

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [REDACTED]	First [REDACTED]	Middle
Claimant ID	[REDACTED]	Claim ID	[REDACTED]
Claim Type	Subsistence		
Law Firm	[REDACTED]		

II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

<input checked="" type="checkbox"/> BP's Final Proposal	Compensation Amount	\$2,772.59
	Risk Transfer Premium	2.25
	Prior Payment Offset	\$0
<input type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$6,304.03
	Risk Transfer Premium	2.25
	Prior Payment Offset	\$0

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

- Error in documentation review.**
- Error in calculation.**
- Error in RTP multiplier.**
- Error in Prior Spill-Related Payment Amount.**
- No error.**

Comment *(optional)*:

This is a Claimant appeal of a subsistence award of \$2,772.59 to a fisherman in ██████████. The Claims Administrator determined that the Claimant's fishing grounds in the Gulf of Mexico had been closed for 42 days and awarded compensation accordingly. Claimant's appeal asserts that the award should have been based on 106 days of closure.

Claimant's passage into the Gulf is through the ██████████. Claimant contends that the County Commissioners constructed barriers to stop the oil from entering the bay which also limited ingress and egress by marine traffic. Claimant primarily bases his contention on a series of media articles, and a sworn SWS-43. Claimant also argues that Coast Guard directives prohibited vessels such as his from coming within 20 meters of any boom.

BP counters that the fishing grounds in issue were officially closed for only 42 days, the period adopted by the Administrator. BP also argues that the Claimant has failed to objectively establish any basis to extend the loss period beyond the documented closure. BP therefore argues that the Administrator was correct in utilizing the loss period of 42 days.

Exhibit 9 of the Settlement Agreement obligates the Claims Administrator to determine "the time period of loss of subsistence use consistent with the closure or impairment of geographic areas relied upon by the Claimant between April 20, 2010 and December 31, 2011." The Administrator has promulgated Policy 316 v.4 which identifies the types of documentation that may and may not be sufficient when a Claimant seeks recovery for a greater Loss Period. This policy requires the Claimant to submit objective evidence of actual impairment in order to extend the loss period.

According to Policy 316, acceptable documentation may include:

1. Reports of continued oiling;
2. Date-stamped photos;
3. Marina closure reports;

4. Receipts/invoices for oil removal from a boat;
5. Description of necessity to traverse through closed areas;
6. Receipts/invoices for boat repairs due to oil contamination;
7. Boat launch closure announcements;
8. Fuel dock closure announcements;
9. Boom location reports; and
10. Receipts for oil clean up.

Policy 316 v.4 further identifies the types of documentation that will not satisfy the objective standard:

The objective evidence standard does not include: (1) articles describing fears of Seafood safety; (2) reports of Spill-related damage to Gulf generally (not specific to certain geographical locations); or (3) blog posts from third parties. Articles that describe fears of Seafood safety and reports of Spill-related damage to the Gulf generally are not sufficiently detailed to confirm that a specific location where a claimant harvests Seafood or Game was impaired by the Spill. Further, the Settlement Program will only accept credible sources of impairment proof. Blog postings from third parties fail this credibility standard and are not acceptable to demonstrate impairment.

In addition, a Claimant's sworn SWS-43 must be sufficiently detailed to document the time period, location and cause of the extended impairment.

Here, the Claimant has not provided sufficient documentation to satisfy the objective evidence standard of Policy 316 v.4. Most significantly, the news articles submitted by Claimant do not pass muster nor is Claimant's SWS-43 sufficiently detailed. None of Claimant's submissions make reference to any limitation on marine traffic in or out of [REDACTED] for any protracted period of time extending into 2011 or 2012. To the contrary, one of the articles indicates that the Coast Guard allowed vessels to pass through a 400 foot gate. While a reasonable inference can be drawn that the Coast Guard periodically opened and closed the gate, this is insufficient to satisfy the objective requirements of Policy 316 v.4. Additionally, the SWS-43 merely asserts that the boom

blocked Claimant's exit from the bay beginning in June 2010. There is no reference to the claimed 106 day closure or any other evidence substantiating an extended closure period. In Policy 316, the Administrator has created an objective method for a subsistence Claimant to extend the closure period of his fishing grounds. Here, the documentation submitted by the Claimant falls short of the mark. The Administrator was correct in evaluating this claim and the award was correct under the Settlement Agreement.