizon Incident, net sales in 2010 increased compared to 2009. As such, the decline in total sales in 2010 is not attributable to customers or industries impacted by the Deepwater Horizon Incident.

Based on the above analyses, the claim is denied because the alleged loss in the amount of $54,688.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's review: 2/14/11

Supervisor Action: Denial affirmed

Supervisor's Comments:

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
[redacted]

5890
2/10/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0247

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0247 involving the Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation on the denial.

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 N10036-0247.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 10, 2011
Claim Number	: N10036-0247
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $4,512.00

FACTS

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 5, 2011, [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $4,512.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that due to the Deepwater Horizon incident her employer; [redacted] was unable to re-hire her as a part-time seasonal housekeeper. [redacted] of [redacted] stated in a letter that [redacted] was unable to return to work due to decreased occupancy requiring fewer housekeepers as a result of the Deepwater Horizon incident.[1]

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF on August 23, 2010 and was subsequently denied on January 5, 2011.

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 Section 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:

[1] *See* Letter from [redacted] (employer) stating [redacted] was not re-hired, dated August 19, 2010.

(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 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 undertake, 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 support her claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form dated December 5, 2010
- Copy of her ID
- Letter of explanation from [redacted]
- Verification of employment
- 2009 Income Tax Return
- 2009 W-2 from [redacted]

NPFC Determination

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.

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

Based on the documentation provided from Claimant, she indicated that her income was reduced due to her position as a seasonal part-time housekeeper not being available as a result of the Deepwater Horizon incident.

Furthermore, the NPFC sent the Claimant a request for additional financial information to determine if there was a loss of income in 2010. A key item in the NPFC's request was to view all pay check stubs or unemployment benefits for 2010. The Claimant did not provide any financial information for 2010 to the NPFC.

The claim is denied because the alleged loss in the amount of $4,512.00 is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Claimant's alleged financial loss is a result of her employer's business decision not to re-hire seasonal part-time housekeepers. Additionally, the Claimant has failed to meet her burden in establishing a loss of profits and earnings due to a lack of financial information that demonstrates a loss of income in 2010.

Claim Supervisor [redacted]

Date of Supervisor's review: ***February 10, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]

2/10/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0248

Dea[redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0248 involving the Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

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 N10036-0248.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
Claims Manager
U.S. Coast Guard

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 10, 2011
Claim Number	: N10036-0248
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $2,800.00

FACTS

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 7, 2011, [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $2,800.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant asserted that due to the Deepwater Horizon incident his employer; [redacted] was unable to re-hire him as a part-time seasonal housekeeper. [redacted] stated in a letter that [redacted] was unable to return to work due to decreased occupancy requiring fewer housekeepers as a result of the Deepwater Horizon incident.[1]

The Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF on August 25, 2010 and was compensated $1,200.00 on December 9, 2010. The Claimant then filed a Final Quick Pay claim with the GCCF on January 3, 2011 and was denied.

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 Section 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.

[1] *See* Letter from [redacted] (employer) stating [redacted] was not re-hired, dated August 19, 2010.

09/13/11 FOIA2011-3380-00000979

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 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 undertake, 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 support his claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form dated December 3, 2010
- Copy of his ID
- Letter of explanation from [redacted]
- Verification of employment
- Personal hardship letter dated December 3, 2010
- 2009 [redacted] Pay Check Summary for 2009
- 2009 Income Tax Return
- 2009 W-2 from [redacted]
- Answers to questions presented by the NPFC

NPFC Determination

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.

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

Based on the documentation provided from Claimant, he indicated that his income was reduced due to his position as a seasonal part-time housekeeper not being available as a result of the Deepwater Horizon incident.

Furthermore, the NPFC sent the Claimant a request for additional financial information to determine if there was a loss of income in 2010. A key item in the NPFC's request was to view all pay check stubs or unemployment benefits for 2010. The Claimant did not provide any financial information for 2010 to the NPFC.

The claim is denied because the alleged loss in the amount of $2,800.00 is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Claimant's alleged financial loss is a result of his employer's business decision not to re-hire seasonal part-time housekeepers. Additionally, the Claimant has failed to meet his burden in establishing a loss of profits and earnings due to a lack of financial information that demonstrates a loss of income in 2010.

Claim Supervisor [redacted]

Date of Supervisor's review: ***February 10, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0250
17 March 2011

[redacted]

RE: Claim Number: N10036-0250

Dear [redacted],

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 N10036-0250 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0250.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date : 17 March 2011
Claim Number : N10036-0250
Claimant : [redacted]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [redacted]
Amount Requested : $15,000.00

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 10 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $15,000.00 in loss of profits and earning capacity. Claimant asserts that she lost her job due to the Deepwater Horizon oil spill.

At the time of the Deepwater Horizon oil spill, Claimant was office manager for [redacted] a [redacted] Claimant indicates that [redacted] lost business due to the Deepwater Horizon oil spill and laid her off in June of 2010 because her position was salaried. Claimant remained unemployed until October of 2010, when she began work for [redacted]

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:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) 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.
3) 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 profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
4) 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.

ENCLOSURE 09/03/11

FOIA2011-3380-00000983

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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support her claim, Claimant submitted the following documentation:

- Optional OSLTF Form, dated 22 November 2010;
- Handwritten notes by Claimant on letter sent by NPFC to Claimant requesting additional information, dated 22 December 2010;
- Earnings statement from [redacted] showing payments made to Claimant from 01 July 2009 to 07 July 2010;
- Checking account statements from [redacted] for the period 11 December 2009 through 12 July 2010;
- Pay stubs from [redacted] for the period 18 October 2010 through 31 December 2010;
- Letter from [redacted] dated 7 July 2010;
- Email from Claimant to GCCF, dated 5 November 2010;
- Email from Claimant to GCCF, dated 2 November 2010;
- Email from Claimant to GCCF, dated 16 October 2010;
- Email from Claimant to GCCF, dated 12 October 2010;
- Email from Claimant to GCCF, dated 8 October 2010;
- Email from Claimant to GCCF, dated 7 October 2010;
- Email from Claimant to GCCF, dated 2 October 2010;
- Email from Claimant to GCCF, dated 29 September 2010;
- Email from Claimant to GCCF, dated 28 September 2010;
- Email from Claimant to GCCF, dated 27 September 2010;
- Email from Claimant to GCCF, dated 19 September 2010;
- 2009 W-2 from The [redacted]
- 2009 Form 1099-G from State of Florida Agency for Workforce Innovation.
- 2009 Form 1099-R from [redacted] on behalf of [redacted]
- 2009 Form 1099-MISC from [redacted]
- 2009 Joint Form 1040 with Schedules A, C and M, Forms 8919, 2106-EZ and 4562.
- 2010 Form 1099-MISC from [redacted]
- Email from Claimant to NPFC, dated 23 November 2010;

Claimant seeks a total of $15,000.00 in loss of earnings allegedly resulting from the Deepwater Horizon oil spill.

Claimant originally filed a claim with BP on 25 June 2010. On 25 August 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim of $2,500.00 with the GCCF for lost profits and

earnings. She was assigned GCCF Claimant ID # [redacted] and Claim # [redacted] This claim was denied by the GCCF on 23 October 2010.[1]

NPFC Determination

This claim is denied. 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 U.S.C. § 2713, Claims Procedure, and 33 C.F.R. § 136.103, Order of Presentment, a claimant may elect to present a claim to the OSLTF if that claim was first submitted to the responsible party. The NPFC considered all of the documentation submitted by Claimant.

This claim is denied because the evidence presented does not sufficiently prove that Claimant suffered an economic loss 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. For example, while Claimant provided a letter from The Beach Group Properties asserting that she was let go due to a decrease in business resulting from the Deepwater Horizon oil spill, this letter by itself is insufficient to prove the causal connection between her alleged loss and the Deepwater Horizon oil spill.[2]

There are additional problems with this claim. GCCF records indicate that the claimant sought $2,500.00 from the RP. The Claimant's claim to the NPFC, however, was in the amount of $15,000.00; thus, proper presentment has not been proven. Further, her employer's letter indicates that she made $2,500.00 per month at her job with The [redacted], where she was employed until the end of June 2010. She was hired by [redacted] at a slightly lower pay scale in October 2010. Considering that she was only out of work for a three month period, her estimation of $15,000.00 in damages appears inflated. If the Claimant decides to return to the NPFC on reconsideration, she will be expected to explain these discrepancies.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 3/17/11

Supervisor's Actions: Denial Affirmed

Supervisor's Comments:

[1] Claimant has an Interim Payment claim under review with the GCCF

[2] Letter from [redacted] Broker/Owner of [redacted] to BP Claims, dated 7 July 2010

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
[redacted]
Fax: 202-493-6937

5890
Claim # N10036-0251
28 December 2010

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0251

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0251 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0251.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 28 December 2010
Claim Number	: N10036-0251
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,480.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 November 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $12,480.00 in lost profits and earnings capacity resulting from the Deepwater Horizon incident to the National Pollution Fund Center (NPFC).

Claimant was employed by [redacted] but sought new employment with [redacted], as this company was providing security services for BP. Claimant states in her email that she chose to work for [redacted] because she was promised employment for a period of eight to ten years for better pay.[1]

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.

[1] Email FM [redacted] on behalf of [redacted] dtd 06 December 2010 to [redacted] NPFC.

FOIA2011-3380-00000987

(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 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 undertake, 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 support her claim, Claimant originally presented an OSLTF claim form received at the NPFC on 10 December 2010 for $12,480.00. Additionally, Claimant submitted the following documentation:

- Email from [redacted] to [redacted] USCG, dated 06 December 2010
- [redacted] Check Stub Dated 07/15/2010.
- [redacted] Check Stub Dated 07/01/2010.
- [redacted] Holdings Account Deposit Information for Check date 06/18/2010.
- [redacted] Holdings Account Deposit Information for Check date 07/02/2010.
- 2008 [redacted] W-2 form for Claimant.
- 2008 [redacted] W-2 form for Claimant.
- 2008 [redacted] W-2 form for Claimant.
- 2008 [redacted] W-2 form for Claimant.
- Alabama Driver License for Claimant with 10/24/2010 expiration.
- PEC Gulf Clean Up Badge No. [redacted] for Claimant.
- SONS Contractor Badge for Claimant.
- Social Security Card for Claimant.
- 24-Hour Hazwoper Training Certificate of Completion dated 15 May 2010.
- PEC General Purpose ID card for [redacted] for Claimant

– BP Contractor Badge for Claimant.

Claimant is "requesting a six month advance payment in the amount of $12,480.00 for how much she "would have made in six-months working for BP." She "was working through a company [redacted] that BP had [hired to do] security work" in support of the response effort. [2]

Claimant filed with the GCCF and received GCCF Claimant ID [redacted] and Claim [redacted] On 07 December 2010, the Claimant was denied by the GCCF. [3] Claimant provided a copy of her GCCF denial letter to the NPFC and her denial was verified by the NPFC on 28 December 2010.

NPFC Determination

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

In the present claim, Claimant made the personal decision to leave her employment at [redacted] for a better paying position with [redacted] Claimant's personal decision to leave her gainful employment is an intervening cause in any harm she has suffered. This intervening cause is followed by a second intervening cause, namely the decision by her employer [redacted] to terminate her employment. Thus, the claim is denied because the claimant's evidence fails to show how her alleged loss in the amount of $12, 480.00 is due to the injury, destruction, or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***12/29/10***

Supervisor's Actions: ***Denial approved***

[2] Undated Optional OSLTF Claim Form from [redacted] received at NPFC on 10 December 2010 with enclosed email from [redacted] to [redacted] USCG, dated 06 December 2010.
[3] GCCF Letter to Claimant dated 07 December 2010.

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
[redacted]000

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0252
07 March 2011

Re: Claim Number: N10036-0252

Dear [redacted]:

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 N10036-0252 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0252.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure(s): (1) Claim Summary/Determination Form
(2) Claimant Itemized 2010 Recorded Hours

CLAIM SUMMARY/DETERMINATION FORM

Date	: 28 February 2011
Claim Number	: N10036-0252
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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 13 December 2011, [redacted], (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $12,000.00 in lost profits and earnings capacity allegedly as a result of the Deepwater Horizon oil-spill.

Since January 2008, the Claimant has been employed by [redacted] as a pipe/structural welder.[1] Claimant explained that most of his welding is done on high-pressure pipes on offshore platforms. He alleged that "[m]y position was impacted because of the lack of bid activity in the Gulf of the Mexico immediately following the BP Oil Spill."[2] Claimant stated that his hours were cut drastically as a result.

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:

[1] "Answers to Questions" prepared by Claimant in response to NPFC request for documents and information, no date; Correspondences from Claimant to GCCF dated 05 December 2010.
[2] "Answers to Questions" prepared by Claimant in response to NPFC request for documents and information, no date.

(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 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 undertake, 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

To support his claim, the Claimant submitted the following documentation to the NPFC:

1. OSLTF claim form, dated 07 December 2010;
2. GCCF claim denial letter dated 29 November 2010;
3. Correspondence from Claimant to GCCF dated 05 December 2010;
4. Correspondence from GCCF to Claimant dated 09 November 2010;
5. Facsimile transmission from Claimant to GCCF dated 11 November 2010;
6. Email correspondence from Claimant to the NPFC, dated 08 December 2011;
7. W-2 Wage and Tax Statement for 2007, 2008 and 2009;
8. Earnings summary for bi-monthly payroll periods, check dates 1/8/10-10/15/10;
9. Earnings statements for various payroll periods in 2010 and 2011;
10. "Answers to Questions" prepared by Claimant in response to NPFC request for documents and information, no date;
11. Claimant 2007, 2008, 2009 1040;
12. Claimant 2007, 2008, 2009 LA tax documentation
13. Two (2) W-2's from [redacted] for Claimant's spouse;
14. W-2 from [redacted] for Claimant's spouse;
15. 2008 W-2 from Lou[redacted] for Claimant's spouse; and
16. Claimant [redacted]checking account statements.

Claimant seeks $12,000.00 in lost earnings allegedly as a result of the Deepwater Horizon oil-spill.

On 08 October 2010, [redacted] (Claimant) filed a six-month Emergency Advance Payment claim for $24,000.00 with the GCCF. He was assigned Claimant ID [redacted] and Claim [redacted]. On 29 November 2010, his claim was denied.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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. 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. The NPFC considered all documentation presented by the Claimant.

This claim is denied because the evidence that Claimant submitted to the NPFC for review does not demonstrate a reduction in total gross wages in 2010 as compared to 2009, or the three year average gross earnings for 2007 through 2009. As shown in Table 1 below, total gross wages in 2010 were greater than those earned in 2009 and 2007 and only slightly lower than the amount earned in 2008.

Tax Year	Employer	Total Gross Wages
2007	[redacted]	$ 68,733.82
2008		$ 72,692.64
2009		$ 66,641.67
3 Year Average		**$ 69,356.04**
2010 [1]		**$ 69,871.61**

[1] 2010 based on actual wages of $67,574.46 for the period, 1/1/10-12/19/10

Table 1

In addition to the review of total annual wages, the NPFC also reviewed the Claimant's wages reported for the individual payroll periods in 2010, check dates 1/8/10 to 10/15/10. Those payroll periods are shown in Enclosure 2.

Enclosure 2 shows pre-incident payroll periods for check dates of 1/22/10 through 4/16/10. This pre-incident average was compared to average recorded hours for payroll periods after the incident, or check dates 4/30/10 through 10/15/10.

Based on the NPFC's review, there was no reduction in average weekly hours recorded for regular payroll or overtime hours after the incident. As such, no documents or information have been presented by Claimant to support the assertion that the Claimant experienced a reduction in work hours as a result of the Deepwater Horizon oil-spill.

The claim is denied because the alleged loss in the amount of $12,000.00 is 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 nor has the Claimant demonstrated a loss of profits and earnings.

Claim Supervisor: [redacted]

Date of Review: ***3/6/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

ENCLOSURE 2

Claimant Itemized 2010 Recorded Hours:

Check Date	Recorded Hours		
	Regular	Overtime	Total
Pre-Incident:			
1/8/2010	8.00	-	8.00
1/22/2010	80.00	-	80.00
2/5/2010	80.00	18.50	98.50
2/19/2010	80.00	22.25	102.25
3/5/2010	80.00	21.50	101.50
3/19/2010	80.00	53.00	133.00
4/2/2010	80.00	51.25	131.25
4/16/2010	80.00	24.25	104.25
Average, 1/22-4/16/10:			
Per Period	80.00	27.25	107.25
Weekly	40.00	13.63	53.63
Post-Incident:			
4/30/2010	80.00	25.50	105.50
5/14/2010	80.00	36.50	116.50
5/28/2010	80.00	36.00	116.00
6/11/2010	80.00	45.50	125.50
6/25/2010	80.00	57.50	137.50
7/9/2010	80.00	70.25	150.25
7/23/2010	80.00	69.25	149.25
8/6/2010	80.00	65.25	145.25
8/20/2010	80.00	76.75	156.75
9/3/2010	80.00	2.50	82.50
9/17/2010	65.00	-	65.00
10/1/2010	80.00	-	80.00
10/15/2010	80.00	15.50	95.50
Average, 4/30-10/15/10 *			
Per Period	80.00	41.71	121.71
Weekly	40.00	20.85	60.85

* Excludes 9/17/10 due to holiday or other leave.

09/13/11 FOIA2011-3380-00000995

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0253
28 February 2011

[redacted]

Re: Claim Number: N10036-0253

Dear [redacted]

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 CFR Part 136, denies payment on the claim number N10036-0253 involving the Deepwater Horizon oil-spill. 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 N10036-0253.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00000996

CLAIM SUMMARY/DETERMINATION FORM

Date	24 February 2011
Claim Number	N10036-0253
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$9,984.00

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 14 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $10,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant worked for [redacted] a restaurant business where she served as both a bartender and a Catering Coordinator from 2001-2010.[1] She alleged that "restaurant business slowed after oil spill enough to where my employer was not able to pay my hourly rate therefore I was terminated."[2]

APPLICABLE LAW

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.

[1] Letter from Claimant to NPFC dated 10 January 2011.

[2] OSLTF claim form. In her letter to the NPFC dated 10 January 2011, Claimant elaborates that "[d]ue to the Deepwater Horizon incident, the restaurant had difficulty purchasing seafood and had to pay higher prices to get it. Therefore the menu prices increased, and the scare of contaminated seafood made customers afraid to order seafood from the menu. Sales in the restaurant decreased and my catering and bar sales declined. Because of the decline in sales, my tips decreased. On September 7, 2010 I was terminated due to the company not being able to afford to pay my hourly rate and my catering position was eliminated."[2]

(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 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 undertake, 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 support her claim, Claimant presented the following list of documentation:

1. OSLTF claim form dated 07 December 2010;
2. Letter from Claimant to the NPFC dated 10 January 2011;
3. Copies of Louisiana State Driver's License and Social Security Card;
4. GCCF denial letter dated 06 December 2010
5. Monetary determination statement from the Louisiana Workforce Commission processed 09 September 2010 with a computed weekly benefit amount of $247.00;
6. List of unemployment benefits paid to Claimant from 11 December 2010 to 01 January 2011;
7. Louisiana Workforce Commission Separation Notice dated 08 September 2010 and signed by a representative of [redacted] The form confirms a hire date of January 2006 and a separation date of 07 September 2010;
8. 2007 W-2 Wage and Tax Statement from [redacted]
9. 2009 W-2 Wage and Tax Statement from [redacted]
10. Claimant 2008 Federal Tax Return (Form 1040A);
11. A letter from [redacted] dated 08 September 2010 stating that Claimant's position was eliminated due to changes in the organizational structure and compensation programs; and
12. Check history print-outs from [redacted] for the biweekly periods ending 27 December 2009 through 22 August 2010.

Claimant seeks 10,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 07 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $4,000.00 in lost earnings with the GCCF. She received Claimant ID # [redacted] and Claim # [redacted]. On 06 December 2010, this claim was denied by the GCCF.

NPFC Determination

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

In connection with a review of this claim, the NPFC contacted the Claimant's employer, [redacted] and spoke with [redacted] representative for the company. [redacted] indicated that [redacted] was not impacted by the Deepwater Horizon oil-spill as business was well during 2010. He further indicated that the Claimant was not terminated due to the Deepwater Horizon oil-spill. He stated that her termination resulted from a business decision. He added that the Claimant was provided with a termination letter, identifying change in the company's organizational structure and compensation programs as the reason for the elimination of her Catering Coordinator position.[3]

A letter from the Claimant's former employer, submitted with her claim, does confirm that "due to changes in our organizational structure and compensation programs, [redacted] position as Catering Coordinator was eliminated."[4]

This claim is denied because the alleged loss in the amount of $10,000.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: *2/27/11*

Supervisor's Action: ***Denial approved***

Supervisor's Comments:

[3] PHONECON between [redacted], HR, [redacted] and the NPFC on 24 February 2011. [redacted] also indicated that Claimant was offered employment at other restaurants within the company, but she refused. [redacted] states that Claimant has since accepted another position at [redacted]

[4] Letter from [redacted] dated 08 September 2010

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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
[redacted]
Fax: 202-493-6937

5890
31 January 2011

VIA MAIL and EMAIL [redacted]

[redacted]

RE: Claim Number: N10036-0254

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0254 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for the rationale regarding this denial.

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 N10036-0254.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Encl: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001000

CLAIM SUMMARY / DETERMINATION FORM

Date	31 January 2011
Claim Number	N10036-0254
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$5,114.40

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 11 December 2010 [redacted] (Claimant) presented a claim to the Oil Spill Liability Trust Fund (OSLTF) seeking $5,114.40 in lost profits and earning capacity resulting from the Deepwater Horizon incident. Claimant worked for the [redacted] and asserted that "mail of packages were not being sent by individuals in the shrimping or boating industry" and subsequently she received "less hours" as the "volume of mail was down". [1] Claimant also adds that "after one week after the oil-spill, my position was no longer needed and I was let go for lack of work".[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.

[1] See, Optional OSLTF Claim Form dated 10 December 2010, received 11 December 2010
[2] See, letter to BP Claim Center dated 16 November 2010

FOIA2011-3380-00001001

(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 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.

DETERMINATION OF LOSS

Claimant's Submission

To support her claim, Claimant presented the NPFC Optional OSLTF Claim Form on 11 December 2010, some earnings statements and payroll journals from various employers including the [redacted] a Notification of Personnel Action with noted alterations on item number 79-Description and various other letters offered up in support of her claim.

Claimant submitted a claim with the GCCF on 19 November 2010 for an Emergency Six-Month payment in the amount of $7,060.80, Claimant ID [redacted] Claim [redacted] which was denied. Claimant also submitted a Final Claim in the amount of $5,000.00 on 03 December 2010, Claim [redacted] and an Interim Claim in the amount of $5,114.40 on 04 January 2011, Clai [redacted] each of which are currently under review.

Claimant asserted that her hours were reduced and she was subsequently laid off due to lack of work for temporary employees.

NPFC Determination

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

The NPFC reviewed the evidence presented by the Claimant and spoke with a representative from the [redacted] office, [redacted] During this conversation it was determined that Claimant "resigned from her position" and there was no noted loss of work that

could be linked to the oil-spill for that office of the [redacted][3] The Claimant has failed to meet her burden of proof in establishing her loss of profits and earnings as a direct result of the Deepwater Horizon incident and Claimant misrepresented the rationale for her loss of employment with the [redacted] and therefore her claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: *1/31/11*

Supervisor's Action: ***Denial approved***

Supervisor's Comments:

[3] Telephone conversation with [redacted] Mobile, AL on 28 January 2011.

09/13/11 FOIA2011-3380-00001003

U.S. Department
of Homeland
Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

[redacted]

Email: [redacted]

Re: Claim Number: N10036-0255

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. Please see the enclosed Claim Summary / Determination 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 N10036-0255.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	21 December 2010
Claim Number	N10036-0255
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$29,400.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 11 December 2010 [redacted] (Claimant), presented an Oil Spill Liability Trust Fund (OSLTF) claim form in the amount of $29,400.00 to the National Pollution Funds Center (NPFC). Claimant moved to Alabama in February 2010 to attend [redacted] in Bayou la Batre, Alabama. Claimant completed his training on 31 March 2010. When the Deepwater Horizon incident occurred, Claimant asserts that she could not find a job upon graduation.[1]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

[1] See [redacted] letter to GCCF dated 4 October 2010.

09/13/11 ENCLOSURE FOIA2011-3380-00001005

(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 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 support her claim, Claimant presented an OSLTF Claim Form which the NPFC received on 11 December 2010. The Claimant also submitted the following information: copies of her on-line application to GCCF dated 04 October 2010, letter to GCCF 04 October 2010, certificates from the [redacted] in Bayou la Batre, Alabama, driver's license, Social Security card, and U.S. Merchant Mariner Credential.

The GCCF assigned Claimant Identification # [redacted] and Claim # [redacted] The GCCF subsequently denied her claim, which denial was verified by the NPFC on 21 December 2010.

NPFC Determination

The claim is denied. 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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity.

The NPFC considered all the documentation submitted by the Claimant. The claim is denied because the alleged loss in the amount of $29,400.00 is 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. Claimant's alleges that she has lost earnings as a result of her inability to find gainful

employment following her graduation from the [redacted] in Bayou la Batre, Alabama. Regrettably, graduating from school is not a guarantee of work and the Claimant has failed to prove either that she has been unable to find work as a result of the Deepwater Horizon incident or that she would have been guaranteed work if the incident had not occurred.

Claim Supervisor: [redacted]

Date of Review: 12/21/10

Supervisor's Actions: Denial Affirmed

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0256
03 February 2011

[redacted]

Re: Claim Number: N10036-0256

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies your claim. Please see the enclosed Claim Summary / Determination 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 N10036-0256.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]er
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001008

CLAIM SUMMARY / DETERMINATION FORM

Date	03 February 2011
Claim Number	N10036-0256
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$32,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 08 December 2010 [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $32,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserts that she earned less tip income because of the Deepwater Horizon incident.

Claimant worked for [redacted], dba [redacted], in New Orleans, Louisiana. Claimant stated that she worked strictly off tips and asserts that her tip income declined following the Deepwater Horizon incident. Claimant believes that there were fewer customers visiting the business resulting in fewer opportunities to earn tips. Claimant indicated that she voluntarily quit her job sometime during May 2010 and moved to San Antonio, Texas, during June 2010. Claimant asserts that her income declined as a result of the Deepwater Horizon incident, causing her to relocate to Texas.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

09/13/2011 ENCLOSURE FOIA2011-3380-00001009

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the NPFC OSLTF Claim Form dated 08 December 2010, Federal Income Tax Returns for 2008 and 2009 with supporting schedules, bank statements from [redacted] from 14 August 2009 through 12 August 2010, and "cash out" receipts from her employer for 2008, 2009 and 2010 and her undated but signed personal letter explaining her situation.

Claimant asserts that she sustained reduced income totaling $32,000.00 as a result of the Deepwater Horizon incident. Claimant indicated in a letter to the NPFC, that she voluntarily quit her job sometime during late May 2010. Claimant stated that she could no longer sustain her cost of living in [redacted] based on her reduced earnings and decided to move to San Antonio, Texas during June 2010.

Claimant filed an Emergency Six-Month Emergency Advance Payment claim with GCCF on 20 October 2010. The GCCF issued her Claimant ID [redacted] and Claim [redacted] On 07 December 2010, the GFFC denied her claim.

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.233, a claimant must establish her loss of profits or impairment of earning capacity. 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. The NPFC considered all the documentation submitted by the Claimant.

The claim is denied because the evidence presented does not establish that Claimant's alleged economic loss is 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. Claimant provided "cash-out" receipts from her employer that supports her daily earnings. The last "cash-out" receipt that we have supporting Claimant's employment is dated 10 April 2010. Claimant also provided bank statements to support her earnings and it appears her last deposit was made on 28 May 2010. Based on the documentation provided, Claimant has not demonstrated that she sustained a reduction in earnings prior to the date in which she left her employment.

Claimant indicated that she left her job and moved to San Antonio, Texas during June 2010. Any claimed losses following Claimant's decision to move to San Antonio, Texas, are speculative and do not represent actual losses sustained as Claimant voluntarily left her job.

The Claimant has not proven that her alleged economic loss is the result of the Deepwater Horizon incident and her claim is denied.

Claim Supervisor: [redacted]

Date of Review: 2/4/11

Supervisor's Actions: DENIAL APPROVED

Supervisor's Comments:

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

[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0257
18 February 2011

[redacted]

RE: Claim Number: N10036-0257

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0257 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0257.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00001012

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0257
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $5,000.00

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 10 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) for reimbursement, alleging $5,000.00 in loss of profits and earning capacity as a result of the Deepwater Horizon incident.

Claimant worked as a child care provider at [redacted], a daycare center in Gulfport, Mississippi. Claimant asserted that business slowed down at the daycare center after the Deepwater Horizon incident. Claimant further asserted that her hours were cut drastically and, ultimately, she was laid off.[1]

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.

[1] Letter from claimant to whom it may concern, dated 06 December 2010.

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 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)([redacted]), 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 undertake, 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 support her claim, Claimant submitted the following documentation:

- OSLTF claim form;
- GCCF claim status form dated 07 December 2010;
- GCCF denial letter dated 23 November 2010;
- Letter from claimant to whom it may concern, dated 06 December 2010;
- Earnings summary for period and year-to-date earnings, undated; and
- Yahoo maps of [redacted], Gulfport, MS.

Claimant seeks $5,000.00 in loss of wages from the reduction of her hours and layoff that resulted from the Deepwater Horizon incident.

On 23 October 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) for $5,000.00 in lost profits and earnings with the GCCF. GCCF assigned her Claimant ID # [redacted] and Claim # [redacted] to her EAP claim. This claim was denied by the GCCF.[2]

[2] On 25 August 2010, the Claimant filed a six-month EAP for $5,000.00 in loss of subsistence use of natural resources with the GCCF. This claim was also denied. The Claimant has an Interim Payment claim under review at the GCCF.

08/13/11 FOIA2011-3380-00001014

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the Claimant bears the burden of proving to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

The claim is denied because the alleged loss in the amount of $5,000.00 is 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. The Claimant's alleged financial loss is a result of her employer's business decision to reduce her hours and ultimately terminate her employment. Additionally, the Claimant has failed to meet her burden to demonstrate a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

VIA MAIL and EMAIL: [redacted]

[redacted]

5890/DWHZ
31 January 2011

RE: Claim Number: N10036-0259

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary 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 N10036-0259.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Lieutenant Commander
U. S. Coast Guard
Claims Manager

Attachment: (l) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	27 January 2011
Claim Number	N10036-0259
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$10,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 10 December 2010 [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $10,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

At the time of the Deepwater Horizon incident, Claimant had a verbal agreement with [redacted] to use their kitchen for food preparation and to sell cooked food to the bar's patrons. Claimant was not an employee of [redacted] Bar or associated with the business as an owner. Claimant stated that her arrangement to cook and sell food at [redacted] was at the approval of her sister, [redacted] Claimant stated she did not have a license to prepare and sell food, but she operated under the [redacted] relevant licensing beginning approximately the end of January 2010.[1]

Claimant has not provided a written agreement between her and [redacted] to support this business arrangement. Claimant also has not provided any invoices, sales receipts or bank statements to support her actual business activities. Claimant's business was operating three times a week on Fridays, Saturdays and Sundays until the end of June 2010. Claimant asserted that she was not able to operate from July through September 2010 because seafood prices increased and she was not able to purchase food inventory. Claimant stated that she attempted to resume her business activity during October 2010, but did not have the financial resources to purchase seafood, as she believed the prices were too high. In regard to operating expenses, Claimant provided that she did not have to pay [redacted] rent or any other form of compensation for the use of their kitchen. As of the date of her claim submission, Claimant was not employed or operating her business activities.

Prior to participating in this business activity, Claimant was an employee of the [redacted] and she was laid off on May 2008. Claimant received unemployment benefits

[1] See, Claimant's response to the NPFC's request for additional information dated 30 December 2010.

09/13/11 FOIA2011-3380-00001017

from June 2008 through January 2010, up until the time when she began her business activity at [redacted]

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 Section 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 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 undertake, 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 support her claim, Claimant submitted the NPFC Optional OSLTF Claim Form dated 10 December 2010, profit and loss statement for January 2010 through October 2010, 2007 and 2008 Income Tax Returns, and a letter from GCCF requesting additional documents dated 28 October 2010. Claimant also presented the summary of unemployment benefits and letters of explanation dated 29 October 2010, and 11 September 2010, respectively. Claimant filed an initial claim with the GCCF for $15,000.00 and was assigned Claimant Identification [redacted] Claimant stated that her claim with the GCCF was subsequently denied.

Claimant asserted that her income declined following the Deepwater Horizon incident since the price of seafood increased; therefore she had to increase the price of seafood plates served. Claimant believes that the decline, and ultimately the stoppage of her business activity are directly related to the Deepwater Horizon Incident. Claimant stated that she was not an employee of [redacted] but instead she had a verbal agreement to operate her business under the bar owner's business license. Claimant has not provided underlying documents to support her actual income and expenses from her business activity.

NPFC Determination

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.

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

Based on the statements provided from Claimant, she indicated that her income was reduced as a result of the Deepwater Horizon incident, but she has not provided sufficient documents to prove the actual existence of her business activities or the working relationship between her and [redacted] Claimant has not furnished documentation to prove the receipt of payment for food sales, actual income and evidence to support the actual costs of the business activity.

The claim is denied because the alleged loss in the amount of $10,000 is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil. Claimant has not provided sufficient evidence to support the existence of her business activity or her lost profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/31/11*

Supervisor Action: ***Denial approved***

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

5890/DWHZ
Claim # N10036-0260
14 February 2011

[redacted]

Re: Claim Number: N10036-0260

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0260 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0260.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 February 2011
Claim Number	N10036-0260
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$14,500.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 11 December 2010, [redacted] Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $14,500.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant works as a table game server at the [redacted] in Biloxi, Mississippi.[1] She is compensated by hourly wages and tips. Claimant alleges that as a result of the Deepwater Horizon incident, the "flow of business" at [redacted] decreased and her hours were reduced.[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.

[1] Handwritten letter from Claimant to NPFC dated 07 January 2011.
[2] Letter from Claimant to NPFC fax date 09 December 2010.

09/[illegible]/11
ENCLOSURE
FOIA2011-3380-00001021

(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 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 undertake, 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

In support of her claim, Claimant submitted the following:

- OSLTF Claim Form dated 09 December 2010;
- Letter from Claimant to NPFC fax date 09 December 2010;
- A copy of the denial letter from the Gulf Coast Claims Facility (GCCF) dated 12 November 2010;
- 2007 1040 for Claimant;
- IRS tax return transcript for Claimant for 2008;
- 2009 1040 for Claimant;
- Handwritten letter from Claimant to NPFC dated 07 January 2011;
- Copies of Sun Herald Newspaper articles dated from December 2010 on casino worker claims;
- W-2 for 2007-2009 from Beau Rivage Resorts; and
- Statement of earnings from [redacted] for Claimant from 2009 and 2010.

Claimant seeks $14,500.00 in lost earnings and wages.

On 19 September 2010, Claimant filed a 6-month Emergency Advance Payment (EAP) claim for $5,000.00 in lost earnings to the GCCF. GCCF assigned her Claimant ID [redacted] and Claim

[redacted] to her EAP claim. On 12 November 2010, GCCF denied this claim. This information was verified by the NPFC.

NPFC Determination

This claim is denied. 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. The NPFC considered all of the documentation presented by the Claimant in reaching this determination.

Claimant has not demonstrated that her earnings were reduced as a result of the Deepwater Horizon incident. Claimant provided select earnings statements from her employment during 2009 and 2010. Claimant suggests that her 2009 earnings do not provide an ideal comparison because she took time-off from work for medical issues. Although Claimant alludes to having medical issues during 2009, she did not state what period(s) of time that she was not available to work for medical reasons. Additionally, Claimant did not indicate whether she was compensated through medical leave or any other form of worker's compensation. As such, it is unclear if her 2009 earnings statements include compensation related to her time-off for medical issues.

This claim is denied because the evidence does not support Claimant's allegation that she suffered a loss of earnings as a result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Supervisor's Actions: DENIAL AUTHORITY

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937
5890
2/3/2011

BY MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0261

Dear [redacted]:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0261 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

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 N10036-0261.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 3, 2011
Claim Number	: N10036-0261
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 10, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $10,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from employment as a retail clerk for [redacted] in the Louis Armstrong International Airport in New Orleans, Louisiana as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to her claim with the GCCF, but stated her claim was denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the following documentation:

- NPFC Optional OSLTF Claim Form, December 6, 2010.
- Internal Revenue Service Wage and Income Transcript, 2009
- Weekly earnings statements from New Orleans [redacted] various pay periods from 2/21/10 to 10/3/10.
- W-2 Wage and Earnings Summary, [redacted] 2008 and 2009
- W-2 Wage and Earnings Summary, [redacted] 2009
- W-2 Wage and Earnings Summary, [redacted] 2008
- Correspondence from [redacted] dated December 16, 2010.
- Photocopy of Louisiana state driver's license, copy illegible.
- Photocopy of social security card.

NPFC Determination

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.

Based on the documents provided by the Claimant, she indicated that her earnings were reduced as a result of the Deepwater Horizon Incident. On January 6, 2011, the NPFC emailed a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim. The documentation requested consisted of the following:

1. U.S. Income Tax Return Filings for 2008 and 2009 including all attachments, schedules, forms or statements.
2. Provide copies of all pay stubs, pay checks, direct deposit advices, or earnings statements for all payroll periods during 2009 and 2010.
3. If you employed in a job where you receive commissions, provide detailed commissions reports from 2008 through the current period.
4. If your claim is based on reduced work hours, provide the following documents:
    a. Copies of you work schedules prior to and after the Deepwater Horizon incident to showing your decline in scheduled hours.
    b. Written confirmation from your employer verifying that your specific hours were reduced as a direct result of the Deepwater Horizon incident and not due to other business factors or personnel issues. This letter should include specific quantification of average hours prior to and after the incident.
5. If you have received unemployment benefits from 2009 through the present, provide copies of payments received and statements of benefits.

The NPFC also requested the Claimant answer the following questions:

1. Describe your employment history from 2008 through the current period.
    a. Include a description of dates worked, your position held and job duties.
2. Identify your position, job title and responsibilities for your employment position that you believe was impacted by the Deepwater Horizon incident.
3. Identify any specific periods of time that you were unemployed from 2008 through the current period.
4. If you have received unemployment benefits during 2009 and 2010 identify the periods of time when you received benefits and the amounts received.
5. Describe your primary form of employment and trade skills.
6. If you are claiming a reduction in hours, describe your work schedule prior to and after the Deepwater Horizon incident.
7. Has your employer or former employer filed a claim related to the Deepwater Horizon incident? If so, describe the outcome of your employer's claim.
8. Describe how you computed your claimed lost earnings.

The Claimant has not provided additional documents nor answered any of the questions to support her claim in order to demonstrate she has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet her burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's review: *2/3/11*

Supervisor Action: ***Denial approved***

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
National Pollution Funds Center
United States Coast Guard

NPFC CA MS 7100
[redacted]
1000
0
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0263
28 February 2011

Re: Claim Number: N10036-0263

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0263. Please see the enclosed 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 N10036-0263.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00001029

CLAIM SUMMARY/DETERMINATION FORM

Date	24 February 2011
Claim Number	N10036-0263
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$9,984.00

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 10 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $9,984.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant worked for [redacted], a company responsible for the sale and marketing of research products for [redacted] The Claimant asserted that she started part-time with [redacted] in February 2010 with the expectation of converting to full-time hours in several weeks. Claimant alleged that as a result of the Deepwater Horizon oil-spill, she was laid off. Claimant further indicated that she was forced to seek other employment and ended up working part-time at the [redacted] for less money.[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.

---

[1] Company information retrieved from [redacted] (last visited 24 February 2010).

[2] Claimant response to NPFC letter requesting additional information.

09/13/11 FOIA2011-3380-00001030

(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 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 undertake, 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 support her claim, Claimant submitted the following documentation to the NPFC:

— OSLTF claim form dated 09 December 2010;
— Claimant response to NPFC letter requesting additional information;
— Claimant pay stubs from Biotrend;
— YTD statement of earnings & taxes 2010/2011 for Claimant from [redacted]
— Statement of earnings and deductions from [redacted] for pay periods in 2010;
— FL 1099-G from 2009 & 2010 for Claimant; and
— 2007 & 2008 1040 for Claimant and husband.

Claimant seeks $9,984.00, which represents her estimated lost earnings from getting laid off at [redacted] and working for reduced pay at [redacted] Claimant attributed her lost earnings to the Deepwater Horizon oil-spill.

On 14 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $12,000.00 in lost earnings with the GCCF. She was assigned GCCF Claimant ID [redacted] and Claim [redacted]. On 03 December 2010, her claim was denied by the GCCF.

NPFC Determination

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

The NPFC reviewed the evidence presented by the Claimant and spoke with the Office Manager for [redacted]. Conversation with [redacted] revealed that the company had not been impacted by the oil-spill. [redacted] advised that the Claimant's recollection of events were not indicative of the events that actually occurred as the Claimant had been terminated due to a list of infractions. This termination had been made official as of 13 April 2010, before the Deepwater Horizon incident which occurred on 20 April 2010. A copy of the letter remitted to Claimant from [redacted], which detailed the reasons, the date of action, and confirmed aforementioned conversation, was presented to the NPFC for review.[3]

Under 33 C.F.R. 136.9, Falsification of Claims, persons submitting false claims or making false statements in connection with claims under this part may be subject to prosecution under Federal law, including but not limited to 18 U.S.C. 287 and 1001. In addition, persons submitting written documentation in support of claims under this part which they know, or should know, is false or omits a material fact may be subject to a civil penalty for each claim. Claimant has intentionally made false assertions on the NPFC Optional OSLTF Claim Form which have been repudiated by the employer.

The Claimant has failed to meet her burden to demonstrate a loss of profits and earnings due to the 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: *2/27/11*

Supervisor's Action: ***Denial approved***

Supervisor's Comments:

[3] Letter from [redacted] dated 13 April 2010, signed by [redacted]

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0264
21 March 2011

[redacted]

RE: Claim Number: N10036-0264

Dear [redacted]

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 N10036-0264 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0264.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	21 March 2011
Claim Number	N10036-0264
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$44,686.24

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 13 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form seeking $44,686.24 in lost profits to the National Pollution Funds Center (NPFC). Claimant alleges damages resulting from the Deepwater Horizon oil spill.

The Claimant owns and operates [redacted] is a wholesale business in Pierre Part, Louisiana.[1] It deals mainly in crawfish. [redacted] purchases directly from various fisherman in the area and delivers to businesses in New Orleans and Mississippi. Before the fishing wholesale business, the Claimant owned and operated [redacted]. The Claimant sold [redacted] in 1998. He continues to report income as [redacted] on his Forms 1065 US Return of Partnership Income.

The Claimant and his wife were equal partners in the fishing wholesale business before 2010. They divorced and he operated [redacted] as its sole owner. He states he cannot provide business records before 2010 because his ex-wife has all the records. She refuses to provide these records to him.

The Claimant claims that he lost earnings due to the Deepwater Horizon oil spill. He claims his customers and the public perceived that fish products from the Gulf were tainted by oil and he could not sell his products. As a result he claims his income declined and he lost earnings.

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.

[1] See12 January 2011 letter the Claimant provided to NPFC explaining his claim

FOIA2011-3380-00001034

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 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 undertake, 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

To support his claim, Claimant submitted the NPFC OSLTF optional claim form signed 13 December 2010. He also submitted copies of Forms 1065 US Return of Partnership Income for 2009, monthly Income Statements for [redacted] for 2010, Denial Notice from GCCF dated 12 November 2010, a letter by Claimant dated 19 November 2010 to GCCF explaining the claim and copies of various media articles about the Deepwater Horizon oil spill.

Claimant is claiming lost profit of $44,686.24.

On 30 December 2010 NPFC sent a letter to the Claimant requesting additional information in order to further evaluate the claim. On 12 January 2011 the Claimant provided a letter to NPFC explaining his claim and copies of Forms 1065 US Return of Partnership Income for 2007, 2008, and 2009. The NPFC Claim Adjuster requested additional information and on 28 February 2011

the Claimant provided Income Statements for [redacted] for Six-Months Ended 30 June 2010 and Cash Receipts and Cash Disbursements Journal for April, May, and June 2010.

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID [redacted] and Claim [redacted]. On 12 November 2010 the GCCF denied his claim. This information was verified by the NPFC.

NPFC Determination

This claim is denied. 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.

Claimant states he cannot provide business records for [redacted] before 2010 because his ex-wife has all the records and refuses to provide these records to him. Without the records before 2010, the Claimant cannot provide sufficient information to prove his lost profits. Since the Claimant continues to report his income as [redacted] on his US Return of Partnership Income Form 1065, it is difficult to verify that [redacted] are two separate businesses. The Claimant provided copies of various media articles about the Deepwater Horizon oil spill. However, he has not documented how the oil spill caused his loss. The claim is denied because the Claimant failed to demonstrate that the alleged loss in the amount of $44,686.24 is 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.

Claim Supervisor: [redacted]

Date of Review: 3/23/11

Supervisor's Actions: Denied Affirmed

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0489
14 February 2011

[redacted]

RE: Claim Number: N10036-0265

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0265 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0265.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Lieutenant Commander
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date : 14 February 2011
Claim Number : N10036-0265
Claimant : [redacted]
Type of Claimant : Private (US)
Type of Claim : Loss of Profits and Earning Capacity
Claim Manager : [redacted]
Amount Requested : $23,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 13 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $23,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

In December 2009, claimant graduated from culinary arts school and started working for [redacted] After working for nearly four and a half months, Claimant was let go because business slowed down at [redacted] Claimant alleges that the Deepwater Horizon incident caused him to lose his job and is the reason for his inability to find work in the catering industry.

Claimant seeks lost earnings from being unemployed.

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 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. § 136.103(a) Except as provided in paragraph (b) of this section, all claims for removal costs or damages must be presented first to the responsible party.

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 undertake, 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 support his claim, claimant presented the following documentation:

- Optional OSLTF Claim Form;
- Letter dated 02 December 2010 written by [redacted] on behalf of Claimant;
- Letter dated 13 December 2010 to GCCF from Claimant;
- Latter dated 13 December 2010 from Claimant explaining his reason for not filing taxes in 2008 & 2009;
- Photocopy of Claimant's driver's license and social security card; and
- Copies of pay stubs, including pay periods—

1. 14-28 December 2009;
2. 29 December 2009 through 11 January 2010;
3. 12-25 January 2010;
4. 26 January through 08 February 2010;
5. 09-22 February 2010;
6. 23 February through 08 March 2010;

7. 09-22 March 2010; and
8. 23 March through 05 April 2010.

Claimant seeks lost earnings from being unemployed.

On his OSLTF claim form, Claimant reports that he submitted an Emergency Advance Payment (EAP) to the GCCF on 13 October 2010 and that his claim was denied. The NPFC requested that the Claimant provide proof of presentment to the RP in an NPFC request for additional information sent by certified letter on 05 January 2010. The NPFC specifically requested a copy of the Claimant's GCCF denial letter as part of that request.

Claimant provided GCCF Claim [redacted] along with his documentation. This GCCF Claim # was forwarded to the GCCF to verify presentment but did not match either his GCCF Claimant ID # or Claim # on record with the GCCF. The GCCF provided Claimant ID # [redacted] and GCCF EAP Claim [redacted] Unlike the claim Claimant submitted to the NPFC, the information provided by the GCCF indicates that the EAP Claimant submitted to the GCCF was a subsistence claim in the amount of $975.00.

NPFC Determination

This claim is denied. 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.

The claim is denied because the Claimant has not submitted proof of presentment of his lost profits and earnings claim to the RP. On 05 January 2010, the NPFC sent claimant a letter seeking clarification and additional documentation to assist in processing his claim. This letter was received at claimant's address on record, but to date, there has been no response. NPPFC consequently proceeded on the evidence claimant had already submitted.

Further, even if the Claimant did submit his lost profits and earnings claim to the RP, the evidence provided by Claimant does not establish that he lost his job as a result of the Deepwater Horizon incident. Accordingly, his claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Supervisor's Actions: Denial Approved

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0266
28 February 2011

Re: Claim Number: N10036-0266

Dear [redacted]

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 CFR Part 136, denies payment on the claim number N10036-0266 the involving the Deepwater Horizon oil spill. Please see the attached Claim Summary/Determination Form for the rationale regarding this denial.

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 N10036-0266.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00001041

CLAIM SUMMARY / DETERMINATION FORM

Date	: 23 February 2011
Claim Number	: N10036-0266
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $12,000.00

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 14 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $12,000.00 in lost earnings allegedly as a result of the Deepwater Horizon oil-spill.

Claimant worked as a boat captain fo[redacted]n the Louisiana coast. Claimant asserted that as a result of the Deepwater Horizon oil-spill, he was laid off from his position at [redacted] and has not had work since 23 April 2010.[1]

APPLICABLE LAW:

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 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

[1] OSLTF claim form; Claimant letter to the NPFC explaining loss, undated.

09/13/11 FOIA2011-3380-00001042

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 undertake, 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 support his claim, Claimant submitted the following documentation to the NPFC:

1. OSLTF Claim Form dated 13 December 2010;
2. Claimant letter to the NPFC explaining loss, undated;
3. U.S. Merchant Mariner Credential for Claimant;
4. Letter from [redacted] confirming Claimant's prior employment and detailing sea service time, no date.
5. Earnings statements from [redacted] dates are illegible on copies;
6. U.S. Individual Income Tax Return, Form 1040, 2009;
7. U.S. Individual Income Tax Return, Form 1040EZ, 2008; and
8. Additional information sent by Claimant and received at the NPFC on 27 January 2011.

Claimant seeks $12,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 19 November 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $8,000.00 with the GCCF. He was assigned Claimant ID [redacted] and Claim [redacted] This claim was denied.

NPFC Determination

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

On 18 February 2011, the NPFC contacted the Claimant's former employer, [redacted] and spoke with [redacted] Operations Manager for the company. [redacted] explained that a number of reasons, other than the actual Deepwater Horizon oil-spill, led to the reduction

in force and lay-offs at [redacted] which affected the Claimant. He clarified that newly instituted regulations regarding deepwater and shallow water drilling, the federally mandated moratorium on drilling and subsequent permitting process delays had impacted his business. The company representative further indicated that general uncertainty in the industry has continued to date and that he can only employ personnel when a contract becomes available, which has been limited. He further indicated that this is the first time he has had all of his vessels "tied up" at one time with no work available and that he knows there is plenty of work that is only being impeded solely due to the aforementioned issues.[2]

In light of the foregoing representations as well as the Claimant's submitted documentation, this claim is denied because the alleged loss in the amount of $12,000.00 is 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.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***2/27/11***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[2] Conversation between [redacted] Operations Manager [redacted] and the NPFC on 18 February 2011.

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)
[redacted]

5890
1/11/2011

BY E-MAIL AND MAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0267

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0267 involving Deepwater Horizon. Please see the attached Claim Summary/Determination Form for the rationale regarding this denial.

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 N10036-0267.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	:	January 7, 2011
Claim Number	:	N10036-0267
Claimant	:	[redacted]
Type of Claimant	:	
Type of Claim	:	
Claim Manager	:	
Amount Requested	:	$6,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 7, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $6,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant has only provided an Oil Spill Liability Trust Fund (OSLTF) claim form, 2009 W-2, a list of pay stubs demonstrating employment from January 20, 2010 through July 7, 2010. The Claimant's submission fails to demonstrate the losses were a direct result of the Deepwater Horizon oil spill.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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

NPFC Determination

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.

Earning statements provided by the Claimant indicate that the Claimant's work hours were already declining prior to the Deepwater Horizon incident. The claim is denied because the Claimant has failed to demonstrate the alleged loss of profits and earnings was a result of the Deepwater Horizon oil spill.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/11/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

DWHZ/5890
02 May 2011

[redacted]

RE: Claim Number: N10036-0268

Dear [redacted]:

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 N10036-0268 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0268.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: (1) Claim Summary/Determination Form
(2) List of Documentation Provided by Claimant, N10036-0268

CLAIM SUMMARY/DETERMINATION FORM

Date	28 April 2011
Claim Number	N10036-0268
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$13,447.00

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 7 December 2010, [redacted] (Claimant) presented a loss of profits and impairment of earnings capacity claim to the National Pollution Funds Center (NPFC) in the amount of $13,447.00 for damages resulting from the Deepwater Horizon oil spill.[1]

Claimant indicated that he was unemployed from January through May 2010, a period during which he stated that he worked odd jobs, averaging $100.00 to $200.00 in undocumented pay.[2] Claimant then reportedly reached an agreement with [redacted] to "detail [redacted] boats and maintain its dock area at a rate of $15.75/hr from May 15, 2010 until September 11, 2010 at 12 hours a day six days a week. . . ."[3] Claimant alleged that as a result of the Deepwater Horizon oil spill [redacted] business was impacted, resulting in "a lot of documented cancellations"[4] and a reduction in hours and income for the Claimant.[5]

Claimant estimates his lost income at $13,447.00, representing his earnings during a "normal season" less his actual earnings during 2010.[6]

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.

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[1] Optional OSLTF Claim Form dated 7 December 2010, received at NPFC on 14 December 2010.
[2] Handwritten "to whom it may concern" letter undated.
[3] Letter from [redacted] regarding Claimant's employment, dated 30 November 2010.
[4] Claimant typewritten letter "to whom it may concern," dated 06 December 2010.
[5] OSLTF claim form.
[6] Claimant typewritten letter "to whom it may concern," dated 06 December 2010.

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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 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 undertake, 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

To support his claim, the Claimant submitted the documentation listed in Enclosure two (2).

On 22 October 2010, Claimant presented a six-month Emergency Advance Payment (EAP) claim for $4,879.00 in lost wages/earnings to the GCCF. He was assigned GCCF Claimant ID [redacted] and Claim [redacted] On 15 November 2010, the EAP claim was denied by the GCCF.[7]

On 14 December 2010, Claimant presented this claim for $13,447.00 in loss of profits and impairment of earnings capacity resulting from the Deepwater Horizon oil spill.

On 06 January 2011, while this claim was pending before the NPFC, the Claimant presented a Final Payment claim for $13,447.00 in lost wages/earnings to the GCCF. The Final Payment claim remains pending.

Although there was improper presentment for this claim before the NPFC under 33 C.F.R. § 136.103(a), which states that "all claims for removal costs or damages must be presented first to the responsible party," this defect was cured on 06 April 2011 after 90 days elapsed since the Claimant presented his Final Payment claim to the RP without settlement by payment. 33 C.F.R. § 136.103(c)(2).

NPFC Determination

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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant and conducted an independent investigation of the claim.

[7] GCCF denial letter Re: Claimant's EAP claim, dated 15 November 2010.

This claim is denied because the Claimant's evidence fails to establish his alleged loss of $13,447.00 in earnings, or the correlation, if any, between this alleged loss and the Deepwater Horizon oil spill.

Claimant calculated his alleged loss by subtracting $5,831.00, which he stated he earned from [redacted] during the season, from what he would have earned during a "normal" 17 week season of 72 hours at $15.75 an hour.[8] Claimant provided a letter from [redacted] confirming that the company had agreed to employ the Claimant during the 17 week season at $15.75 an hour for 72 hours a week. Claimant admits, however, that there was no written work agreement, memorializing the arrangement.[9]

Pursuant to 33 C.F.R. § 136.233, a loss of profits and impairment of earnings capacity Claimant must establish, among other things, the amount of his 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. Claimant admittedly cannot provide financial documentation of his earnings from comparable periods.[10] He therefore fails to establish his alleged loss as required by 33 C.F.R. § 136.233(c).

Claimant also fails to demonstrate that his alleged loss is 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. Although Claimant alleged that [redacted] suffered cancellations as a result of the Deepwater Horizon oil spill, Claimant cannot provide evidence of these alleged oil-spill related cancellations. Thus there is no evidence linking the Claimant's allegedly reduced income with the Deepwater Horizon oil spill.

Because the Claimant failed to establish his alleged loss of $13,447.00 in earnings, or the correlation, if any, between this alleged loss and the Deepwater Horizon oil spill, this claim is DENIED.

Claim Supervisor [redacted]

Date of Review: ***5/1/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[8] Claimant typewritten letter "to whom it may concern," dated 06 December 2010.

[9] Claimant's handwritten response to the NPFC's request for additional information.

[10] Claimant reported no income in 2008 and 2009 because he was incarcerated. Additionally from January through 29 May 2010, Claimant worked odd jobs for undocumented pay.

Claimant provided the following documents in support of his claim:

- Claimant's Tax Form 1099 from [redacted]
- Claimant's Tax Form 1099 from [redacted]
- Three check summaries from [redacted] dated 12/10/2010, 12/21/2010 and 12/29/2010, for [redacted]
- 4 January 2011 letter 'To Whom It May Concern' letter from [redacted]
- Signed, handwritten letter dated Tuesday, 11 January 2011, authorizing GCCF to release all information and access all files the GCCF has on my [Claimant's] Emergency Advance Payment claim and Final Payment claim with unsigned, handwritten letter the same date 'To Whom It May Concern' Re: Claim Number N-10036-0268.
- Google Analysis of Web Traffic fo[redacted] from 23 May 2010 to 24 July 2010.
- Copy of Claimant's Social Security card and Florida Driver License.
- Claimant letter of Monday, 6 December 2010 To whom it may concern.
- 30 November 2010 letter from [redacted], owner of [redacted]
- 18 January 2010 letter To Whom it May Concern, from Florida Department of Corrections regarding Claimant.
- IRS Wage and Income Transcript for [redacted] tax period 2006.
- IRS Wage and Income Transcript for [redacted] tax period 2007.
- Claimant's handwritten letter of 7 December, 'To Whom It May Concern" regarding 2010 employment.
- Claimant's handwritten letter of 7 December, 'To Whom It May Concern" regarding actions to avoid or minimize damages.
- Undated letter from [redacted] of the [redacted] 'To Whom It May Concern" regarding impact of oil spill on his business.
- Letter dated 2 December 2010 from [redacted], charter boat captain, concerning fewer charters and loss in wages due to the Deepwater Horizon oil spill.
- Daily News article 'Feds: Spill claims process needs transparency' dated 21 November 2010.
- [redacted] article '[redacted] by [redacted] 5 June 2010.
- Copies of checks from [redacted] to [redacted]
  - 6/5/10 for: Contract Work $310.00
  - 6/10/10 for: Contract Labor $570.00
  - 6/17/10 for: Contract $330.00
  - 6/21/10 for: Contract $330.00
  - 6/27/10 for: Contract Work $380.00
  - 7/1/10 for: Contract Work $200.00
  - 7/3/10 for: Contract Work $180.00
  - 7/10/10 for: Contract Work $630.00
  - 7/17/10 for: Contract Labor $615.00
  - 7/21/10 for: Contract Labor $460.00
  - 7/31/10 for: Contract Work $400.00

- 8/7/10 for: Contract Work $545.00
- 8/14/10 for: Contract Labor $410.00
- 8/21/10 for: Contract Work $280.50
- 8/7/10 for: Contract Work $280.00
- 8/28/10 for: Contract Work $115.00
- 9/25/10 for: Contract Work $400.00
- 10/11/10 for: Contract Work $290.50

- GCCF Claim Form Instructions.
- Claimant's Emergency Advance Payment claim form to GCCF, in the amount of $4,879.00.
- GCCF letter of 15 November 2010 denying Claimant's EAP claim.
- Claimant's Final claim form to GCCF, in the amount of $13,447.00 and dated 4 January 2011.
- Claimant's Final claim form to GCCF, in the amount of $13,447.00, dated 7 December 2010 and stamped by the Garden City Group on 7 December 2010.
- GCCF Claim Packet, Final Payment Request shipping label, dated 12-08-2010.
- Undated GCCF letter to Claimant on Supporting Documentation.
- Claimant handwritten letter dated 22 October 2010.
- Excerpt from [redacted] office calendar showing reservations and cancellations information.
- Claimant's handwritten response to the NPFC's request for additional information.

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
[redacted]1000
[redacted]0
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0269
09 March 2011

[redacted]

Re: Claim Number: N10036-0269

Dear [redacted]:

The National Pollution Funds Center, 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 N10036-0269 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0269.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosures (1): Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 01 March 2011
Claim Number	: N10036-0269
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $86,778.41

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 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $86,778.41 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

On 01 January 2010, the Claimant was hired by the [redacted], as a Business Development Manager. The Claimant was tasked with developing a commercial diving unit for [redacted] Roughly six months into this endeavor, [redacted] disbanded the commercial diving unit and terminated the Claimant's employment on 04 June 2010. The Claimant alleged that this termination resulted from the impact of the Deepwater Horizon oil-spill on his employer's operations.[1]

The Claimant's asserted lost earnings encompass the loss of $74,500 in monthly salary between 15 June and 14 December 2010, plus the loss of $12,028 in monthly benefits over that same period.[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. §

[1] OSLTF claim form.

[2] Claimant's Tabulation of Earnings/Benefits accompanying OSLTF Claim Form (Claimant earned $11,500 in monthly wages, plus $1,087.62 monthly in health insurance benefits plus a $1,000 monthly auto allowance).

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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 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

In support of his claim, Claimant presented the following documentation to the NPFC:

- OSLTF claim form, signed by Claimant and dated 14 December 2010;
- GCCF denial letter, denying Claimant's Emergency Advance Payment claim, dated 01 December 2010;
- Calculation of Claimant's lost earnings and benefits;
- Email from [redacted] Claimant's co-worker at [redacted], describing the nature of their employment and eventual termination, dated 14 December 2010;
- Earnings statements from [redacted] for the periods ending 15 January 2010 through 04 June 2010;
- Letter from Vice President and General Manager of [redacted] Group, describing the nature of Claimant's employment with [redacted], undated;
- State of Texas regular unemployment benefits schedule;
- Claimant's resume;

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- [redacted] listing jobs due out and jobs postponed, dated 05 May 2010;
- Subsea charts showing scheduled work sites for 2010;
- Letter from Claimant to NPFC in response to request for additional information, dated 27 January 2011; and
- Monthly account statements from [redacted] covering 2008-2010.

On 05 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $75,000.00 with the GCCF. He was assigned Claimant ID [redacted] and Claim [redacted]. On 01 December 2010, his claim was denied by the GCCF.[3]

NPFC Determination

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

The claim is denied because the Claimant's alleged loss in the amount of $86,778.41 is 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.

Claimant alleged that the termination of his employment with [redacted] resulted from the Deepwater Horizon oil-spill. The Claimant explains that "[t]here was substantial concern that the presence of oil from the spill would hinder normal transportation and movement of vessels from Fourchon, LA to our work locations mostly west and south of this home port." However, based on the Claimant's documentation and NPFC correspondence from [redacted], the employer stated that there is no indication that the Deepwater Horizon oil-spill precluded the Claimant's diving unit from transiting to work sites or undertaking previously scheduled work. To the contrary, the Claimant's former supervisor at [redacted] indicated that [redacted] decision to terminate the burgeoning dive services group (and by extension, Claimant's employment) was a conscious business decision aimed at cutting costs, which was in turn precipitated by general industry uncertainty.[4]

Based on the foregoing, the claim is denied because the Claimant has failed to demonstrate a loss of profits and earnings 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.

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[3] GCCF denial letter dated 01 December 2010.

[4] Letter from Vice President and General Manager of [redacted] undated ("Less than six months after initiating this business plan in January of 2010[,]market conditions, the BP oil spill[,] and other factors . . . caused upper management to reconsider[,] and the unit [Claimant] was brought aboard to help build was disbanded."); Email from Vice President and General Manager of [redacted] to NPFC, dated 10 February 2010 ("[D]ifficulties in obtaining permits from the MMS/BOEM to do the work in those other areas resulted in the work being postponed beyond 2010 and certainly contributed to our decision to discontinue our efforts to develop a diving business in my group a Superior").

09/13/11 FOIA2011-3380-00001057

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***3/9/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937
5890
3/4/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

[redacted]

RE: Claim Number: N10036-0270

Dear Mr. Le:

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 N10036-0270 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0270.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

[redacted]
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	February 28, 2011
Claim Number	N10036-0270
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$7,000,000.00

FACTS

On or about April 20, 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 August 23, 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 December 14, 2010, [redacted] Claimant) contacted the National Pollution Funds Center (NPFC) to present a claim for lost profits and earnings capacity in the amount of $7,000,000.00. The Claimant asserted that [redacted] is a wholesaler of assorted species of tuna, including, but not limited to, yellowfin, albacore, and big eye, as well as other species consisting of wahoo, escalor, and mahi-mahi. The Claimant alleged that the Gulf fishermen whom he purchases this product from were unable to fish due to the Deepwater Horizon incident. [redacted] has two divisions; one as a Seafood Wholesaler and another as a Marine Supply Retailer. The Claimant stated that "although since the oil spill our seafood wholesaler has not made any income, we have been able to equip supplies for few fishermen hired by BP for recovery efforts and research purposes."

Presented in the claim was a breakdown of the amount being requested by the Claimant. The Claimant is requesting $5,000,000.00 for loss of profits and earnings incurred since April 2010 and anticipated losses for the next five years in anticipation of lost fishing inventory due to the closure of fishing grounds and reductions in fish populations due to chemical cleanup. The Claimant is also requesting $2,000,000.00 for loss of profits and earnings in marine supply sales since April 2010 and anticipated losses for the next five years. Claimant further alleged that due to the closures of the fishing grounds and a reduction in fish population, many fishermen will not be able to return to work therefore reducing the demand for marine supplies.

The Claimant filed a claim with BP (claim [redacted] and was compensated a total of $145,716.00. On December 9, 2010, the Claimant was compensated $244,300.00 by the GCCF (claim [redacted]). The total combined amount compensated to the Claimant is $390,016.00.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a).

Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support the claim, the Claimant provided the following documentation:

- NPFC OSLTF Claim form, submitted Dec 7, 2010;
- Letter of explanation by claimant;
- Letter from BP dated 15 June 2010 accompanying check paid to claimant of $59,755;
- 2007, 2008 and 2009 Income Tax Returns;

- 2009 and 2010 Profit and Loss Statements for the period Jan. 1 – Dec. 5;
- Expenses by Vendor Summary for the period Jan. 1 – Dec. 5, 2010;
- Sales by Customer Summary for the periods Jan. 1 – Dec. 5, 2008, 2009 and 2010;
- Report "Invoices for All Customers" for the period Jan. 1 – Dec. 5, 2010;
- Accounts Receivable Aging Summary dated December 5, 2010;
- Louisiana Department of Wildlife and Fisheries Dealer Receipts;
- General Ledger Reports listing Monthly Sales for 2008, 2009 and 2010;
- Complete Detailed Profit and Loss Statement for 2008, 2009 and 2010 (through December 31);
- Monthly Profit and Loss Statements for 2010;
- General Ledger Detail for 2010.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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. 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. The NPFC considered all documentation presented by the Claimant.

The NPFC finds for portion of the claim from the date of the incident through the incremental periods described below, that the Claimant has been compensated a total of $390,016.00 by the responsible party. Our research, based on documents provided by the Claimant, identifies the following loss for each period described below:

May through October 2010:	$199,619.00
November 2010 through January 2011:	$84,436.00
February 2011:	$26,324 .00

Total for 12-month period (May 2010 through February 2011): $310,379.00

The loss was calculated for each period above as follows:

1. Actual monthly sales for the same period in the prior year were multiplied by a sales growth percentage of 109.28% in order to calculate the projected sales for the period of loss. The sales growth percentage was calculated using 2009 and 2010 Profit and Loss Detail as the source:

Total Sales over a 6 month period	
November 2009 - April 2010	$3,018,014
Divided by: November 2008 - April 2009	$2,761,846
= Sales growth Percentage of	109.28%

2. Actual sales in June and October 2011 totaling $25,875 are subtracted from the projected sales in order to calculate lost sales. These sales are for equipment and supplies. The Claimant did not report fish sales after April 30, 2010.

3. Cost of Goods Sold was subtracted from the Lost Sales in order to calculate the Lost Gross Profit. Cost of Goods Sold is calculated by multiplying the Lost Sales by 87%, which is the percentage shown on the claimant's 2009 Federal Income Tax Return.

4. Saved Expenses were calculated by multiplying the Lost Sales by 9% and then subtracted from Lost Gross Profit in order to calculate the total Net Lost Profit. The percentage (9%) was calculated by dividing total saved expenses of $407,288.00 calculated for the period May through December 2010 by total calculated lost sales for the same period of $5,095,109. Saved Expenses include such items as payroll, supplies, utilities, and bad debts.

The total loss recognized by the NPFC for the following time periods are as followed:

May through October 2010:	$199,619.00
November 2010 through January 2011:	$84,436.00
February 2011:	$26,324 .00

Total for 12-month period (May 2010 through February 2011): $310,379.00

Based on compensation received by the RP totaling $390,016.00, the NPFC has determined that the Claimant has been fully compensated.

The Claimant submitted the claim under the category "lost profits & earning capacity"; however, a portion of the claim is based on a prospective loss and not one that has been realized since it is based on future losses, therefore that portion of the damages claimed is not compensable under OPA.

The NPFC has determined that the Claimant's losses have (1) been paid by the RP for the eligible OPA damages proven by documentation as stated above and (2) not a valid OPA damage because the losses are prospective and have not been realized at the time the claim was presented.

Claim Supervisor: [redacted]

Date of Review: ***3/4/11***

Supervisor's Comments: ***Denial approved***

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim #N10036-0272
14 February 2011

[redacted]

RE: Claim Number: N10036-0272

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0272 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0272.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001064

CLAIM SUMMARY / DETERMINATION FORM

Date	: 14 February 2011
Claim Number	: N10036-0272
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $23,000.00

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 the 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 13 December 2010, [redacted]laimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $23,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.[1]

Claimant works as an independent taxi driver for [redacted] in New Orleans, Louisiana. Claimant alleges that the Deepwater Horizon incident caused a reduction in tourism, which, in turn, led to a decline in his income from taxiing tourists around.

Claimant seeks $23,000.00 in lost profits and earnings, which represents his lost earnings over a 7 month period from the date of the Deepwater Horizon incident.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

[1] Optional OSLTF Claim Form.

09/13/11 ENCLOSURE FOIA2011-3380-00001065

Pursuant to 33 U.S.C. § 2715(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, claimant submitted the following:

- Optional OSLTF Claim Form dated 02 December 2010;
- Letter to the NPFC requesting $23,000.00 in lost earnings dated 01 December 2010;
- Record of changes;
- Self-employment-cash for service declaration letter;
- 2009 1040 Schedule C;
- 2008 1040 Schedule C;
- GCCF Quick Pay Application;
- Checking Summary Chase Business Classic for 01-30 April 2010;
- Checking Summary Chase Business Classic for 30 October to 30 November 2010;
- Checking Summary Chase Business Classic for 01-29 January 2010;
- Checking Summary Chase Business Classic for 01-30 December 2009;
- Checking Summary Chase Checking for 06 November to 04 December 2009;
- Checking Summary Chase Checking for 06 August to 07 September 2010;
- GCCF Notice of Determination Emergency Advance Payment;
- Letter from [redacted]
- Letter from [redacted]
- Copy of Claimant's Louisiana Chauffeur's license and City of New Orleans Safety and Permits (cab license); and
- Answer to questions 1-4.

Claimant seeks $23,000.00 in lost earnings as a result of the Deepwater Horizon incident's impact on his tourist clientele over a 7 month period from 20 April 2010.

On 10 October 2010, claimant filed a claim for Emergency Advance Payment (EAP) for lost profits and earnings in the amount of $12,000.00 with GCCF. GCCF assigned him Claimant ID [redacted] and Claim [redacted] to this claim. GCCF paid $7,100.00 on this EAP claim.

On 13 December 2010, Claimant presented an Optional OSLTF Claim Form to the NPFC seeking $23,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

While this claim was pending at the NPFC, Claimant filed for a Quick Pay Final Payment with GCCF on 26 December 2010. The NPFC verified with the GCCF that the Claimant was paid $25,000.00 as a final payment.

NPFC Determination

This claim is denied. The claim submitted for payment from OSLTF in December of 2010 was for $23,000. Prior to submitting this claim, the claimant had received a $7100 emergency payment from the GCCF. In February 2011 claimant received a quick pay payment, again from the GCCF for $25,000 for the same losses. Claimant has been compensated for the losses claimed.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/16/11

Supervisor's Action: Denial affirmed

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937
5890
2/3/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0273

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0273 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

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 N10036-0273.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: February 3, 2011
Claim Number	: N10036-0273
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $24,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 16, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $24,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that he lost wages from his start up business as an oysterman on his vessel, [redacted], in Biloxi, Mississippi as a result of the Deepwater Horizon incident.

The Claimant filed a claim with the GCCF and was given claim [redacted] The Claimant stated that he was compensated by the GCCF but did not give a dollar amount or the date the transaction occurred. The Claimant also stated he participated in the Vessel of Opportunity (VOO) program and was compensated for work done but did not state the amount.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, the Claimant submitted the following documentation:

1. NPFC OSLTF Claim Form dated December 8, 2010.
2. Letter from Claimant to NPFC dated December 8, 2010 explaining claim.
3. Copy of Mississippi State Driver's license.
4. Vessel registration documentation for [redacted]
5. Bill of Sale dated February 2, 2010 fo[redacted]
6. Licensing for oyster dredging and catching shrimp valid through 30 May 2010.
7. Checks from [redacted] dated March 17, 2010, April 2, 2010, April 16, 2010, April 23, 2010 and April 30, 2010.

NPFC Determination

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.

Based on the documents provided by the Claimant, he indicated that his earnings were reduced as a result of the Deepwater Horizon Incident. On December 27, 2010, the NPFC sent via certified mailed a request for additional information to the Claimant in order to obtain the necessary information to be able to adjudicate the claim. The documentation requested consisted of the following:

1. Income Tax Return Filings for 2008 and 2009 including all attachments, Schedule C's, W-2's and form 1099's.
    a. If relevant income and expenses are recorded through a corporation, provide Corporate Tax Return Filings for 2008 and 2009.
2. Based on your 2009 licensing, it appears you were captain of the [redacted] during 2009, prior to your purchase of the vessel. Provide copies of all earnings statements received from your fishing activity during 2009.
3. In relation to your fishing activity from 2009 and 2010, provide the following:
    a. Settlement Sheets providing a detailed breakdown of owner's share of proceeds, compensation to boat captain, payments to deckhands and payment of expenses.
    b. Trip Ticket Landing Data from State Authority to listing all trip tickets from 2009 through the present period.
    c. If the above is not available, provide the actual Trip Tickets/ Catch Records/ Dealer Receipt Forms for the same period.
4. If operating a wholesale business, provide a detailed sales ledger for 2009 and 2010, including settlement sheets and checks.
5. Provide copies of all payments received for VOO participation.

The NPFC also requested the Claimant answer the following questions:

1. How was your business/ fishing activity impacted by the Deepwater Horizon incident?
2. Identify the areas where you normally fish.
    a. Include any alternative areas you have considered if your normal areas have been closed.
    b. If applicable, identify any closures that affected that your fishing operations.
3. Provide the names of all deckhands.
4. Have your deckhands filed claims with BP/ GCCF? If so, identify the status of their claims and if they have been considered for payment.
5. The copies of payments received from [redacted] are paid to [redacted]. Explain how these payments relate to you.
6. Identify the expenses that you are responsible for.
7. If your fishing activity includes a wholesale/ dealer business, identify the following:
    a. Type of products sold/ delivered
    b. Your main customers base
    c. Identify if your business activity provides distribution and delivery
    d. Identify what assets are owned to facilitate your wholesale business.
8. Describe your employment history starting from 2008 through the current period.

9. Have you been unemployed for any period of time from 2008 through the current period? If so identify the specific dates you were unemployed and describe the reason for your unemployment.
10. Describe your current employment/ work status.
11. In regards to compensation received for VOO participation, identify the periods of time worked and the compensation received.

The Claimant has not provided additional documents nor answered any of the questions to support his claim in order to demonstrate he has a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet his burden of establishing a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisc [redacted]

Date of Supervisor's review: *2/3/11*

Supervisor Action: ***Denial approved***

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
4/12/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0274

Dear [redacted]

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 N10036-0274 involving the Deepwater Horizon incident. Please see the enclosed Claim Summary/Determination Form for further explanation.

Disposition of this reconsideration constitutes final agency action.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[redacted]
Chief, Claims Adjudication Division
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 4/7/2011
Claim Number	: N10036-0274
Claimant	: [redacted]
Type of Claimant	: Corporate (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $61,000.00

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 December 13, 2010 [redacted] on behalf of [redacted] (Claimant), presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Funds Center (NPFC) seeking $61,000.00 in lost profits & earnings resulting from the Deepwater Horizon oil-spill.

Claimant operated as a food service business serving the local community and businesses.[1] Formed in 2005, Claimant's customer base included regulars who placed orders at the counter or by phone for delivery and businesses who ordered lunch to be delivered.

Claimant asserted that a loss of business occurred due to the Deepwater Horizon oil-spill. Claimant asserted that they lost business from the local businesses who had food delivered and local patrons who no longer came in. The Claimant also maintained that the increase in the cost of seafood negatively impacted the business. The Claimant further stated that their regular menus contained many choices with seafood in them, and as such, they had to continue to purchase the supplies for these menu items in case they were ordered.[2] On 17 May 2010, the Claimant closed its doors due to lack of business. Claimant hopes to re-open in the future, but is attempting to secure a contract with a local business first.

REQUEST FOR RECONSIDERATION:

On March 17, 2011, the Claimant sent a letter via regular mail requesting reconsideration of the NPFC's initial denial dated March 8, 2011. The NPFC denied the claim originally because the Claimant failed to provided sufficient evidence to prove the alleged loss of profits in the amount of $61,000.00 and the Claimant failed to demonstrate that the alleged loss was 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.

[1] Letter of Responses to Additional Information request sent by the NPFC on 06 January 2011
[2] *Id*

The basis for the Claimant's reconsideration is that [redacted] was not truthful when he told the NPFC representative that [redacted] did not rebid the contract to continue serving meals for the company. Additionally, the Claimant argues that the NPFC did not give a specific reason for the denial but that as she understands it, she was denied due to what [redacted] relayed to the NPFC.

RECONSIDERATION CLAIM ANALYSIS:

The Claimant requested reconsideration via a letter by sent regular mail dated March 17, 2011. To support her request for reconsideration, the Claimant provided a copy of a letter from the Better Business Bureau dated December 16, 2009 regarding a complaint made by a customer against [redacted] a copy of a letter dated November 30, 2006 from [redacted] offering [redacted] the opportunity to sell meals at their facility from January 8, 2007 through January 21, 2007, a copy of one page of the Claimant's 2010 Form 1065 U.S. Return of Partnership Income, and a copy of an email dated February 18, 2010 from [redacted] Contract Administrator for [redacted] to Personnel within the company. [3]

NPFC Determination on Reconsideration

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the injury, 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. 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. The NPFC considered all of the documentation presented by the Claimant.

On reconsideration, the Claimant provided some new but limited information however, none of the information provided was associated with the required comparable financial data as previously requested by the NPFC (i.e., Profit and Loss statements, accounting of how she arrived at her amount requested and what saved expenses she had during the period being claimed).

Again, the burden is on the Claimant in accordance with 33 C.F.R. § 136.235 (a-d), to provide the necessary financial information including a calculation of saved expenses in support of any loss claimed. In the initial claim submission the Claimant asserted that she cannot afford to pay for the Profit and Loss statements in support of her claim as her accountant has advised her that it would be approximately $1,250.00 for each year needed. On reconsideration, the Claimant again stated that she would be willing to sign a release form if the Coast Guard wanted to pay to get the needed financial data from her accountant.

Lastly, the Claimant argues on reconsideration tha[redacted]ied about her not rebidding her contract although the Claimant has failed to provide information to the contrary.

The NPFC again denies the claim because (1) the Claimant has not provided comparable business financial information as required by regulation that demonstrates a loss of profits in the amount requested and (2) the Claimant has failed to demonstrate that had she proven a loss of profits and earnings in the amount requested, that the loss was due to the injury, destruction or

[3] This email references another email dated February 10, 2010 that was not provided therefore the full context of the email trail is unknown

loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil.

Determined amount: $0 ***Denied Amount: $61,000.00***

Claim Supervisor: [redacted]

Date of Supervisor's review: ***4/12/11***

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

U.S. Department
of Homeland
Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
[redacted]
Fax: 202-493-6937

BY MAIL AND EMAIL
[redacted]

5890/DWHZ
Claim # N10036-0275
18 January 2011

Re: Claim Number: N10036-0275

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary 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 N10036-0275.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Attachment: (l) Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	January 18, 2011
Claim Number	N10036-0275
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$6,608.00

FACTS

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 10, 2010 [redacted] (Claimant), presented an Optional Oil Spill Liability Trust Fund (OSLTF) claim form for lost profits & earnings in the amount of $6,808.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant is asserting that her earnings potential decreased while employed at a hospital, due to the Deepwater Horizon incident.

At the time of the Deepwater Horizon incident, the Claimant was a "per-diem" employee of the [redacted] Mobile, Alabama. The Claimant was neither a full-time employee nor a part-time employee, but an employee described as part of a "regional float pool" that was intended to fill in for nurses who took vacations or time off from work.[1] The Claimant described her title as a "Registered Nursing Student" at the time of the Deepwater Horizon incident and is currently considered a "Registered Nursing Graduate".[2] The Claimant stated that she was in college and expected to graduate in December 2010, presumably to continue working in the hospital. The Claimant is not a registered nurse ("RN"). The Claimant asserts that regular nurses in the hospital cancelled their vacations due to the Deepwater Horizon incident, which decreased her opportunity to work. The Claimant believes that the regular nurses canceled their vacations due to the "inability to stay in their Condo on the Gulf Coast beach fronts". The Claimant is making a claim for lost profits and earning capacity due to her inability to receive hours from her employer.

The Claimant indicates that she filed an initial claim with GCCF on October 22, 2010. The Claimant did not provide correspondence or documentation pertaining to her claim with the GCCF, but stated that her claim was subsequently denied.

[1] See, Letter from [redacted], regional staffing manager for the [redacted].
[2] See, Letter from Claimant faxed to the NPFC on 05 January 2011.

09/13/11 FOIA2011-3380-00001078

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form on December 10, 2010
- Letter explaining her employment and claim
- Letter from her employer
- 2010 earnings statements
- 2008 and 2009 tax returns

NPFC Determination

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.

Based on the documentation provided by Claimant, it demonstrates that she did not experience a loss resulting from the Deepwater Horizon incident. Due to the nature of the Claimant's employment, she is not guaranteed to work a certain number of hours and is called in to work only on an as-needed basis. In this instance, the Claimant assumes the reason that she did not receive work hours is solely from nurses cancelling their vacations to the Gulf area. The Claimant has not provided evidence to show that work hours were not available to her as a direct result of the Deepwater Horizon incident and the nurses' decisions to change their vacation plans.

The Claimant also has not provided any evidence to suggest a reduction in her work hours or earnings. The Claimant submitted limited payroll history from her employer, of which includes an earnings statement for the period worked from April 4, 2010 through April 17, 2010. The earnings statement for this period indicates that for 2010, the Claimant had not worked prior to April 4, 2010. The basis for Ms. Smiley's claim is predicated on the hours worked during a single pay period. Due to the limited pay history available, there is insufficient evidence to suggest that the Claimant would have worked a certain amount of hours preceding the Deepwater Horizon incident.

The claim is denied because the Claimant has not provided evidence that her claimed losses in the amount of $6,608.00 were directly related to the Deepwater Horizon incident.

Claim Supervisor [redacted]

Date of Review: *1/18/11*

Supervisor's Comments: ***Denial approved***

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
[redacted]
Fax: 202-493-6937
5890
Claim # N10036-0276
18 January 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0276

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on the claim number N10036-0276 involving the Deepwater Horizon Incident. Please see the enclosed 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 N10036-0276.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Adjuster

Enclosure: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001081

CLAIM SUMMARY / DETERMINATION FORM

Date	: 18 January 2011
Claim Number	: N10036-0276
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $10,500.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [redacted] Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $10,500.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.[1]

On 14 December 2009, the Claimant was hired to mow lawns at [redacted] worked this job until he was laid off on 30 April 2010 "because [as he states] the lawn business slowed up due to the oil spill." The Claimant started working for BP in April 2010 as a responder. He "worked two and a half months before getting laid off" from the response effort. He has been unable to find a job. The Claimant is claiming the lost profits and earnings that he would have made had he remained employed. [2]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 USC § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the

[1] The Claimant's OSLTF submission dated 03 December 2010.
[2] The Claimant's handwritten letter addressed "[t]o whom it may concern" and dated 06 October 2010.

09/13/11 FOIA2011-3380-00001082

responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to 33 U.S.C. § 2715(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, [redacted] submitted the following:

1. The NPFC OSLTF Claim Form dated December 03, 2010;
2. Email from the Claimant to [redacted] of 12/12/2010 requesting that his sum certain be changed from $7,500 to $10,500;
3. A GCCF information page with [redacted] new address scrawled on it;
4. A handwritten letter addressed "[t]o whom it may concern" and darted October 06, 2010;
5. Two (2) copies of a handwritten letter addressed "[t]o whom it may concern" and dated October 09, 2010;
6. A handwritten letter "[t]o whom it may concern" and dated November 09, 2010;
7. A copy of receipt from [redacted] for $550.80;
8. Four (4) pay stubs for checks #424175, 425055, 100338, (last check number unreadable);
9. Pay check summary from [redacted] with pay end dates of 28 December 28 2009; 11 January 2010; 25 January 2010; 08 February 2010; 22 February 2010; and 08 March 2010;
10. Copy of Claimant's Certificate of Training for Hazmat Technician Course; APEC ID; TWIC card; [redacted] card; [redacted] card; Alabama Driver's license; and [redacted] card.

On 09 October 2010, The Claimant filed an Emergency Payment Request through GCCF for a $12,000.00 lost wages and earnings claim. On 16 October 2010 the GCCF paid Claimant $10,300.00 on his claim.

On 03 December 2010, the Claimant presented an OSLTF claim form for lost profits and earning capacity in the amount of $7,500.00. By email dated 12 December 2010 to the NPFC, the Claimant adjusted his claimed amount to $10,500.00.[3]

On 06 January 2010, the Claimant confirmed his receipt of $10,300.00 from GCCF on 16 October 2010 and that he had filed for a Quick Payment (final claim) through GCCF on 21 December 2010. GCCF approved the Claimant for Quick Payment and paid him $5,000.00 on 24 December 2010. Total compensation received from GCCF is $15,300.00. In the same conversation, the Claimant requested that NPFC process his claim in the amount of $10,500.00 in lost profits and earnings.[4]

[3] The Claimant's NPFC OSLTF claim form dated 03 December 2010.
[4] Phone conversation between the Claimant and [redacted] NPFC of 06 January 2011.

NPFC Determination

This claim is denied. The OSLTF is available to pay certain uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4). Further, under 33 U.S.C. § 2751(a), any person, including the Fund, who pays compensation pursuant to OPA to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other laws.

The claim is denied because the Claimant has accepted full compensation from the responsible party under the Quick Payment Final Claim process. By doing so, Claimant signed a release and covenant not to sue and has, therefore, waived his rights to seek compensation from the OSLTF.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 18 Jan 2011

Supervisor's Action: DENIAL APPROVED

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0277
4 April 2011

[redacted]

RE: Claim Number: N10036-0277

Dear [redacted]

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 N10036-0277 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0277.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	30 March 2011
Claim Number	N10036-0277
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$25,000.00

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 09 December 2010, [redacted] (Claimant) presented documentation, seeking $25,000.00 in lost profits and earning capacity, to the National Pollution Funds Center (NPFC). Claimant alleged that her loss resulted from the Deepwater Horizon oil spill.

Claimant asserted that she is a massage therapist.[1] She indicated that she massages clients for medical reasons like back and upper body pain.[2] She alleged that as a result of the Deepwater Horizon oil spill, her clients have stopped seeking her massage services and she has consequently lost income.[3]

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 Section 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.

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[1] Handwritten hardship letter from Claimant dated 20 September 2010 signed by [redacted]

[2] Id.

[3] Id.

(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 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 undertake, 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

To support her claim, Claimant submitted the following documentation to the NPFC:

1) Handwritten Letter from Claimant to the NPFC claiming $25,000.00 in damages, undated;
2) Signed permission for the NPFC to receive documentation from the GCCF dated 06 December 2010;
3) Letter from [redacted] undated;
4) GCCF original claim form;
5) Handwritten hardship letter from Claimant, dated 20 September 2010, signed by [redacted]
6) Copy of Florida drivers license for [redacted]
7) Letter from [redacted] for [redacted], dated 22 September 2010;
8) 2009 form 1099-MISC from [redacted] for [redacted]
9) 2008 form 1040 U.S. Individual Income Tax Return for [redacted]
10) 2007 form 1040 U.S. Individual Income Tax Return for [redacted];
11) Handwritten letter from Claimant to the GCCF addressing her income proof for 2010, the letter from [redacted] and her notice of eviction, undated; and
12) Change of address request to [redacted], dated 02 November 2010.

Claimant seeks $25,000.00 in earnings allegedly resulting from the Deepwater Horizon oil spill.

On 26 September 2010, Claimant presented a six-month Emergency Advance Payment claim for $25,000.00 in lost earnings with the GCCF. She was issued GCCF Claimant ID # [redacted] and Claim # [redacted]. On 09 November 2010, her claim was denied by the GCCF.[4]

NPFC Determination

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 claim is denied because the alleged loss in the amount of $25,000.00 is 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.

In connection with a review of this claim, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate her claim. The letter requested, among other things, financial documentation for an accurate accounting of the Claimant's losses. It was sent on 01 March 2011. On 21 March 2011, USPS Tracking site showed the letter was unclaimed and was returned to the NPFC undeliverable.

The NPFC proceeded to evaluate the claim with the evidence the Claimant submitted. The evidence does not substantiate the Claimant's alleged loss of $25,000.00 or the correlation, if any, between the alleged loss and the Deepwater Horizon oil spill therefore the claim is denied because (1) the Claimant failed to demonstrate a loss of profits in the amount claimed and (2) the Claimant failed to show that the alleged loss was 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***4/2/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[4] GCCF denial letter Re: Claimant's Emergency Advance Payment claim, dated 09 November 2010.

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U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0278
07 March 2011

Re: Claim Number: N10036-0278

Dear [redacted]

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 your claim, Claim # N10036-0278, relating to the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0278.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Date	25 February 2011
Claim Number	N10036-0278
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity/Loss of Subsistence Use
Claim Manager	[redacted]
Amount Requested	$40,000.00

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 16 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $40,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that he works in the mortgage origination business for [redacted] in the Destin, FL area. He explained that he worked for [redacted] in 2006 and [redacted] in 2007, 2008 and 2009. He further explained that in August 2009, [redacted] went into receivership with the [redacted] and was consequently acquired by [redacted].

Claimant worked through the 2009 acquisition period without termination or interruption and continued to work for [redacted] after the acquisition in late 2009.[1]

Claimant alleged that as a result of the Deepwater Horizon oil-spill, tourism declined significantly during the peak summer months and property values dropped in his sales territory. Claimant indicated that "as a result the sales of real estate and financing opportunities were almost nonexistent."[2] Claimant estimated his total alleged loss from the oil-spill to be $40,000.00.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or

[1] As of 27 November 2010, Claimant indicates that he is still working in mortgages for [redacted]
[2] OSLTF claim form.

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exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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

To support his claim, Claimant provided the following documentation to the NPFC:

— OSLTF claim form, dated 29 November 2010;
— GCCF claim form dated 26 October 2010;
— Letter from Claimant (titled W-2 Explanation), no date;
— Letter from [redacted] representative to the GCCF, dated 15 November 2010;
— Letter from Claimant to the NPFC, dated 27 November 2010;
— W-2 Wage and Tax Statements for years 2006, 2007, 2008 and 2009;
— U.S. Federal Individual Income Tax Return, Form 1040 for years 2007, 2008 and 2009;
— Earnings Summary statements from [redacted] for the pay periods of 15 January 2010 through 15 October 2010; and
— Claimant fax to client dated 30 June 2010.

Claimant seeks $40,000.00 in lost earnings allegedly as a result of the Deepwater Horizon oil-spill.

On 26 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $40,000.00 in lost earnings with the GCCF. He was assigned Claimant ID #[redacted] and Claim #[redacted]. On 09 November 2010, this claim was denied by the GCCF.[3]

NPFC Determination

This claim is denied. Claimant alleged that he lost $40,000.00 in earnings as a result of the Deepwater Horizon oil-spill. He does not explain how he arrived at this figure; however, underlying his claim is the expectation that his [redacted] business would improve in 2010.[4]

Claimant's [redacted] earnings statements prior to the oil-spill fail to support this expectation. From 01 January 2010 through 15 April 2010, the Claimant earned regular earnings of $7,000.00, or a bi-monthly salary amount of $1,000.00 per pay period. No commissions or other income was earned during that 4.5 month pre-spill period.

For the next six months ending 15 October 2010, Claimant continued to earn his bi-monthly regular pay amount of $1,000.00 per period. Additionally, commissions totaling $1,349.00 were earned during this period. Total earnings for the 10.5 months ending 15 October 2010 were $20,349.29. This amount is greater than total earnings for all of 2009 which amounted to $20,293.65 for the year.[5]

Claimant provided documentation indicating that he lost a refinancing opportunity in 2010 as a result of the Deepwater Horizon oil-spill.[6] As further support, Claimant provided a fax he sent to a client, dated 30 June 2010, including two Closing Cost Estimates for two separate properties owned by the client. The estimates are clearly labeled "for informational purposes only. . . . not a loan approval."[7] There is no indication that these estimates would culminate into a loan approval, or that the non-culmination resulted from the Deepwater Horizon oil-spill.

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[3] The NPFC assumes this information to be accurate. Claimant has an Interim Claim under review with the GCCF.
[4] Claimant states that "[m]y business was just starting to come back when the BP oil-spill occurred and my business went to practically zero."
[5] Although Claimant advises use of his 2007 & 2008 earnings for comparison with 2010, there is no support in the evidence he provides that his earnings for 2010 would rebound to his 2007 & 2008 figures.
[6] Letter from [redacted] representative to the GCCF, dated 15 November 2010.
[7] Claimant fax to client dated 30 June 2010.

Additionally, as noted in Table 1 below, Claimant experienced an 86% decline in earnings during the four years preceding the incident. This data suggests that Claimant's business was already significantly impacted prior to the Deepwater Horizon oil-spill by other economic factors. As shown below, 2010 earnings through 15 October 2010 were already greater than the total earnings in 2009.

Year	[redacted]	[redacted]	[redacted]	Total Wages
2006	$ 144,410.52	$ -	$ -	$ 144,410.52
2007	$ -	$ 76,114.47	$ -	$ 76,114.47
2008	$ -	$ 65,412.72	$ -	$ 65,412.72
2009	$ -	$ 17,873.20	$ 2,420.45	$ 20,293.65
% Change, 2006-2009				-85.9%
1/1/2010 to 10/15/2010	$ -	$ -	$ 20,349.29	$ 20,349.29

Table 1: Wage Comparison, 2006-2010

Based on the information provided by the Claimant, the NPFC has determined the Claimant has failed to demonstrate a loss of profits and earnings 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. Additionally, the financial documentation provided by the Claimant does not support the allegation of lost income since the claimant made more in 2010 than in 2009.

Claim Supervisor: [redacted]

Date of Review: ***3/4/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890/DWHZ
N10036-0279
February 10, 2011

VIA EMAIL: [redacted]

[redacted]

Re: Claim Number: N10036-0279

Dear [redacted]

I received your email dated February 08, 2011 stating you are rescinding your claim. Your claim file has been withdrawn.

If you decide to submit a claim in the future regarding your alleged loss, all information already provided will have to be resubmitted, along with the additional information we requested.

If you have any questions about the request or would like to discuss the matter, you may write me at the above address, contact me by phone or email.

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd., Suite 1000
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0280
07 March 2011

[redacted]

Re: Claim Number: N10036-0280

Dear [redacted]

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 your claim, Claim # N10036-0280, relating to the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0280.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	10 February 2011
Claim Number	N10036-0280
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$18,000.00

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 20 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $18,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

Claimant asserted that since 2008 he has been working seasonally (from April to September) for [redacted] as a service technician "up and down the beaches of the Gulf of Mexico."[1] Claimant explained that [redacted] only worked for realty companies. He added that when work slowed down at [redacted] typically in November, he would go on unemployment until work picked up the following year.

Claimant asserted that prior to the Deepwater Horizon oil-spill, he worked part-time for [redacted] and drew unemployment while waiting to be called back to work at [redacted] Claimant alleged that as a result of the Deepwater Horizon oil-spill, he was not called back to work at [redacted]

Claimant indicated that he then went to work for himself, making significantly less than he would have with [redacted]. He further indicated that he also tried returning to [redacted] —a former employer—but was turned away. Claimant attributes his lost earnings from not being hired back at [redacted] and [redacted] s due to the Deepwater Horizon oil-spill.

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury,

[1] Claimant handwritten response to NPFC request for additional information; undated and unsigned handwritten letter To Whom It May Concern fax dated 02 February 2011.

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destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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

To support his claim, the Claimant submitted the following documentation to the NPFC:

— OSLTF claim form dated 22 Nov 2010;
— Email from claimant dated 01 Dec 2010 submitting documentation for his claim;
— Two Copies of undated letter from claimant's former employer stating he was laid off in the winter of 2009 to 2010 and was not called back due to loss of business from the Deepwater Horizon Incident;

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- Three Copies of letter dated 27 Nov 2010 from claimant to the NPFC stating he was not asked back to work due to the Deepwater Horizon Incident. Claimant started his own business in lieu of employment, but did not bring in as much money;
- Two Copies of letter dated 08 Nov 2010 from one of claimant's previous employers stating for unknown reasons, boats have not been able to locate bait fish and can therefore no longer fish. The letter states this could be attributed to the Deepwater Horizon Incident;
- Letter dated 02 Nov 2010 from GCCF notifying claimant him that his claim was denied for emergency advance payment;
- Undated and unsigned handwritten letter To Whom It May Concern fax dated 02 February 2011;
- Two Copies of Form 8879 IRS e-file Signature Authorization for tax year 2009;
- Two Copies of Form 1040 Individual Tax Return for 2009;
- Email dated 01 Dec 2010 from claimant stating he resent all attachments again in case everything did not go through;
- Form 1040 Individual Tax Return for 2008;
- 97 Photocopies of work receipts for [redacted] business. Dates range from April to August of 2010. Business listed on work receipts is not the business claimant was laid off from;
- Photocopy of claimant's drivers license;
- Photocopy of claimant's social security card;
- 2007 W-2 Form for Claimant from [redacted]
- 2008 Form 1099-Misc to the Claimant from [redacted]
- 2008 W-2 Form to the Claimant from [redacted]
- 2009 W-2 Form to the Claimant from [redacted]
- Undated handwritten letter from [redacted] on employment status 2009-2010;
- Unknown claim status pages dated 01/13/11 showing Command ==> [redacted]

Claimant seeks $18,000.00 in lost earnings resulting from his inability to return to work for Metcalf and also for being able to find employment at [redacted]. The Claimant attributes both losses to the Deepwater Horizon oil-spill.

On 07 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $18,000.00 in lost earnings with the GCCF. He was assigned Claimant ID [redacted] and Claim [redacted] On 02 November 2010, his EAP claim was denied by the GCCF.

NPFC Determination

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.

Claimant alleged that he lost $18,000.00 in earnings as a result of the Deepwater Horizon oil-spill. Claimant arrived at this figure by subtracting his 2009 pay, as a [redacted] employee, from the 2010 invoices he billed as a part-time employee of [redacted] and as a self-employed [redacted].[2]

[2] Claimant does not account for the unemployment compensation he collected in 2010 in this calculation.

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Assuming that the Claimant had suffered an economic loss as described, the evidence he provided does not indicate that the alleged loss resulted from the Deepwater Horizon oil-spill and no other factors. To tie his losses to the oil-spill, the Claimant provided a handwritten letter from [redacted] indicating that "we did not call him [Claimant] back due to loss of work because of BP oil spill."[3]

To verify the letter, the NPFC contacted [redacted] who confirmed writing the letter.[4] He explained that 95% of his business comes from the servicing of air conditioning units in vacation condos, which his clients own. He further indicated that when tourists stopped visiting the Gulf as a result of the Deepwater Horizon oil-spill, his clients lost business and did not hire [redacted]. He stated that this lack of business led to his decision not to hire the Claimant back.

Additionally, the Claimant provided a letter from [redacted] which states "[f]or unknown reasons, [redacted] boats have not been able to locate bait fish. Therefore, our boats are no longer fishing due to this, which could be attributed to the Gulf Oil Spill." The letter's tentative language implies that other factors, beyond the Deepwater Horizon oil-spill, contributed to the lack of work at [redacted]

Based on the information provided by the Claimant, the NPFC has determined that the Claimant has failed to demonstrate a loss of profits and earnings 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 therefore the claim is denied.

Claim Supervisor [redacted]

Date of Review: *3/4/11*

Supervisor's Comments: ***Denial approved***

[3] Undated handwritten letter from [redacted] on employment status 2009-2010.

[4] PHONECON between the NPFC and [redacted] on 02 March 2011.

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U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0281
14 February 2011

[redacted]

RE: Claim Number: N10036-0281

Dear [redacted],

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0281 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0281.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

09/13/11 FOIA2011-3380-00001100

CLAIM SUMMARY / DETERMINATION FORM

Date	: 14 February 2011
Claim Number	: N10036-0281
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	: $15,100

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 03 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $15,100.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant works as a crane operator, loading boats along the Gulf Coast for [redacted] He asserts that his employer reduced the number of regular and overtime hours he works as a result of the Deepwater Horizon incident and that he has experienced financial difficulties because of this reduction in work.

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,

[1] Claimant presented paystubs from [redacted] however his 2008 and 2009 Federal and state tax returns list [redacted] as his sole employer. In a letter addressed to the GCCF dated 30 October 2010, Claimant attested that the companies "are the [sic] under the same corporate umbrella."

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financial statements, and similar documents. In addition, comparative figures for 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. § 136.235, 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 support his claim, Claimant submitted the following:

— Optional OSLTF Claim Form;
— GCCF denial letter dated 29 November 2010;
— Pay stubs/earning statements from [redacted] for pay periods:
1) 01-14 December 2008
2) 14-27 December 2009
3) 16-29 November 2009
4) 06-19 September 2010
5) 22 March-04 April 2010
6) 23 February-08 March 2009
7) 17-30 May 2010
8) 23 August-05 September 2010
9) 02-15 November 2009
10) 04-17 October 2010
11) 25 January-07 February 2010
12) 20 September-03 October 2010
— Statement from Claimant that his hours had been cut;
— 2009 & 2008 1040 for Claimant with schedules and attachments;
— 2009 & 2008 W-2 for Claimant
— Letter from claimant addressed to GCCF dated 30 October 2010;
— Letter from the [redacted] and
— Letter from Claimant explaining his financial hardship.

Claimant seeks $15,100.00 in lost earnings allegedly as a result of the Deepwater Horizon incident.

On 27 October 2010, Claimant filed an Emergency Advance Payment (EAP) claim for $7,585.00 in lost earnings with GCCF. GCCF assigned him Claimant ID [redacted] and Claim [redacted] to his EAP claim. On 30 November 2010, the GCCF denied this claim. This information was verified by the NPFC.

NPFC Determination

This claim is denied. Pursuant to 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. The NPFC reviewed all of the documentation presented by the Claimant.

This claim is denied because the Claimant did not present sufficient evidence to demonstrate an economic loss. Even assuming Claimant had established such loss, he provides no evidence that supports the allegation that this loss results from the Deepwater Horizon incident.

For example, Claimant alleges that he suffered a $15,100.00 loss of earnings in 2010 as a result of the Deepwater Horizon incident. The evidence before the NPFC, however, does not support this allegation. Claimant's pay stubs and earnings statements cover the following select periods in 2008-2010:

2008	2009	2010
01-14 December	23 February-08 March	25 January-07 February
	02-15 November	22 March-04 April
	16-29 November	17-30 May
	14-27 December	23 August-05 September
		06-19 September
		20 September-03 October
		04-17 October

These pay stubs/earnings statements do not provide a complete picture of Claimant's annual earnings upon which to base a loss. Claimant does not explain how this evidence supports his allegation that he suffered a $15,100.00 loss of earnings in 2010. The NPFC cannot discern a loss of income from this evidence alone.

Claimant's 1040's do indicate an approximate 9% decrease in gross income from 2008 to 2009.[2] As of 17 October 2010—Claimant's latest earning statement—Claimant had grossed $38,235.00. By 15 November 2009—the closest comparable pay period from the prior year—Claimant had grossed $42,916.85. This comparison suggests a loss from 2009 to 2010, but without further evidence, i.e. earnings statement from November and December 2010, this loss is speculative. Further, if Claimant were to produce evidence to prove his economic loss, he would still need to demonstrate how his loss resulted from the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Supervisor's Actions: Denial approved

Supervisor's Comments:

[2] Claimant reported $51,204.00 in wages, salaries, and tips for 2008 and $47,941.00 for 2009, which represents a decrease of roughly 9%.

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0282
14 February 2011

[redacted]

Re: Claim Number: N10036-0282

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0282 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0282.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 February 2011
Claim Number	N10036-0282
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$9,786.00

FACTS

On or about 20 April 2010, the Mobile Offshore Drilling Unit Deepwater Horizon exploded and sank in the Gulf of Mexico. As a result of the explosion and sinking, oil was discharged from an offshore facility, located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party for the discharge. BP accepted the designation, advertised its OPA claims process and compensated claimants.

On 28 May 2010, The U.S. Department of the Interior (DOI) issued a six-month moratorium on deepwater drilling, citing concerns over the safety of deepwater drilling and directing lessees and operators to cease drilling all new deepwater wells and related activities effective 30 May 2010. Lessees and operators conducting current drilling operations were directed to secure the wells and to take all necessary steps to cease operations and temporarily abandon or close the wells.

On 12 July 2010, DOI issued a new decision to suspend deepwater drilling activities. Applicability of this suspension order is based on drilling configuration and technology, not depth of water. As such, it applied to both deepwater and shallow water drilling. This suspension order was lifted on 12 October 2010 for those operators who certified compliance with all existing rules and regulations, including those that recently went into effect, and demonstrated the availability of adequate blowout containment resources. DOI's verification of new permit applications and equipment testing for applicants through the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) continues. [1]

On 23 August 2010 the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP. BP subsequently established a $100 million Rig Workers Assistance Fund to help compensate rig workers impacted by the moratorium on deepwater well activities. The Assistance Fund is administered by the Gulf Coast Restoration and Protection Foundation (GCRPF).

CLAIM AND CLAIMANT

Claimant presented an Oil Spill Liability Trust Fund (OSLTF) claim form dated 17 December 2010 seeking $9,786.00 in lost earnings resulting from the Deepwater Horizon incident. Claimant is a geologist for [redacted], a mudlogging company that provides services to

[1] U.S. Department of the Interior, MINERALS MANAGEMENT SERVICE, MORATORIUM NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N04, Effective 30 May 2010. See Decision Memo dated 12 July 2010, From Secretary of the Interior To Director, Bureau of Ocean Energy Management, Regulation and Enforcement, Subject Decision Memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf. See also U.S. Department of the Interior, Minerals Management Service, NATIONAL NOTICE TO LESSEES AND OPERATORS OF FEDERAL OIL AND GAS LEASES, OUTER CONTINENTAL SHELF (OCS) NOTICE TO LESSEES AND OPERATORS, NTL No. 2010-N05, Effective 08 June 2010 (US DOI MMS MORATORIUM).

09/[redacted]
ENCLOSURE
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deepwater drilling operations. Claimant seeks reduced earnings as a result of the moratorium on offshore drilling.

At the time of the Deepwater Horizon incident, Claimant was working aboard the [redacted] leased by [redacted] in the Gulf of Mexico. Claimant states that after the announcement of the moratorium on offshore drilling, [redacted] concluded its drilling operations and sent personnel of [redacted] to shore.[2] Claimant states that his employment ceased on 15 May 2010 and he did not receive another assignment until 10 September 2010.

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 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 undertake, but reasonably available;
(d) Any saved overhead or normal expenses not incurred as a result of the incident; and

[2] Letter of explanation from Claimant dated 17 December 2010. Claimant describes his employment history and claims submission.

(e) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following:

- Optional OSLTF claim form dated 17 December 2010;
- GCCF letter to Claimant dated 23 September 2010;
- Letter of explanation from Claimant dated 17 December 2010;
- Earnings Statements from [redacted] for Claimant covering periods ending 15 May 2010, 15 June 2010, 15 January 2010, 15 February 2010, 15 March 2010, and 15 April 2010; and
- 2009 W-2 from [redacted]. for Claimant.

Claimant seeks $9,786.00 in lost earnings allegedly resulting from the Deepwater Horizon incident.

On 23 August 2010, Claimant filed a 6-month Emergency Advance Payment (EAP) claim for $23,310.00 in lost earnings with GCCF. GCCF assigned him Claimant ID [redacted] and Claim [redacted] to his EAP claim. On 23 September 2010, GCCF informed Claimant that it does not handle moratorium-related claims and referred Claimant to the Gulf Coast Restoration and Protection Foundation (GCRPF). On 23 October 2010, GCCF denied Claimant's EAP claim.

Claimant asserts that he filed his claim with GCRPF on 28 September 2010. Claimant further asserts that on 01 November 2010, GCRPF denied his claim.

NPFC Determination

This claim is denied. Under 33 C.F.R. § 136.105(a) and § 136.105(e)(6), the claimant bears the burden of proving to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

This claim is denied because the evidence does not support the allegation that Claimant's loss is due to the injury, destruction or loss of property, or natural resources as a result of a discharge or substantial threat of discharge of oil. Instead, the evidence presented by the Claimant indicates that his losses from 15 May to 10 September 2010 resulted from the six-month deepwater drilling moratorium imposed by the DOI and not the Deepwater Horizon incident.

Claim Supervisor: [redacted]

Date of Supervisor's Review: 2/15/11

Denial Affirmed

Supervisor's Actions:

Supervisor's Comments:

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
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0284
25 March 2011

[redacted]

RE: Claim Number: N10036-0284

Dear [redacted]

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 N10036-0284 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0284.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 March 2011
Claim Number	: N10036-0284
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $7,200.00

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.

PRESENTMENT TO THE RESPONSIBLE PARTY/GCCF

Claimant received an Emergency Advance Payment from the GCCF for $1,000.[1] Claimant's GCCF Claimant Identification Number is [redacted] and Payment Claim Number is [redacted]

According to the GCCF, Claimant received an additional $5,000.00 payment from the GCCF and executed a Release on 3 January 2011.[2]

CLAIM AND CLAIMANT

On 20 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC), seeking $7,200.00 in loss of profits and earning capacity allegedly resulting from the Deepwater Horizon oil spill.

Claimant's paystubs indicated he is a security officer for the New Orleans [redacted]. Claimant asserted that he experienced a loss of income due to the Deepwater Horizon oil spill.[3]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the

[1] Claimant confirmed this amount on his optional OSLTF Form, dated 11 December 2010.
[2] The NFPC confirmed with GCCF Representative via email on 23 March 2011.
[3] OSLTF claim form.

OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Payment of any claim or obligation by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant or the state to recover from the responsible party. 33 U.S.C. § 2712(f).

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation:

- Optional OSLTF claim form, dated 11 December 2010;
- 2008 and 2009 W-2's from [redacted]
- Copy of driver's license;
- Paystubs from [redacted] for 4 April 2010 through 17 April 2010, 8 August 2010 through 4 September 2010, and 19 September 2010 through 2 October 2010;
- Work schedules from the Security Department of the [redacted] for 4 April 2010 through 1 May 2010, 9 May 2010 through 29 May 2010, 13 June 2010 through 26 June 2010, 4 July 2010 through 17 July 2010, and 8 August 2010 through 21 August 2010; and
- Letter from Claimant's employer, dated 17 March 2011;

Claimant seeks a total of $7,200.00 in loss of earnings allegedly resulting from the Deepwater Horizon oil spill.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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 oil. 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. The NPFC considered all of the documentation submitted by Claimant.

Based on information presented by the Claimant and information available to the NPFC, the GCCF paid a total of $6,000.00 to the Claimant as compensation for his claim. According to information from the GCCF, Claimant executed a Release in return for payment under the GCCF's Quick Payment Process.

This claim is denied because the Claimant has fully settled his claims with BP/GCCF, and that BP and GCCF have compensated the Claimant, including a $5,000.00 Quick Payment for which GCCF reportedly required a final and full release of rights against any Responsible Party.

The Claimant has not addressed these payments or otherwise provided any information to show the Claimant has any rights to recover any of the amount claimed here from a Responsible Party.

The Fund will not pay what has already been compensated and any Fund payment is subject to acquiring all rights to recover from the Responsible Party.

If the Claimant disagrees with this determination to deny the claim based on being compensated and signing a release, he may request reconsideration. Should the Claimant decide to request reconsideration, Claimant MUST provide any and all documentation of payments received from BP or GCCF, including any related agreements or releases signed by the Claimant.

If the Claimant disagrees that any payments have been received from BP or GCCF, or that any payments received are for damages other than those included in this claim for $7,200.00 to the NPFC, the Claimant must explain the circumstances in detail and provide documentation of the same.

If the Claimant disagrees that he has signed any release associated with his claims against the Responsible Party, including any release in return for a Quick Payment, the Claimant must fully explain the circumstances in his request for reconsideration. Therefore, this claim is denied as the Claimant has been compensated.

Claim Supervisor: [redacted] for

Date of Supervisor's Review: ***3/25/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0285
28 April 2011

[redacted]

RE: Claim Number: N10036-0285

Dear [redacted]

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 N10036-0285 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0285.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure (1): Claim Summary/Determination Form
Enclosure (2): List of Documentation from Claimant

09/13/11 FOIA2011-3380-00001113

CLAIM SUMMARY / DETERMINATION FORM

Date	26 April 2011
Claim Number	N10036-0285
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$335,000.00

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 20 December 2010, [redacted] owner of [redacted] Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC). The OSLTF claim form alleged $335,000.00 in loss of profits and impairment of earnings capacity resulting from the Deepwater Horizon oil spill.

Claimant is a wholesale seafood business in Terrebonne Parish, Dulac, LA. The business supplies only blue crabs. It is located on Bayou Grand Caillou. It consists of fixed wharfs where fishermen load and unload their blue crab catch, and the crabs are packed and shipped to customers.[1] Claimant provided a print-out that listed the names and addresses of 121 fishermen who supply the Claimant with blue crabs from the waters of Terrebonne Basin.[2] The crabs are shipped to customers in Maryland, Virginia, and Alabama.

Claimant asserted that as a result of the Deepwater Horizon oil spill, governmental agencies closed the waters in Terrebonne Basin, thereby preventing the Claimant's fishermen from crabbing and supplying the Claimant with crabs.[3] Claimant alleged that as a result of the closures, she was forced to shut her business down from 05 May through 31 December 2010.[4] Claimant estimated her lost profits from this period at $335,000.00.

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 Section 2702(b) of OPA.

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[1] Claimant additional information response, Interview Questions, fax dated 19 January 2011.
[2] List of Active Fishermen provided by Claimant 19 January 2011on page 7
[3] Claimant additional information response, Interview Questions, fax dated 19 January 2011.
[4] Claimant states she is currently open for business only on Mondays, Thursdays and Fridays.

09/13/11 FOIA2011-3380-00001114

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 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 undertake, 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

To support her claim, Claimant submitted the documents listed in Enclosure (2). On 06 January and 31 January 2011, the NPFC sent the Claimant letters requesting additional information in order to further evaluate the claim. Claimant responded to these letters with documentation also listed in Enclosure (2).

On 12 May 2010, Claimant presented a claim to BP and received $15,097.50 in compensation.[5] On 07 September 2010, Claimant presented a six-month Emergency Advance Payment (EAP) claim for $335,000.00 to the GCCF. She was issued GCCF Claimant ID [redacted] and Claim # [redacted]. On 04 December 2010, this claim was denied by the GCCF.[6]

[5]GCCF determination letter Re: Claimant's Interim/Final Payment claim, 22 April 2011.
[6]GCCF Denial Notice for Emergency Advance Payment, dated 04 December 2010.

09/13/11 FOIA2011-3380-00001115

On 20 December 2010, Claimant presented this claim for $335,000.00 in loss of profits and impairment of earnings capacity resulting from the Deepwater Horizon oil spill.

On 16 January 2011, while this claim was pending, the Claimant presented an Interim Claim (Claim #[redacted]) for $315,549.00 to the GCCF. On 21 April 2011, Claimant was offered and accepted $129,145.70 in compensation from the GCCF for her Interim Claim. Claimant was also offered a Final Payment claim offer of $144,243.20.[7]

To date, Claimant has received a total of $144,243.20 in compensation from the RP/GCCF which consists of a payment of $15,097.50 and $129,145.70.

NPFC Determination

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 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.

Claimant asserted that as a result of oil-spill related closures of Terrebonne Basin, she could not receive blue crabs and was forced to shut her business down from 05 May through 31 December 2010. Claimant seeks $335,000.00 in loss of profits from this shutdown period.[8] The NPFC confirmed the partial closure of Terrebonne Basin to commercial fishing activities on 30 April 2010 by the Louisiana Department of Wildlife and Fisheries (LDWF).[9] Terrebonne Basin was re-opened on 23 September 2010.[10]

The NPFC analyzed the Claimant's documentation associated with the loss of profits claimed from the official closure of Terrebonne Basin to commercial fishing activities and determined that the Claimant has been fully compensated by the RP for the loss. As noted, to date, the Claimant has received $144,243.20 in compensation from the RP/GCCF, which exceeds the Claimant's loss, as determined by the NPFC.

This claim is denied because the NPFC has determined that the Claimant has received full compensation from the RP.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***4/28/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[7] This offer remains pending.
[8] Claimant additional information response to the NPFC, Interim Payment Calculation, fax-dated 17 January 2011.
[9] LDWF Announcement released 30 April 2010 www.wlf.lousiana.gov/news/30655
[10] LDWF Announcement released 23 September 2010 www.wlf.lousiana.gov/news/32944

09/13/11 FOIA2011-3380-00001116

Enclosure 2 List of Documentation Submitted by Claimant:

1. OSLTF claim form, dated 15 December 2010
2. Form 1120 US Corporation Income Tax Return for 2007, 2008 and 2009
3. Form 1120 US Corporation Income Tax Return for 2010 which Claimant states has not yet been filed
4. Parish of Terrebonne Sales and Use Tax Return for January through April 2010 and June through October 2010
5. Louisiana Department of Revenue Sales Tax Returns for all quarters for 2010
6. Occupational License from Terrebonne Parish for 2008, 2009 and 2010
7. Louisiana Department of Agriculture & Forestry Weighing and Measure Device Registration for 2010
8. Louisiana [redacted] License for 2009, 2010 and 2011
9. Louisiana [redacted] License for 2009, 2010 and 2011
10. Louisiana [redacted] Dealer License for 2009, 2010 and 2011
11. GCCF Denial Notice for Emergency Advance Payment dated 04 December 2010
12. Claimant letter to GCCF dated 09 December 2010 explaining her claim
13. Treasurer's Financial Reporting Sheet prepared by Claimant for January through May 2010 with trip ticket total pages
14. Treasurer's Financial Reporting Sheet prepared by Claimant for January through December 2009
15. Letters from [redacted] Express stating that have not received shipments from [redacted] after the oil spill
16. Typewritten letter from Claim to NPFC explaining claim and undated
17. Worksheet setting for monthly sales for 2008, 2009 and 2010
18. Email from [redacted], [redacted] Terrebonne Economic Development Authority dated 15 December 2010 to Terrebonne Parish [redacted]
19. Interim Payment Calculations (May- December 2010) prepared by [redacted], Disaster Claims Outreach Coordinator, Terrebonne Economic Development Authority
20. Typewritten letter by Claimant to GCCF dated 09 December 2010 explaining the claim
21. Typewritten letter to GCCF explaining interim claim submission dated 07 January 2011
22. NMFS Landings Queries Results web site print out
23. Notice from GCCF acknowledging receipt of Interim Claim dated 31 January 2011
24. Form 1099 for 2010 from ESIS for $16,600.00
25. Worksheet from Claimant setting forth on-going expenses after oil spill of $25,060.00
26. Nine Photostats of pictures of damage done by Hurricane Ike to business facilities
27. Letter to NPFC explaining damages done by Hurricane Ike dated 07 February 2011
28. Copies of invoices to customers from January through April 2010
29. Claimant additional information response, Interview Questions, fax dated 19 January 2011
30. Claimant list of 121 active fishermen
31. Trip tickets June through November 2009, November through December 2010

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0286
28 February 2011

[redacted]

RE: Claim Number: N10036-0286

Dea[redacted]

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 N10036-0286 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0286.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	22 February 2011
Claim Number	N10036-0286
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$25,000.00

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 13 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $25,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill. The Claimant worked as the lead captain on a parasail boat from March through September of 2008, 2009 and 2010. He was employed by [redacted] Claimant alleged that he lost his job as a result of the Deepwater Horizon oil-spill.[1]

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 Section 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

[1] Claimant provides a letter from his employer, [redacted] which states that he was laid off as a result of the Deepwater Horizon oil spill.

09/13/11 FOIA2011-3380-00001119

returns, financial statements, and similar documents. In addition, comparative figures for 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 undertake, 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

To support his claim, Claimant submitted the following documentation to the NPFC:

— OSLTF claim form dated 08 December 2010;
— Letter from Wahoo Watersports verifying Claimant's former employment and layoff as a result of the Deepwater Horizon oil spill;
— Copy of Claimant's U.S. Merchant Marine License; and
— Claimant's denial notice from GCCF dated 23 November 2010.

Claimant seeks $25,000.00 in lost earnings allegedly resulting from the Deepwater Horizon oil-spill.

On 11 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $20,000.00 in lost earnings with the GCCF. He was issued GCCF Claimant ID [redacted] and Claim [redacted] On 23 November 2010, his EAP claim was denied by the GCCF.

NPFC Determination

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

In connection with a review of this claim, the NPFC sent the Claimant a letter requesting additional information in order to further evaluate the claim. The letter requested, among other things, financial documentation for an accurate accounting of the Claimant's losses. It was sent on 12 January 2011. On 16 February 2011, the Claimant acknowledged receipt of the letter and indicated that he would e-mail a response the next day. To date no response has been received by the NPFC.

The NPFC accordingly proceeded to evaluate the claim with the evidence the Claimant had originally submitted. This evidence does not support the allegation that the Claimant lost $25,000.00 in earnings as a result of the Deepwater Horizon oil-spill.

The claim is denied because the alleged loss in the amount of $25,000.00 is not proven to be 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.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/27/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number [redacted]

5890/DWHZ
Claim# N10036-0287
24 February 2011

[redacted]

RE: Claim Number: N10036-0287

Dear [redacted]

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 N10036-0287 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0287.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001122

CLAIM SUMMARY / DETERMINATION FORM

Date	: 24 February 2011
Claim Number	: N10036-0287
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $6,000.00

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 December 2010 [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) alleging $6,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident.

Claimant previously worked fo[redacted] and was scheduled to begin work aboard the Deepwater Horizon. Claimant stated he was unable to begin work due to the explosion and sinking of the Deepwater Horizon, which in turn caused [redacted] to place Claimant on call and reduce his hours. Claimant's employment wit[redacted] ended on or about 29 October 2010, and he commenced employment wit[redacted] (his current employer) on 01 September 2010.

Claimant seeks $6,000.00 in lost wages.

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 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 undertake, 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 support his claim, Claimant presented the following documentation:

- Optional OSLTF Claim Form;
- GCCF Claim no [redacted] receipt acknowledgment letter dated 27 October 2010;
- 2008 IRS Form 1040A tax Return;
- Offshore worker identification and course certification cards, including—
  a. [redacted] card claimant with 23 Sep 2014 expiration date;
  b. Unknown USCG Document No [redacted] for claimant with 05/04/2011 expiration date;
  c. Louisiana Driver's License for claimant with expiration date 06-21-2011;
  d. [redacted] to Go Offshore for claimant for successfully completing the [redacted] Offshore Orientation dated 4/11/2008;
  e. [redacted] for completing Offshore Water Survival, Safe Gulf Orientation, and Serv Safe Courses between 4/9/2008 and 4/11/2008;
  f. Safe Gulf Identification No. [redacted] for claimant;
- Claimant letter to NPFC (undated); and
- Paystubs, including—
  a. [redacted] Pay Stub for claimant dated 07/23/2010
  b. [redacted] Pay Stub for claimant dated 05/21/2010
  c. [redacted] Pay Stub for claimant dated 05/14/2010
  d. [redacted] Pay Stub for claimant pay date 10/31/2010
  e. [redacted] Pay Stub for claimant pay date 10/17/2010
  f. [redacted] Pay Stub for claimant pay date 10/03/2010
  g. [redacted] Pay Stub for claimant pay date 11/21/2010
  h. [redacted] Pay Stub for claimant pay date 11/28/2010

On 27 October 2010, claimant filed a claim for Emergency Advance Payment (EAP) for lost earnings and profits in the amount of $3,800.00 with the GCCF. The GCCF assigned him Claimant ID [redacted] and Claim [redacted] to his claim. On 19 November 2010, GCCF denied the claim.

On 15 December 2010, claimant filed a claim for $6,000.00 in lost profits and earning capacity resulting from the Deepwater Horizon incident with the NPFC.

NPFC Determination

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 claim is denied because the Claimant has not proven that he suffered lost earnings caused by the destruction or loss of property or natural resources as a result of a discharge or substantial threat of a discharge of oil, as required by OPA and the accompanying regulations at C.F.R. Part 136. Before a claimant can recover lost earnings under OPA, he must establish the amount of his profits or earnings in comparable periods and during the period when the claimed loss was suffered, as established by income tax returns, financial statements, and similar documents. Claimant has not provided sufficient financial documentation to allow for an effective comparison, and those earnings statements that Claimant did provide do not demonstrate a loss. For instance, each of the three earning statements from [redacted] states Claimant's weekly gross pay was $899.25 for 86 hours worked. By way of comparison, two of the earnings statements from Claimant's current employer, [redacted] state his gross pay was $1,050 for 84 hours worked. Because the Claimant began working for [redacted] almost immediately after he left [redacted] and because of each of the earnings statements provided from [redacted] are dated after the Deepwater Horizon oil-spill, there is no indication that Claimant lost earnings after the oil-spill.

On 07 January 2011, NPFC sent a letter to the Claimant requesting additional information about the Claimant's past and current employment. That letter stipulated that if the Claimant did not provide the requested information within 14 days, his claim would be adjudicated without it. As of the date of this determination, NPFC has not received any response from the Claimant. Accordingly, the Claimant has failed to prove lost earnings as discussed above, and the claim is denied.

Claim Supervis[redacted]

Date of Supervisor's Review: *2/28/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments

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)
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

[redacted]

RE: Claim Number: N10036-0288

Dear Mr. [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0288 involving the Deepwater Horizon incident. Please see the enclosed 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 N10036-0288.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	14 February 2011
Claim Number	N10036-0288
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$30,528.00

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 13 December 2010, [redacted] (Claimant) presented an Oil Spill Liability Trust Fund (OSLTF) claim form seeking $30,528.00 in lost profits and earning capacity to the National Pollution Fund Center (NPFC) alleging damages resulting from the Deepwater Horizon incident.

Claimant's NPFC Optional OSLTF Claim Form shows only his address, name, phone number, and alleged loss of earnings. Page 2 of the Claim Form was blank except for the signature. Other than his 2008 and 2009 W-2's from [redacted] in [redacted] the Claimant has provided very little information regarding his alleged loss. He asserted that he lost wage earnings as the result of the Deepwater Horizon incident.

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 Section 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 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 undertake, 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 support his claim, Claimant presented only a NPFC Optional OSLTF Form dated 13 December 2010.

The NPFC sent a letter requesting additional information dated 12 January 2011 in order to obtain the necessary information to be able to adjudicate the claim. The letter was sent Certified Mail Return Receipt Requested to Claimant. The Return Receipt returned to the NPFC shows that the Claimant has received the letter. Claimant responded with only the 2008 W-2 and 2009 W-2 from [redacted] He did not provide any other documents requested nor did he answer the questions that were presented in the letter.

The NPFC Claims Manager telephoned the Claimant on 08 February 2011 to inquire whether additional information would be sent. The claimant stated he had sent all that he could.

Claimant is claiming lost earnings and wages in the amount of $30,528.00.

Claimant presented an Emergency Advance Payment claim to the GCCF and was issued GCCF Claimant ID # [redacted] and Claim # [redacted]. GCCF denied his Emergency Advance Payment claim. This information was verified by the NPFC.

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his loss of income was due to the 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. 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. The NPFC considered all of the documentation submitted by the Claimant.

The claim is denied because the evidence presented by the Claimant does not demonstrate that he has a loss of profits and earnings and that the loss is a direct result of the Deepwater Horizon incident. Claimant responded to the NPFC's request for additional information by sending only W-2 forms for 2008 and 2009 from [redacted] The NPFC telephoned the Claimant to inquire whether the additional information would be sent. Claimant stated he had sent all that he could send. Since the evidence presented by the Claimant does not demonstrate a loss of profits and earnings that resulted from the Deepwater Horizon incident, this claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/22/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0289
07 March 2011

[redacted]

RE: Claim Number: N10036-0289

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0289. Please see the enclosed 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 N10036-0289.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY/DETERMINATION FORM

Date	07 March 2011
Claim Number	N10036-0289
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits & Earning Capacity
Claim Manager	[redacted]
Amount Requested	$7,000.00

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 08 December 2011, [redacted] (Claimant) presented an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form to the National Pollution Fund Center (NPFC), subsequently supplemented by a handwritten letter specifying the sum certain of $7,000.00 in loss of profits and earnings. Claimant advised that she had worked as a cook at the [redacted] Claimant asserted that due to the Deepwater Horizon oil-spill she had her hours cut in half because they "lost children" and she is no longer able to pay her bills.[1]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(a) That real or personal property or natural resources have been injured, destroyed, or lost.

[1] See, undated handwritten letter from Claimant on [redacted] letterhead

(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 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 support this claim, Claimant presented the following documentation:

— Optional OSLTF Claim Form dated 02 December 2010;
— Claimant handwritten letter to provide sum certain, dated 17 December 2010;
— Correspondence letter from NPFC Staff to Claimant requesting the sum certain amount, dated 12 December 2010;
— Handwritten letter from Claimant explaining her claim situation, undated;
— Handwritten letter from Director of [redacted] undated;
— Copies of Claimant's Alabama Driver's License & Social Security card;
— Copies of various pay slips;
— Copies of partial 2008 and 2009 tax data

On 18 October 2010, Claimant filed an Emergency Advance Payment (EAP) claim with the GCCF for $5,000.00. She was assigned GCCF Claimant ID [redacted] This claim was denied.

NPFC Determination

This claim for lost profits and earnings capacity is denied. 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. § 136.233, a claimant must establish loss of profits or impairment of earning capacity. The NPFC considered all the documentation submitted by the Claimant.

The Claimant provided minimal documentation but did include data specific to her employer, [redacted]. The employer noted in a letter that "some of our staff went on to better themselves with the Bp Oil Spill therefore with much regret we had to down size in children because of staff ration Per Department of Human Resources. Our last day of care will be on November 2nd, 2010."[2] Therefore, based on the letter from the employer dated October 22, 2010 to the Parents & Human Resource Department, it is evident that the Claimant's alleged financial loss is 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 therefore this claim is denied.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***3/7/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[2] See [redacted] letter [redacted] dated 22 October 2010.

09/13/11 FOIA2011-3380-00001133

U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

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

5890
3/17/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]
Conway, AR 72032

RE: Claim Number: N10036-0290

Dear [redacted]:

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 N10036-0290 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.

If you have any questions or would like to discuss the matter, you may contact me at the above address and phone number.

Sincerely,

[redacted]
Claims Adjudication Division
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/11/2011
Claim Number	: N10036-0290
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $36,920.00

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 17 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $33,600.00 in loss of profits and earning capacity as a result of the Deepwater Horizon incident. On 29 December 2010, Claimant amended his sum certain to $36,920.00.[1]

Claimant is an engineer who was contracted out by [redacted] to work for [redacted] at the [redacted] in Baton Rouge, LA. Claimant indicated that the project he was working on was put on hold due to the Deepwater Horizon incident and that his employment was terminated because [redacted] had no other projects on which he could work.[2] Further, Claimant asserted that he has been unable to find alternate work due to the oil-spill and moratorium.

The NPFC denied the claim on February 18, 2011, on the grounds that the general counsel for [redacted] requested that the Claimant be replaced on the project with someone with a different skill set. Further, moratorium-related claims are not compensable from the OSLTF.

REQUEST FOR RECONSIDERATION:

On March 8, 2011, the Claimant sent a request for reconsideration via facsimile dated March 7, 2010 to [redacted] stating he would like the NPFC to reconsider his claim. It is important to note that the Claimant states he wants written proof of the conversation the NPFC had with [redacted], General Counsel of [redacted] on February 1, 2011 and without that, he states the NPFC denied his claim based on hearsay and the NPFC cannot deny his claim based on such. The Claimant further asserted that due to the drilling moratorium, crews were not allowed on the rigs therefore how the NPFC is in error to think the moratorium did not have a

[1] Email Correspondence from Claimant to NPFC representative on 29 December 2010.
[2] *Id*

bearing on his alleged losses. The Claimant has not provided any new information in support of his claim for reconsideration other then his arguments in support of payment of his claim.

RECONSIDERATION CLAIM ANALYSIS:

The claimant requested reconsideration via a letter dated March 7, 2011. To support his request for reconsideration, the claimant provided no new information. The Claimant was an engineer who was contracted out by [redacted] to work for [redacted] at the [redacted] in Baton Rouge, LA. The Claimant indicated that the project he was working on was put on hold due to the Deepwater Horizon incident and that his employment was terminated because [redacted] had no other projects on which he could work. The NPFC contacted the Claimant's employer, [redacted] and spoke with General Counsel, [redacted] who verbally stated to the NPFC on February 1, 2011 that [redacted] asked for the Claimant to be replaced on the project with someone with a different skill set than the Claimant's.

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. A request for reconsideration must include the factual and legal grounds for the request and providing any additional information to support the claim. The NPFC considered all the documentation submitted by the Claimant.

The NPFC again denies the claim because the alleged loss is not due to injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil and the alleged loss of employment was caused by his employer terminating his position resulting from their client's request for the Claimant to be replaced with someone with a different skill set. The Claimant's argument on reconsideration that the NPFC cannot deny his claim based on hearsay is flawed. Additionally, the Claimant did not provide any new information in support of his alleged loss only his arguments. Furthermore, the Claimant states that the moratorium is the direct result of his alleged loss. The moratorium and its regulatory implications for corporate entities and their employees is not the result of the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil but rather due to permitting requirements therefore, the Claimant's loss is not a damage that may be compensated from the OSLTF.

Therefore this claim is denied upon reconsideration.

Claim Supervisor: [redacted]

Date of Supervisor's review: *3/17/11*

Supervisor Action: ***Denial on reconsideration approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim #N10036-0290
18 February 2011

[redacted]

RE: Claim Number: N10036-0290

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on your claim, # N10036-0290. Please see the enclosed 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 N10036-0290.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 16 February 2011
Claim Number	: N10036-0290
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $36,920.00

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 17 December 2010, [redacted] Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC) seeking $33,600.00 in loss of profits and earning capacity as a result of the Deepwater Horizon incident. On 29 December 2010, Claimant amended his sum certain to $36,920.00.[1]

Claimant is an engineer who was contracted out by [redacted] to work for [redacted] at the [redacted] in Baton Rouge, LA. Claimant indicated that the project he was working on was put on hold due to the Deepwater Horizon incident and that his employment was terminated because [redacted] had no other projects on which he could work.[2] Further, Claimant asserted that he has been unable to find alternate work due to the oil-spill and moratorium.

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 Section 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:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) 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.

[1] Email Correspondence from Claimant to NPFC representative on 29 December 2010.
[2] Email Correspondence from Claimant to NPFC representative on 29 December 2010.

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3) 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 profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.

4) 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-

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission

To support his claim, Claimant submitted the following documentation:

- OSLTF claim form dated 17 December 2010;
- Letter of 27 November 2010 to GCCF Escalation Team;
- GCCF Denial of Emergency Advance Payment dated 4 November 2010;
- Letter of 05 November 2010 to [redacted];
- Letter of 12 November 2010 to GCCF Escalation Team;
- Copy of GCCF Claim Form for Final Payment dated 16 November 2010;
- Copy of Louisiana Personal Driver's License and Social Security card;
- 2009 Form W-2 from Universal Personnel;
- 2009 Form W-2 from [redacted];
- Request for Employment Verification ([redacted] Apartment Homes) dated 15 June 2010;
- Cover letter and [redacted] Resume;
- 2008 Federal Tax Form 1040, no attachments;
- Email dated 29 December 2010 between Claimant and [redacted] NPFC);
- 2009 Louisiana State Income Tax Return;

- 2009 California Non-Resident or Part-Resident Income Tax Return;
- 2009 Fed Tax Form 1040A, Schedule M included ;
- Various [redacted] paystubs from 4 July 10 through 20 August 10;
- Payroll records [redacted] from 7 June 10 through 31 August 10;

Claimant seeks a total of $36,920.00 in loss of wages allegedly resulting from the Deepwater Horizon incident.

On 14 October 2010, Claimant filed a one-month Emergency Advance Payment (EAP) claim for $3,000.00 in lost profits and earnings with the GCCF. He was assigned GCCF Claimant ID # [redacted] and Claim # [redacted] On 06 November 2010, his claim was denied by the GCCF. Claimant filed 5 additional supplemental one-month claims for $3,000.00 in loss of earnings each with the GCCF on 13 November 2010. All five of these additional claims for Emergency Advance Payment were also denied by the GCCF.[3] This information was verified by the NPFC.

NPFC Determination

Under 33 C.F.R. § 136.105(a) and §136.105(e)(6), the Claimant bears the burden of proving to the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. The Claimant asserted that his contracted project with Shell ended prematurely due to the Deepwater Horizon incident. A discussion with [redacted] General Counsel of FBD indicated otherwise. FBD informed the NPFC that [redacted] asked for the Claimant to be replaced on the project with someone with a different skill set than the Claimant's. Further, FBD stated that there was no indication that this business decision had any connection to the Deepwater Horizon incident.[4]

The claim is denied because the alleged loss in the amount of $36,920.00 is 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.[5] Additionally, a conversation with [redacted] General Counsel for [redacted] revealed that the Claimant was replaced by the employer because they needed am employee with a different set of skills to work on the project the Claimant was released from. The Claimant has failed to meet his burden of proof demonstrating he has experienced lost profits and earnings as a direct result of the Deepwater Horizon incident, therefore this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's Review: ***2/18/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Claimant has filed a claim for Final Payment with GCCF. This claim is under review.
[4] PHONECON between the NPFC and [redacted] on 01 Feb 2010.
[5] Finding grounds for denial on the basis of causation, the NPFC finds no need to address the valuation of damages.

09/13/11 FOIA2011-3380-000FF40

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)
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0291
28 February 2011

[redacted]

RE: Claim Number: N10036-0291

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et. seq. (OPA 90) and the associated regulations, 33 C.F.R. Part 136, denies payment on your claim, # N10036-0291. Please see the enclosed 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 N10036-0291.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	11 February 2011
Claim Number	N10036-0291
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$33,000.00

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 16 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $33,000.00 in lost profits and earning capacity allegedly resulting from the Deepwater Horizon oil-spill.

Claimant worked as a dialysis technician for the [redacted] until 12 March 2010 when she was involuntarily terminated. The Claimant asserted that she collected her severance and pension and started a seafood catering business in Houston, Texas DBA [redacted]. Claimant further asserted that under her business model, she would purchase Gulf seafood, prepare it, and cater parties. The Claimant alleged that her business did well until May 2010 when she "began to receive cancellations due to the oil spill."[1] Claimant attributed these cancellations "to [her] clients[']' fear of the Gulf seafood that I use." On 12 September 2010, Claimant stopped catering.

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 Section 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.

[1] Claimant letter of explanation dated 07 December 2010.

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(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 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 undertake, 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 support her claim, Claimant submitted the following documentation:

— OSLTF claim form dated 16 December 2010;
— Claimant letter of explanation dated 07 December 2010;
— GCCF denial letter dated 04 December 2010;
— [redacted] P&L Statement for 01 Jan through 30 September 2010;
— [redacted] P&L Statement Quarter 1, 2, & 3;
— TX certificate of filing for [redacted];
— TX certificate of formation LLC for [redacted]
— Claimant TX driver's license and social security card;
— Cancellation letters;
— [redacted] card;
— Assorted news articles on the Deepwater Horizon oil spill;
— Galveston TX internet information;
— Claimant's involuntary termination letter;
— Claimant letter of explanation dated 10 February 2011;
— Claimant 2010 W-2 from MHS;
— Claimant 1099-G for 2010;

— Claimant 2008 & 2009 1040; and
— Letter from [redacted] indicating that LSBC's P&L statements were produced from information provided by Claimant.

Claimant seeks $33,000.00 in lost profits to her business allegedly resulting from the Deepwater Horizon oil-spill.

On 15 October 2010, Claimant filed a six-month Emergency Advance Payment (EAP) claim for $17,642.00 in lost profits with the GCCF. She was issued GCCF Claimant ID [redacted] and Claim [redacted] On 04 December 2010, the GCCF denied his claim.

NPFC Determination

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

Claimant explained that she reached her $33,000.00 in lost profits by rounding down her 2010 Quarter 1 gross profits ($11,763.00) and multiplying that by 3 (representing the remaining 3 quarters of 2010).[2] The Claimant had [redacted] prepare the 2010 quarterly P&L statements, from which she projected her loss. These statements were prepared solely from material provided by the Claimant.[3] Claimant provided no other financial documentation, relative to her business, to support her loss.

The claim is denied because the evidence presented by the Claimant does not demonstrate that the Claimant's claimed loss was a result of injury destruction or loss of natural resources or real or personal property.

Claim Supervisor [redacted]

Date of Supervisor's Review: ***2/27/11***

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[2] Claimant letter of explanation dated 10 February 2011.
[3] Letter from [redacted] indicating that [redacted] P&L statements were produced from information provided by Claimant.

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
[redacted]
Fax: [redacted]

5890
3/9/2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

RE: Claim Number: N10036-0292

Dear [redacted]

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 N10036-0292 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0292.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

09/13/11 FOIA2011-3380-00001145

CLAIM SUMMARY / DETERMINATION FORM

Date	: March 9, 2011
Claim Number	: N10036-0292
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $332,447.00

FACTS

On or about April 20, 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 August 23, 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 December 17, 2010, [redacted] (Claimant) presented a claim to the National Pollution Fund Center (NPFC) on an Optional Oil Spill Liability Trust Fund (OSLTF) Claim Form seeking $42,447.00 in lost profits and earning capacity and $290,000.00 in real or personal property damages resulting from the Deepwater Horizon incident.

Claimant asserted that there was a loss of rental income and property value from fifteen (15) beach rental properties located in Panama City Beach, FL. The Claimant stated that vacation travelers cancelled their reservations and their primary tenants on long-term leases lost their jobs and could no longer afford the rent.

The Claimant filed an Emergency Advance Payment (EAP) claim (Claim II[redacted]) with the GCCF and was subsequently denied on November 30, 2010.

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 Section 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 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 undertake, 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 support the claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated 17 December 2010;
- Copies Texas State Driver's License;
- Denial letter from GCCF dated 30 November 2010;
- Invoice for landscaping and debris removal from [redacted]
- Various utility/ water bills for addresses in Panama City Beach, Florida:
  - [redacted]
- Schedule E Supplemental Income and Loss from 2008 and 2009 1040 Individual Income Tax Return filings;
- Warranty Deeds for various properties;
- Articles of Organization for [redacted] and [redacted]

NPFC Determination

Under 33 U.S.C. § 2702(b)(2)(E) and 33 C.F.R. Part 136, a claimant must prove that his 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. 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. The NPFC considered all documentation presented by the Claimant.

Based on the documentation provided by the Claimant, the Claimant indicated that income was reduced as a result of the Deepwater Horizon incident.

On January 11, 2011, the NPFC sent, via electronic mail, a request for additional information to the Claimant in order to obtain the necessary information to adjudicate the claim. The documentation requested consisted of the following:

- You provided the Schedule E from your 2008 and 2009 1040 Income Tax Return filings. Please provide all other attachments, schedules and forms from your 2008 and 2009 tax return filings.
    - If any part of your rental income or expenses are reported under another entity (i.e. [redacted]), provide the related tax returns from 2008 and 2009.
- Reservations log or rent rolls indicating all rentals from 2008, 2009 and 2010.
- Provide copies of any and all correspondence regarding cancellations from tenants, including cancelled rental agreements and refunds.
- Monthly Profit and Loss statements from 2008 through 2010 for all properties.
- If your properties are financed, provide copies of your current mortgage statement or loan statements.

The NPFC also requested the Claimant answer the following questions:

- Describe the rental history of your properties, including an itemized listing of all your properties that you believe were impacted.
    - Include a description of your properties.
- Explain in detail the relevance of [redacted] and [redacted] and how they relate to you and your claim.
    - Identify the principals for each of the entities named above.
- Explain how you advertise your rentals, how you accept reservations and how you receive and record payments.
- Describe your typical renters, including their locations, any long-term agreements
- Describe when your properties are typically rented and how far in advance you normally accept reservations.
- Did you receive any cancellations from guests? If so, identify the reservations that were cancelled.
- Explain in detail, any expenses or fees you pay for maintenance, management and bookings.
- Identify all expenses related to the rental properties.
- Identify any periods of time from 2008 through the current period where any of the rental properties were not available for rent or were used for personal occupancy.

On January 19, 2011 the Claimant contacted the NPFC to request an additional 10 days to gather the documentation that was requested. On February 14, 2011, the Claimant again contacted the NPFC to request another additional 14 days because he was waiting on some tax information from the IRS. The NPFC allowed the additional time in both instances based on the Claimant's justification for the requests for extension. To date, the Claimant has not provided the additional documentation nor answered any of the questions to support the claim in order to demonstrate a loss of profits and earnings. Therefore, this claim is denied because the Claimant has failed to meet the burden to demonstrate that the loss of income was due to the injury to, destruction of, or loss of property or natural resources or to substantiate the loss amount.

Claim Supervisor [redacted]

Date of Supervisor's review: ***March 9, 2011***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim# N10036-0293
31 March 2011

[redacted]

RE: Claim Number: N10036-0293

Dear [redacted]

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 N10036-0293 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0293.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	28 March 2011
Claim Number	N10036-0293
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim ManagerMST1	[redacted]
Amount Requested	$6,517.00

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 15 December 2010, [redacted] (Claimant) submitted an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Funds Center (NPFC). The OSLTF claim form alleged $6,517.00 in lost profits and earning capacity resulting from the Deepwater Horizon oil spill.

Claimant asserted that she placed her house at [redacted] in Ocean Springs, MS up for sale.[1] The subject property had been listed for sale since March 2010 and in April 2010 an offer from a buyer was made.[2] On 01 April 2010, the buyer and the Claimant entered into a contract for sale of the subject property.[3] The contract was contingent on satisfactory home inspection, financing from [redacted][4] and the seller's contribution of $1,500.00 for the buyer's closing costs. Closing date on the contract was scheduled for 31 June 2010.

Claimant alleged that prior to the closing; the buyer who shrimped for a living lost his job as a result of the Deepwater Horizon oil spill and could not qualify for financing.[5] The Claimant indicated that since the financing contingency was not met, the sale fell through and she incurred the cost of mortgage and utilities payments while the house was off the market.[6]

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 Section 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

[1] Undated letter from claimant stating the sale of her house fell through due to the Deepwater Horizon Incident.
[2] Letter dated 13 Dec 2010 from claimant's realtor stating the property has been listed since March of 2010 and received an offer in April of 2010.
[3] Contract for the sale and purchase of the property.
[4] The [redacted] program provides financial assistance for select applicants to own homes in Mississippi. http://mscoastrealty.com/buying-a-home/my-home-my-coast-grant/ (last visited 30 March 2011).
[5] Undated letter from claimant stating the sale of her house fell through due to the Deepwater Horizon Incident.
[6] It is unclear whether these costs comprise the entirety or a portion of Claimant's alleged loss of $6,517.00.

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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 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 undertake, 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

To support her claim, Claimant submitted the following documentation to the NPFC:

1. OSLTF Claim form, dated 07 Dec 2010;
2. Undated letter from claimant stating the sale of her house fell through due to the Deepwater Horizon Incident;
3. Letter dated 08 Dec 2010 from claimant's mortgage collector stating her mortgage is in delinquency. Late payments started occurring in July of 2010;
4. Letter dated 13 Dec 2010 from claimant's realtor stating the property has been listed since March of 2010 and received an offer in April of 2010. The potential buyer's financing fell through due to his job as a shrimper being eliminated. The house went back on the market but hasn't sold. It is now being rented for $800/month;
5. Letter dated 01 Dec 2010 from the GCCF to claimant notifying her that her request for an emergency advance payment was denied;
6. Letter dated 07 Dec 2010 from the GCCF to claimant notifying her that in spite of the denial, she may still apply for an interim or final payment;
7. Contract for the sale and purchase of the property. Contract is signed by claimant;
8. Claimant's 2007 through 2009 1040;

9. Residential lease agreement;
10. Residential appraisal report; and
11. Survey map.

Claimant seeks $6,517.00 in damages allegedly resulting from the Deepwater Horizon oil spill.

On 15 October 2010, Claimant filed a six-month Emergency Advance Payment claim for $5,700.00 with the GCCF. She was issued GCCF Claimant ID [redacted] and Claim [redacted]. On 08 December 2010, her claim was denied by the GCCF.[7]

NPFC Determination

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 claim is denied because the alleged loss in the amount of $6,517.00 is 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.

Claimant argued that if not for the Deepwater Horizon oil spill, she would have sold the property at [redacted] in Ocean Springs, MS and not incurred mortgage and utility costs. Underlying this argument is the assumption that the buyer would have qualified for financing and met the sale contract contingency, had he not lost his job shrimping.[8]

The Claimant, however, provided no evidence that the buyer would have qualified for financing had he had retained his employment. There is no documentation from [redacted] verifying that buyer qualified for financing with his shrimping income, or that if he did, that this qualification was revoked because he lost his shrimping job. In fact, the Claimant herself indicated that although the buyer lost his job, he found alternative employment working for BP.[9]

Additionally, the Claimant provided no explanation or rationale for the calculation of her alleged loss. It is unclear if her claimed loss of $6517.00 is comprised strictly of mortgage and utility payments she made, or if other costs are inclusive in the total.[10]

This claim is denied because (1) the Claimant failed to demonstrate she had a loss of profits and earnings that was due to the injury, destruction or loss of property or natural resources as a result of a discharge or substantial threat of discharge of oil, (2) the Claimant failed to identify what costs make up the alleged loss amount, and (3) the Claimant has failed to prove that the potential buyer had been officially approved for a mortgage and that all other contingencies associated with the contract were met.

Claim Supervisor: [redacted]

[7] GCCF denial letter Re: Claimant's Emergency Advance Payment claim, dated 08 December 2010.
[8] It is unclear how the Deepwater Horizon oil spill resulted in the buyer's job loss. Claimant takes this point for granted.
[9] Claimant suggests that buyer would have gotten financing with his BP employment, but somehow BP wasn't able to get buyer's paperwork to the bank in time.
[10] The NPFC notes that buyer deposited $500.00 in earnest money on the sale contract. It is unclear if Claimant received this money upon the failure of buyer's contingency to obtain financing.

09/13/11 FOIA2011-3380-00001153

Date of Supervisor's Review: *3/31/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937

5890
1/31/2011

BY MAIL AND EMAIL
[redacted]

[redacted]

RE: Claim Number: N10036-0294

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0294 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation on the denial.

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 N10036-0294.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 31, 2011
Claim Number	: N10036-0294
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $22,000.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 15, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $22,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages from her business, [redacted] in Kenner, Louisiana as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to his claim with the GCCF, but stated his claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 15, 2010
- Personal hardship letter
- Photocopy of Driver's License and Social Security Card
- U.S. IRS Employer Identification Number
- 5 invoices from [redacted]

NPFC Determination

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.

Based on consideration of all documents and information presented, the Claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. As such, this claim for lost profits and earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/31/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

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
[redacted]
Fax: 202-493-6937
5890
1/31/2011

BY MAIL AND EMAIL
[redacted]

[redacted]

RE: Claim Number: N10036-0295

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies payment on the claim number N10036-0295 involving Deepwater Horizon. Please see the attached Claim Summary / Determination Form for an explanation regarding the denial.

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 N10036-0295.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: January 31, 2011
Claim Number	: N10036-0295
Claimant	[redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $3,500.00

FACTS:

On or about April 20, 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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On August 23, 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On December 15, 2010, [redacted] (Claimant) presented a lost profits & earnings claim in the amount of $3,500.00 to the National Pollution Funds Center (NPFC) for reimbursement. The Claimant asserted that she lost wages and was eventually terminated from her position as a dietary supplement salesperson for [redacted] in Destin, Florida as a result of the Deepwater Horizon incident.

The Claimant did not provide correspondence or documentation pertaining to the claim with the GCCF, but stated the claim was subsequently denied.

APPLICABLE LAW:

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the following documentation:

- NPFC OSLTF Claim Form dated December 15, 2010
- Personal hardship letter
- 2008 & 2009 W-2 Wage and tax Statement

NPFC Determination

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.

Based on the documents and information presented, the Claimant has not established that any loss of profits or earnings capacity occurred as a direct result of the Deepwater Horizon incident. As such, this claim for lost profits and earnings capacity is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: *1/31/11*

Supervisor Action: ***Denial approved***

Supervisor's Comments:

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
Fax: 202-493-6937

5890
03 February 2011

VIA MAIL AND EMAIL: [redacted]

[redacted]

RE: Claim Number: N10036-0296

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, denies your claim. The NPFC is unable to establish that the loss of profits and earnings real or personal property damages you presented in your claim were a result of the Deepwater Horizon oil spill. Please see the attached claim summary 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 N10036-0296.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

Claims Manager
U. S. Coast Guard

Encl: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	03 February 2011
Claim Number	N10036-0296
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$21,000.00

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 from an offshore facility associated with the Deepwater Horizon and located on the Mississippi Canyon, Block 252 (the Deepwater Horizon incident). This area was leased by BP Exploration and Production, Inc. (BP). The Coast Guard designated the offshore facility as the source of the discharge and BP as the responsible party (RP) for the discharge. BP accepted the designation, advertised its OPA claims process, and compensated claimants. On 23 August 2010, the Gulf Coast Claims Facility (GCCF) began accepting and adjudicating claims on behalf of BP.

CLAIM AND CLAIMANT

On 04 December 2010, [redacted] (Claimant) presented a claim for lost profits and earnings capacity in the amount of $21,000.00 to the National Pollution Funds Center (NPFC) for reimbursement. Claimant asserted that he was terminated from his employment with [redacted] due to the Deepwater Horizon incident.

Claimant worked for [redacted] during July 2010 through August 2010.[1] Before working with [redacted], he worked with [redacted] beginning of 2002 through June 2010. Claimant was a pile driver while working with both employers. As a result of the Deepwater Horizon incident, Claimant asserted that their clients started cancelling contracts. Claimant provided a letter from his employer, [redacted] suggesting that he was terminated end of June 2010, following the Deepwater Horizon incident.[2] Claimant indicated that he had been unemployed since his release from [redacted]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication

[1] See, undated letter provided by Claimant.
[2] See, undated letter provided by employer, [redacted]

FOIA2011-3380-00001164

regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support his claim, Claimant presented the NPFC Optional OSLTF Claim Form dated 04 December 2010, various letters including one presumably from his employer, earnings statements for employment during 2010, and 2008 & 2009 W-2 provided by [redacted] The GGCF issued a denial letter to Claimant, dated 04 December 2010 stating Claimant did not demonstrate that he has lost profits as a direct result of the Deepwater Horizon incident.[3]

[3] .See, GCCF denial letter provided 4 December 2010.

NPFC Determination

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.

Claimant has not provided documentary evidence to prove his claim or that his claimed losses were a direct result of the Deepwater Horizon incident. There is an inconsistency in employment documentation provided. Claimant infers that he was hired by his employer, [redacted], in July 2010 and was laid-off from his employment in August 2010, while the verification of employment provided by [redacted] states that the Claimant was terminated end of June 2010.

In addition to not proving a financial loss, Claimant has the burden of proving how his employment was directly impacted by the Deepwater Horizon incident. Claimant asserted that customers of [redacted] cancelled their contract following the Deepwater Horizon incident. Claimant has not provided documentation to support this assertion.

Conversation with [redacted] HR representative revealed that Claimant was not terminated as a result of the oil-spill, despite some impact of the oil-spill on their business. He worked in the grading and excavating division and therefore worked primarily onshore.[4]

The claim is denied because the alleged loss in the amount of $21,000.00 is 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. Claimant's alleged loss of profits is the result of his employer's business decision to terminate his employment.

Claim Supervisor [redacted]

Date of Review: ***2/3/11***

Supervisor's Comments: ***Denial approved***

[4] Conversation between [redacted] on 03 February 2011.

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
[redacted]00

Fax: 202-493-6937

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

5890/DWHZ
Claim # N10036-0297
14 March 2011

[redacted]

RE: Claim Number: N10036-0297

Dea[redacted]

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 N10036-0297 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0297.

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U.S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	: 07 March 2011
Claim Number	: N10036-0297
Claimant	: [redacted]
Type of Claimant	: Private (US)
Type of Claim	: Loss of Profits and Earning Capacity
Claim Manager	: [redacted]
Amount Requested	: $20,000.00

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 06 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $20,000.00 in loss of profits and earning capacity allegedly resulting from the Deepwater Horizon oil spill.

Claimant indicates that he worked for [redacted], contracted by [redacted], from June 2003 through October 2008.[1] At [redacted], he indicated that he worked as a tech operator/supervisor, dealing with HAZMAT removal and environmental services. He stated that he then worked for [redacted] for two weeks in November 2009. Claimant admits to going on unemployment thereafter.

Claimant indicated that after the Deepwater Horizon oil-spill, he returned to [redacted] as a tech operator/supervisor and worked one day in May 2010 in that role before being laid off. He stated that he went to work for two other companies, cleaning HAZMAT from the Deepwater Horizon oil-spill. Claimant alleged that he "lost wages on [the] job" as a result of the Deepwater Horizon oil-spill.[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.

[1] Claimant job summary letter, dated 14 February 2011.
[2] OSLTF claim form.

09/13/11 FOIA2011-3380-00001168

Under 33 C.F.R. § 136.233 a claimant must establish the following:

1) That real or personal property or natural resources have been injured, destroyed, or lost.
2) 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.
3) 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 profits or earnings for the same or similar activities outside of the area affected by the incident also must be established.
4) 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—

1) All income resulting from the incident;
2) All income from alternative employment or business undertaken;
3) Potential income from alternative employment or business not undertake, but reasonably available;
4) Any saved overhead or normal expenses not incurred as a result of the incident; and
5) State, local, and Federal taxes.

DETERMINATION OF LOSS

Claimant's Submission to the OSLTF

To support his claim, Claimant submitted the following documentation:

- OSLTF claim form, undated;
- 2009 Mississippi Resident Individual Income Tax Return;
- Mississippi Unemployment Verification records from 10 April 2010 through 21 October 2010;
- Payroll summary from [redacted]
- Earnings Statements from [redacted] for 1 August 2010 through 10 October 2010;
- 2008 Form W-2 from [redacted];
- 2009 Form W-2 from [redacted]
- 2008 and 2009 U.S. Individual Income Tax Returns, Form 1040A;
- Letter of verification from employer at [redacted] undated;
- Letter of claim explanation from Claimant to the U[redacted] dated 14 February 2011;
- 2010 U.S. Individual Income Tax Return, Form 1040 EZ;
- 2010 Form W-2's from [redacted], [redacted], and [redacted]

- 2010 Mississippi Resident Individual Income Tax Return;
- 2009 and 2010 Form 1099-G's from Mississippi Department of Employment Security;
- Payroll records form [redacted], Inc. for 01 January 2008 through 31 December 2010;
- Pay stubs from [redacted] for 2 November 2009 through 22 November 2009;
- Payroll Summary from [redacted]. for 1 January 2010 through 14 February 2011;
- Letter from GCCF to Claimant requesting additional information regarding his Lost Profits & Lost Earning Capacity Claim, dated 2 November 2010;
- Denial letter from GCCF to Claimant regarding his Lost Profits & Lost Earnings Claim, dated 30 November 2010

Claimant seeks a total of $20,000.00 in lost earnings allegedly resulting from the Deepwater Horizon incident.

On 15 October 2010, Claimant filed a six-month Emergency Advance Payment claim of $2,000.00 with the GCCF for lost profits and earnings. He was assigned GCCF Claimant ID # [redacted] and Claim [redacted]. On 30 November 2010, his claim was denied by the GCCF.[3]

NPFC Determination

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.

This claim is denied. From November 2009 up to April 20, 2010, the date of the Deepwater Horizon oil spill, the Claimant was unemployed. Claimant then went to work for three different companies cleaning HAZMAT from the Deepwater Horizon oil spill. Although the Claimant may have been laid off from working for these companies, the oil spill presented him with these employment opportunities, which he did not have prior to the oil spill.

To the extent that Claimant suffered an alleged loss from his oil spill-response employment, the Claimant has failed to demonstrate that his alleged loss is 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.[4]

Claim Supervisor: [redacted]

Date of Supervisor's Review: *3/11/11*

Supervisor's Actions: ***Denial approved***

Supervisor's Comments:

[3] Denial letter from GCCF to Claimant regarding his Lost Profits & Lost Earnings Claim, dated 30 November 2010.
[4] Claimant provided a letter from [redacted] that indicated his employment there had been affected due to the Deepwater Horizon oil spill. However, Claimant's provided employment history and payroll records indicate that, prior to the Deepwater Horizon oil spill, Claimant had not worked for [redacted] since October of 2008.

FOIA2011-3380-00001170

U.S. Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
[redacted]
E-mail:
[redacted]

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: [redacted]

[redacted]

5890/DWHZ
Claim # N10036-0298
22 February 2011

Re: Claim Number: N10036-0298

Dear [redacted]

The National Pollution Funds Center (NPFC), in accordance with 33 C.F.R. Part 136, denies payment on claim number N10036-0298 involving the Deepwater Horizon oil spill. Please see the enclosed 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 N10036-0298

Mail reconsideration requests to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

Sincerely,

[redacted]

U. S. Coast Guard
Claims Manager

Enclosure: Claim Summary/Determination Form

CLAIM SUMMARY / DETERMINATION FORM

Date	18 February 2011
Claim Number	N10036-0298
Claimant	[redacted]
Type of Claimant	Private (US)
Type of Claim	Loss of Profits and Earning Capacity
Claim Manager	[redacted]
Amount Requested	$31,220.00

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 15 December 2010, [redacted] (Claimant) presented an optional Oil Spill Liability Trust Fund (OSLTF) claim form to the National Pollution Fund Center (NPFC) seeking $31,220.00 in lost profits and earnings resulting from the Deepwater Horizon incident.

Claimant worked [redacted] as a maintenance worker on the beaches of Panama City, Florida.[1] Her duties included cutting grass and cleaning and repairing vacation rental properties. The Claimant alleged that "after the oil spill the work slowed down tremendously . . . [and] I didn't have much work to do until the owner laid me off. . . ."[2] She was laid off in May 2010. Claimant also worked part-time for [redacted], a temporary employment agency, in 2010 until 28 April 2010. She has been unemployed since she left [redacted]

APPLICABLE LAW

The Oil Pollution Act of 1990 (OPA) provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C. § 2702(a). Damages include the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant. 33 U.S.C. § 2702(b)(2)(E).

The OSLTF, which is administered by the NPFC, is available to pay claims for uncompensated damages pursuant to 33 U.S.C. § 2712(a)(4) and § 2713 and the OSLTF claims adjudication regulations at 33 C.F.R. Part 136. With certain exceptions a claim must first be presented to the responsible party. 33 U.S.C. § 2713(a). If the claim is either denied or not settled by any person by payment within 90 days after the date on which it was presented, the claimant may elect to commence an action in court or present the claim to the OSLTF. 33 U.S.C. § 2713(c).

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[1] Letter from [redacted], undated.
[2] Letter to NPFC received 15 December 2010.

Pursuant to the claims regulations, 33 C.F.R. § 136.233, a claimant must establish the following to prove loss of profits or impairment of earning capacity:

(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 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 support her claim, the Claimant submitted the following to the NPFC:

— OSLTF claim form dated 15 December 2010;
— Letter from [redacted]
— Letter from Claimant "to whom this may concern," undated;
— Medical settlement offer;
— Car repossession notification;
— Copy of Florida driver license and social security card;
— Three paystubs from [redacted] and
— Letter from Claimant to the NPFC received 15 December 2010.

The Claimant seeks $31,220.00 in lost earnings, which represents her 2008 and 2009 earnings from [redacted] Claimant's attributed her lost earnings to the Deepwater Horizon incident.

On 15 September 2010, the Claimant filed a six-month Emergency Advance Payment (EAP) claim for $30,528.00 in lost earnings with the GCCF. She was issued GCCF Claimant ID #[redacted] and Claim #[redacted]. On 20 October 2010, this claim was denied by the GCCF. This information was verified by the NPFC.

NPFC Determination

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

The claim is denied because the documentary evidence presented by the Claimant does not support an economic loss resulting from the Deepwater Horizon incident. Claimant could not provide 2008 and 2009 Federal Individual Income Tax Returns or any W2's or Form 1099's. NPFC requested bank statements to document her earnings. Claimant did not provide the requested bank statements. Claimant stated that bank statements would not reflect her earnings since her employer, [redacted], paid her in cash. The Claimant provided three pay stubs from [redacted], the temporary employment agency, and a letter from [redacted] showing her alleged earnings. Other than these documents, there is no other documentation to support her earnings.

The claim is denied because the alleged loss in the amount of $31,220.00 is 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. Additionally, the Claimant has not provided the additional information requested to support her claim. Therefore, this claim is denied because the Claimant has failed to meet her burden of demonstrating a loss of profits and earnings as a direct result of the Deepwater Horizon incident.

Claim Supervisor: [redacted] for

Date of Review: ***2/19/11***

Supervisor's Comments: ***Denial approved***

[3] The Claimant stated that her claimed loss is "the amount of money I made in 2008 and 2009 with all the work I did on rentals each year which didn't change from year to year." Letter from Claimant to the NPFC received 15 December 2010.