

U.S. Department
of Homeland Security

United States
Coast Guard



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National Pollution Funds Center

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16480

17 April 2014

MEMORANDUM

From: Fredy Hernandez [REDACTED]
CLAIMS MANAGER, NPFC

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

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

1. On October 30, 2013, the National Pollution Funds Center (NPFC) received a claim from the National Oceanic and Atmospheric Administration (NOAA) for costs to assess potential natural resource injuries resulting from the *Deepwater Horizon* oil spill (N10036-OC18). The claim totaled \$147,902,421 to implement 38 assessment activities that are detailed in NOAA's 2014 Assessment Plan.

2. The NPFC has issued three partial determinations that approved 30 of the 38 assessment activities and associated NOAA agency costs. NOAA later withdrew two activities. The NPFC is now issuing the enclosed fourth partial determination and offer to pay \$27,058,569 for four of the remaining six claimed activities and associated NOAA agency costs, while we continue to adjudicate the remaining \$17,264,503 claimed for two activities. This fourth partial determination is made in accordance with the Oil Pollution Act (OPA, 33 U.S.C. §2701 *et seq.*), the OPA regulations (33 C.F.R. Part 136) and the Natural Resource Damage Assessment Regulations (15 C.F.R. Part §990 *et seq.*). A copy of the determination and offer to pay the amount of \$27,058,569 is enclosed.

3. If you accept this offer, please complete the enclosed Acceptance/Release Form and return to:
Director (cn)
National Pollution Funds Center
U.S. Coast Guard Stop 7100
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

4. If we do not receive the signed Acceptance/Release Form within 60 days of the date of this memo, the offer is void. If the settlement is accepted, your payment will be mailed within 30 days of receipt of the Release Form. Please provide account information and instruction for the transfer of funds to your Damage Assessment Restoration and Revolving Fund Account with the signed Form.

5. If you have any questions about this determination, please feel free to contact me at 703-872-6054.

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Enclosures: (1) NPFC determination
(2) Summary of Claim Activities
(3) Acceptance/Release Form

National Pollution Funds Center Determination

Claim Number and Name:	N10036-OC18, <i>Deepwater Horizon</i> Oil Spill Assessment
Claimant:	National Oceanic and Atmospheric Administration
Claim Type:	NRDA, Upfront Assessment Costs
Claim Manager:	Fredy Hernandez
Claimed Amount:	\$27,058,569
Determination Date:	17 April 2014

Summary of the Incident and Claim

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

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

On October 30, 2013, NOAA presented the National Pollution Funds Center (NPFC) with a claim for costs to implement their 2014 assessment and restoration planning activities. The claim totaled \$147,902,421, represented as the costs with respect to NOAA's Third Interim, Partial Claim for Assessment and Restoration Planning (2014 Assessment Plan or Plan). The Plan describes 38 assessment activities, many of which are a continuation of assessment injury quantification efforts initiated in 2011, 2012 or 2013 and funded by BP or the Oil Spill Liability Trust Fund (Fund or OSLTF), NOAA subsequently reduced the claim sum certain for the 38 assessment activities to \$128,485,376⁵.

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

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

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

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

⁵ December 3, 2013, January 31, 2014, March 14, 2014, and April 10, 2014 emails from NOAA to NPFC

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

1. The *Deepwater Horizon* oil spill occurred after OPA's date of enactment (August 18, 1990) and is an OPA incident;
2. OPA damages include natural resource damages, including the reasonable cost of assessing those damages. 33 U.S.C. §2702(b)(2)(A); 33 U.S.C. §2706(d)(1)(C);
3. NOAA is a federal trustee designated by the President with responsibilities to assess natural resource damages under its trusteeship and develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under its trusteeship. 33 U.S.C. §2706(b)(1); 33 U.S.C. §§2706(c)(1)(A) and (C), and 33 C.F.R. §136.207;
4. NOAA determined that there is jurisdiction to pursue restoration for this incident under OPA. 15 C.F.R. §990.41;
5. NOAA's claim for assessment costs is based on its 2014 Assessment Plan, which the public was given an opportunity to review and to provide comments. 33 U.S.C. §2706(c)(5);
6. NOAA presented its claim for assessment costs (\$147,902,421) based on NOAA's 2014 Assessment Plan to BP on July 11, 2013. This claim was not settled within 90 days by payment by any party, allowing presentment to the NPFC as a claim for uncompensated natural resource damages; and
7. The claim was presented to the Fund within the period of limitations for claims. 33 U.S.C. §2712(h)(2); 33 C.F.R. §136.101(a)(ii), 15 C.F.R. §990.64(a).

The NPFC issued subsequent partial determinations on February 19, 2014 and March 7, 2014 that adopted these findings and approved an additional 14 activities included in the October 30, 2013 claim. This determination again adopts the findings above, and provides the following additional findings specific to the four⁶ assessment activities included in NOAA's claim submitted to the NPFC on October 30, 2013. The remaining two activities not included in the three prior determinations and this determination remain under adjudication⁷.

NPFC Review of Claim and Associated Costs

NOAA's 2014 Assessment Plan and claim includes 36⁸ assessment activities with a revised total implementation cost (contract and NOAA labor) totaling \$128,485,376⁹. This section presents the NPFC findings for four of the 36 claimed activities. Enclosure 2 lists the 38 claimed assessment activities, identifying the 16 that were approved on February 3, 2014, nine that were

⁶ Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass); Continued Monitoring of Subtidal Oyster Injury (Recruitment); Comprehensive Integration of Oyster Injury Assessment Elements; and *Contaminant Analytical Chemistry*

⁷ Strandings: Necropsies, and Management, Transport and Storage of Sea Turtles and Marine Mammals; Restoration Planning

⁸ NOAA withdrew two activities from the claim; Supplemental Nearshore Sediment Sampling was withdrawn on January 31, 2014, and Continued Monitoring and Analysis of Nearshore Oyster Injury was withdrawn on April 10, 2014.

⁹ \$147,902,421 (original claimed amount) - \$2,525,312 (costs withdrawn on December 3, 2013) - \$2 (withdrawn on January 16, 2014) - \$7,462,062 (costs withdrawn on January 31, 2014) - \$350,000 (costs withdrawn March 20, 2014) - \$9,079,669 (costs withdrawn on April 10, 2014) = \$128,485,376 (revised claimed amount)

approved on February 19, 2014, five that were approved March 7, 2014, one that was withdrawn on January 31, 2014, one that was withdrawn on April 10, 2014, four that are subject to this partial determination, and the two that remain under adjudication.

K. Oysters

NOAA is assessing potential injuries to oysters by measuring abundance and biomass, evaluating reproductive condition, and estimating larval recruitment in nearshore and subtidal waters affected by *Deepwater Horizon* oil. These efforts, which began in 2010 and 2011¹⁰ and continued in 2012¹¹ and 2013¹², have shown reduced adult and juvenile oyster abundance and spat recruitment across the full spatial footprint of the *Deepwater Horizon* oiling area. NOAA has also undertaken laboratory assessment of oil toxicity, which has shown that very low concentrations of oil kill oyster larvae, prevent normal fertilization from occurring, and produce developmental abnormalities in embryos and free-swimming larvae that ultimately lead to death.

NOAA's assessment of oyster injuries resulting from the incident were also affected by low salinities due to large volumes of freshwater resulting from flooding events and the opening of floodwater diversion structures. Low salinities are also a known source of mortality to oysters. NOAA acknowledges this point, but states that Gulf of Mexico oyster populations have historically been subject to natural disasters or flood control actions, and typically rebound within 18 to 24 months¹³. Data collected in 2013 indicates that neither oyster abundance nor recruitment have returned to pre incident levels, which NOAA believes is attributable to recruitment failure resulting from the *Deepwater Horizon* incident¹⁴.

NOAA claimed \$21,657,797 to continue oyster assessment activities in 2014. The proposed work focuses on monitoring oyster abundance, biomass, and recruitment to document the continued loss and/or extent of recovery (Activities K1, K2, and K3) and data analyses and integration to complete the identification and quantification of oyster injury resulting from the incident (Activity K4). NOAA subsequently withdrew Activity K3 and associated claimed costs¹⁵, reducing the Activity sum certain to \$16,106,125. The remaining three Activities (and claimed costs) are identified in NOAA's 2014 Assessment Plan as follows:

Activity K1. Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass). NOAA claims \$3,514,114 for contract costs to monitor (by re-sampling all subtidal sites sampled in 2011 and 2012) and to document any continuing injury in subtidal habitats by measuring biomass, abundance of spawning stock, and size class distribution.

¹⁰ NOAA indicates that BP provided \$289m for 2010 and 2011 assessment activities in 17 resource categories, one of which was oysters.

¹¹ The NPFC's July 5, 2012 and July 27, 2012, determinations approved \$2.1m for NOAA's 2012 oyster assessment activities.

¹² January 10, 2014, NOAA indicates that BP provided \$18.9m for 2013 oyster assessment activities.

¹³ February 7, 2014, email from NOAA to NPFC

¹⁴ February 7, 2014, email from NOAA to NPFC

¹⁵ April 10, 2014 email from NOAA to NPFC, whereby NOAA withdrew (1) Activity K3 costs of \$5,551,672 to characterize nearshore oyster habitat biomass, spawning stock and size class distribution as they relate to shoreline oiling and (2) \$xx for analytical work associated with samples expected to be collected under Activity K3.

Activity K2. Continued Monitoring of Subtidal Oyster Injury (Recruitment). NOAA claims \$7,493,605 for contract costs to continue to monitor oyster larval recruitment rates and adult oyster reproductive condition in subtidal habitats in order to characterize the intensity and duration of any continued oyster population recruitment failure and its recovery to pre incident levels.

Activity K4. Comprehensive Integration of Oyster Injury Assessment Elements. NOAA claims \$5,098,406 for contract costs to synthesize and interpret results and quantify oil-based injury to oysters.

Claimed Activities K1 and K2, totaling \$11,007,719, represent costs to continue to sample and to monitor the abundance, biomass, and recruitment of oysters in subtidal and nearshore oysters in 2014. NOAA has established that the incident resulted in oyster injuries and, based on the analysis of 2010-2013 sampling events, oyster abundance, biomass and recruitment have not returned to pre-incident levels. The information gained from 2014 sampling will be used to establish the duration of injury and extent and rate of recovery (if any) in order to determine the type and scale of restoration necessary to restore and compensate for the loss. Therefore, the NPFC finds that the collection of additional data obtained from monitoring in 2014 is likely to produce information that may better define the temporal extent of the loss; however, the 2014 sampling events will not define the spatial extent of any injury caused solely or in part by low salinities in water due to freshwater diversions that have occurred and may occur in the future. NOAA's position is that the injuries to oyster populations typically return to normal levels within 18-24 months after freshwater events, and that the observed failure to return to normal levels after more than two years is due to *Deepwater Horizon* oil. NPFC finds that given the unprecedented size and character of this spill, the costs of an additional year of monitoring in this fourth year following the spill is a reasonable assessment cost. The NPFC determination to fund monitoring costs in 2014 as reasonable assessment costs should not be considered as precedential in the event that NOAA claims similar assessment costs for 2015. The NPFC will adjudicate any such claim on its merits, including consideration of the time passed since the spill occurred, the incidence of other causes of oyster injuries not attributable to the oil spill, and the likelihood that continued robust monitoring activity would be of use in determining the temporal and spatial extent of injuries and the type and scale of restoration appropriate for the oyster injuries.

Under Activity K4, NOAA claims \$5,098,406 to synthesize and analyze data and determine incident-caused injury. This involves continued analysis of the 2010-2013 monitoring data, incorporating results of the 2014 efforts, developing a model of larval transport, and conducting multivariate analyses to determine the relative contribution of low salinity to the overall injury. The NPFC finds that this effort is capable of providing assessment information of use in determining oyster injury and the type and scale of restoration required to compensate for the loss.

N. Chemistry

NI. Contaminant Analytical Chemistry

NOAA collected tens of thousands of samples during assessment activities in 2010 and 2011¹⁶. Samples collected included oil, sediments, tissues, and water; and spanned across all resource areas (i.e., offshore, nearshore, and shoreline). In 2014, NOAA plans to analyze approximately 2,850 offshore sediment and biota samples, 700 shoreline sediment samples, 620 archived sargassum samples¹⁷, 1,877 nearshore sediment and biota samples, and 1,450 forensic oil and contaminant samples (7,497 total samples).

NOAA claims \$10,321,910 for contract costs to complete three tasks: sample analyses (\$6,802,875); oil and contaminants forensics analysis (\$3,139,000); and trustee coordination and data review (\$379,835). Sample analyses are described as work to analyze the presence of contaminants such as PAHs¹⁸ and VOCs¹⁹. Oil and contaminant forensics analysis is described as work to fingerprint oil and other contaminants. Trustee coordination and data review is described as administrative work to incorporate all materials and data into the technical case file and data management systems to allow for agency review of technical deliverables.

The NPFC approves \$9,942,075 for NOAA to analyze 7,497 samples under the “sample analyses” and “oil and contaminants forensics analysis” cost categories and \$379,835 for administrative tasks associated with the “coordination with trustees and data review” cost category. The NPFC finds that the approved work described above and included in the 2014 Contaminant Analytical Chemistry Assessment Activity is capable of providing valid and reliable information as part of a comprehensive evaluation of ongoing injury and recovery (15 C.F.R. §990.27) and that costs claimed are reasonable for the level of effort proposed given the complexity of the incident relating the nature and extent of oiling, geographic extent of exposure of natural resources to oil, and magnitude of potential injury (Table 1). The NPFC therefore finds the claimed cost of \$10,321,910 is compensable. 33 U.S.C. §2706 (d)(1)(C); 33 C.F.R. §136.211(a).

¹⁶ 2014 Assessment Plan, page 160

¹⁷ Neuston samples for type, abundance and size frequency of fishes and postlarval/juvenile decapods and encrusting invertebrates (e.g., hydroids, bryozoans, tunicates) on sargassum blades, stems, and vesicles collected.

¹⁸ Poly-aromatic hydrocarbons are contaminants that occur in oil, coal, and tar deposits.

¹⁹ Volatile organic compounds are organic chemicals that enter the surrounding air and may be dangerous and cause harm to the environment.

Table 1. Contaminant Analytical Chemistry Summary

Contaminant Analytical Chemistry	Original Claimed Amount	Revised Claimed Amount	NPFC Determination
Sample Analyses	\$9.2m	\$6.8m	Approve \$6.8m
Oil and contaminants forensics analysis	\$4.36m	\$3.1m	Approve \$3.1m
Trustee Coordination and Data Review	\$.509m	\$.380m	Approve \$.380m

NOAA Labor

NOAA claims \$21,691,558²⁰ for agency labor, travel, supplies, and ship time associated with the 36 assessment activities claimed. NOAA staff consists of more than one hundred administrative support specialists, scientists, restoration specialists, attorneys, and program managers working on the NRDA. NOAA labor includes data management, scientific documentation, legal review of analyses and technical deliverables; oversight of technical support contractors and associated work products; coordination with co-trustees, the public, and representatives from the RP²¹; and the preparation or review of technical materials to support public communications and injury assessment. Under this determination, the NPFC has determined that \$630,534 associated with the four activities²² is approved.

After reviewing NOAA’s 2014 Assessment Plan and additional claim information provided by NOAA, the NPFC finds that the (1) the activity described above for NOAA agency costs is an appropriate activity necessary to complete the approved 2014 assessment activities and (2) costs claimed for this activity are reasonable for the proposed level of effort given the complexity of the incident relating the nature and extent of oiling, geographic extent of exposure of natural resources to oil, and amount of data collected. 15 C.F.R. §990.27(c). Therefore, the NPFC finds that \$630,534 of the \$21,691,558 costs claimed for this activity is compensable from the Fund. 33 U.S.C. §2706 (d)(1)(C), 33 C.F.R. §136.209 and .211, and 33 U.S.C. §2712(a)(4).

Summary

The NPFC has reviewed the claim submitted by NOAA for costs to implement its 2014 Assessment Plan for the *Deepwater Horizon* incident in accordance with OPA (33 U.S.C. §2701 *et seq.*) and associated regulations (15 C.F.R. Part 990 *et seq.* and 33 C.F.R. Part 136). Through

²⁰ Revised on December 3, 2013, January 31, 2014, March 14, 2014, and April 10, 2014.

²¹ Coordination under this activity is related to oversight, support, and general information, which differs from coordination costs claimed above for other activities that are for coordination within the technical work groups and related specifically to technical aspects of an injury category.

²² Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass) (\$58,080); Continued Monitoring of Subtidal Oyster Injury (Recruitment)(\$121,259); Comprehensive Integration of Oyster Injury Assessment Elements(\$322,195); and Contaminant Analytical Chemistry(\$129,000)

this fourth partial determination, the NPFC offers \$ \$27,058,569 to implement four activities and associated NOAA labor costs detailed in NOAA's 2014 Assessment Plan.

Revolving Trust Fund and Return of Unused Funds to the OSLTF

As established by OPA (33 U.S.C. §2706(f)) and the NRDA regulations (15 C.F.R. §990.65), sums recovered by trustees for natural resource damages must be retained in a non-appropriated revolving trust account for use only to implement the four activities addressed in this determination in accordance with the 2014 Assessment Plan. For this claim, the NPFC will deposit \$27,058,569 into NOAA's Damage Assessment Restoration and Revolving Fund Account, which NOAA has demonstrated²³ to be a non-appropriated, revolving trust fund.

Cost Documentation, Progress Reporting, and Final Report

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

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

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

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

1. Certification by NOAA that all expenditures of OSLTF funds were in accordance with the plan as approved by the NPFC;
2. A summary of findings;
3. Copies of final reports and/or studies;
4. Documentation of OSLTF funds remaining in the Revolving Trust Fund for this claim, including account balance and interest earned; and
5. Documentation of all expenditures as follows:
 - a. Labor: For each employee –

²³ October 15, 2013 email from NOAA to NPFC

- i. A narrative description of the work accomplished by each individual and how that work fits into the plan. Enough detail should be included to determine reasonableness of costs; and
- ii. The number of hours worked, labor rate, and indirect rate. An explanation of indirect rate expenditures, if any, will be necessary;
- b. Travel: Paid travel reimbursement vouchers and receipts;
- c. Contract: Activities undertaken, lists of deliverables, and contract invoices and receipts;
- d. Purchases/Expendables: Invoices and receipts, along with an explanation of costs; and
- e. Government Equipment: Documentation of costs, including the rate (i.e., hourly, weekly) and time for all equipment used for which costs were incurred.

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

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

Enclosure 2. Summary of Claimed Activities

Resource Category	Claimed Activity	Approved 2/3/14	Approved 2/19/14	Approved 3/7/14	Denied 3/7/14	Approved this determination	Pending
A. Offshore Benthic Habitat and Communities	1. Soft Bottom Sediment			\$6,950,836			
	2. Hard Ground Corals			\$595,013			
	3. Mesophotic Reefs			\$5,884,710			
	4. Benthic Megafauna			\$1,134,409			
B. Bluefin Tuna	1. Bluefin Tuna Spawning Habitat Analyses	\$692,085					
C. Transport, Fate, and Effects Modeling	1. Oil Fate Modeling and Comparisons with Observational Data	\$2,975,364					
	2. Hydrodynamics Modeling	\$1,414,703					
	3. Exposure and Injury Modeling and Data Inputs	\$1,653,583					
D. Fish and Plankton	1. Analysis of Field Data from 2010-2011	\$2,655,454					
	2. Documentation of Oil Pathway, Water Column Organisms Exposed and Injuries	\$1,458,851					
E. Sargassum	1. <i>Sargassum</i> Communities	\$991,010					
F. Sea Turtles	1. Sea Turtle Exposure and Injury Assessment		\$1,096,604				
	2. Strandings: Management, Transport and Storage of Sea Turtles and Marine Mammals						\$2,722,782
G. Marine Mammals	1. Estuarine Dolphins		\$3,983,212				
	2. Coastal/Shelf Dolphins		\$254,002				
	3. Coastal and Estuarine Cetacean Strandings			\$3,563,271	\$1,881,074		
	4. Oceanic Marine Mammals		\$363,579				
	5. Inhalation		\$439,267				
H. Shoreline	1. Assessing Recovery of Coastal Wetlands	\$2,156,617					
	2. Completing Analysis of Coastal Wetland Injury	\$152,601					
	3. Completing Analysis of Coastal Wetland Erosion	\$902,850					
I. Nearshore Sediment and Biota	1. Characterizing Nearshore Sediment Contamination		\$726,916				
	2. Characterizing Nearshore Biota Contamination		\$323,565				
	3. Completing Analysis of Nearshore Benthic Injury		\$330,969				
	4. Supplemental Nearshore Sediment Sampling					<i>Withdrawn</i>	

Resource Category	Claimed Activity	Approved 2/3/14	Approved 2/19/14	Approved 3/7/14	Denied 3/7/14	Approved this determination	Pending	
J. Integration of Nearshore Exposure and Injury	1. Integrate and Interpret Findings Regarding Nearshore Exposure and Injury and Prepare Reports		\$2,361,607					
K. Oysters	1. Continued Monitoring of Subtidal Oyster Injury (Abundance and Biomass)					\$3,514,114		
	2. Continued Monitoring of Subtidal Oyster Injury (Recruitment)					\$7,493,605		
	3. Continued Monitoring and Analysis of Nearshore Oyster Injury	<i>Withdrawn</i>						
	4. Comprehensive Integration of Oyster Injury Assessment Elements					\$5,098,406		
L. Restoration Planning Activity						\$9,763,718		
M. Toxicity to Aquatic Organisms	1. Toxicity to Aquatic Organisms	\$8,196,986						
N. Chemistry	1. Contaminant Analytical Chemistry					\$10,321,910		
	2. Storage and Long Term Archive of Samples	\$3,668,409						
O. Data Management and Visualization	1. Data Management: Infrastructure	\$2,811,524						
	2. Data Management: Documentation	\$977,948						
P. Injury Assessment Management and Administration	1. Injury Assessment and Legal Case Management	\$4,381,584						
	2. <i>Deepwater Horizon</i> Electronic Content Management and Oil Pollution Act Administrative Record Management System	\$2,900,680						
NOAA Labor		\$8,400,320	\$2,705,853	\$5,176,848		\$630,534	\$4,778,003	
Total		\$46,390,569	\$12,585,574	\$23,305,087	\$1,881,074	\$27,058,569	\$17,264,503	

U.S. Department
of Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

U.S. Coast Guard Stop 7100
National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
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Claim Number: N10036-OC18

Claimant Name: National Oceanic Atmospheric Administration

The National Oceanic Atmospheric Administration (NOAA), the undersigned, accepts the offer of \$27,058,569 as partial payment of the claim listed above.

On October 30, 2013, NOAA presented a claim to the Oil Spill Liability Trust Fund (OSLTF or the Fund) in the total amount of \$147,902,421 for upfront costs to assess potential damages to natural resources resulting from the discharge of oil on or about April 20, 2010, from an area of offshore land leased to BP Exploration & Petroleum (BP) (the *Deepwater Horizon* incident). The NPFC assigned Claim Number N10036-OC18 to this claim. NOAA subsequently reduced the claim amount to \$128,485,376, which includes funding for 36 activities. On February 3, 2014, February 19, 2014, and March 7, 2014, the NPFC approved partial payments of this claim in the amount of \$46,390,569, \$12,585,574, and \$23,305,087 respectively. This offer of \$27,058,569, dated April 17, 2014, is the fourth partial payment for Claim Number N10036-OC18 to fund four additional activities.

The NOAA accepts the settlement offer of \$27,058,569 as full and final compensation for the costs to implement the four assessment activities as described in the April 17, 2014 determination (N10036-OC18).

The NOAA agrees to comply with 33 U.S.C. § 2706(f) by depositing into a revolving trust account the \$27,058,569 awarded in the April 17, 2014 determination.

The NOAA hereby assigns, transfers, and subrogates to the United States all rights, claims, interest and rights of action, that it may have against any party, person, firm or corporation that may be liable for the payment of the \$27,058,569 payable and paid from the Fund for Claim Number N10036-OC18. The NOAA authorizes the United States to sue, compromise or settle in the name of NOAA and the NPFC be fully substituted for, and acquires all NOAA rights arising from the April 17, 2014 determination.

The NOAA acknowledges that the United States has pending legal actions associated with the *Deepwater Horizon* incident in federal district court but warrants that no settlement will be made by any person on behalf of the NOAA with any other party to recover the compensation paid by the OSLTF for this April 17, 2014 determination and NOAA will cooperate fully with the NPFC in any claim and/or action by the United States against any person or party to recover the compensation paid by the OSLTF. The cooperation shall include, but not be limited to, immediately reimbursing the OSLTF any

compensation received from any other source for the same claim, and providing any documentation, evidence, testimony, and other support, as may be necessary for the NPFC to recover from any other party or person.

The NOAA certifies that to the best of its knowledge and belief that the information contained in this claim represents all material facts and is true, and it understands that misrepresentation of facts is subject to prosecution under federal law including, but not limited to, 18 U.S.C. §§287 and 1001.

FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Tony Penn
NOAA Office of Response and Restoration

Date