

Deepwater Horizon Event Oil Spill Claims Information Update for Parish Government Officials



Louisiana Legislative Auditor

Introduction: This document is intended for those Louisiana parishes affected by the April 20, 2010, Deepwater Horizon explosion and resulting Oil Spill in the Gulf of Mexico. The information will assist parish officials with filing claims related to lost revenue and increased costs resulting from the Oil Spill. This document is available on the Legislative Auditor's Web site at www.la.gov/disasterassistance.

Remember the Basics

Below are general strategies that your parish should address to be successful in your recovery efforts. These strategies may be basic in nature, but they are critical to your recovery success.

Build Your Team - Consult your parish attorney, bond attorney, CPA, financial advisors, and key staff to assist you in determining what action your parish should take regarding claims and other issues related to the Oil Spill.

Understand the Claims Process - Parish officials should acquaint themselves with the resources available on page 4 of this brochure and network with municipal and neighboring parish governments for assistance and brainstorming ideas. Officials should also consider seeking assistance from and brainstorming with other entities within the parish and the Police Jury Association.

Assess Your Situation - Determine the extent of damages incurred including possible future loss of revenues and increased expenditures. Remember, just because you do not see current effects, you should consider possible long-term effects. For example, revenue losses may not be apparent while the clean-up effort is underway. Do not forget to brainstorm with others who may offer assistance through their practical experiences with such situations (e.g., other parishes, Police Jury Association).

File a Well-Documented Claim - The burden placed on parishes from the Oil Spill and its aftermath can be remedied by filing a claim with thorough supporting documentation.

You can Appeal - If a claim is denied, the parish can ask BP to review the claim again. If BP denies a claim or a claim goes unsettled for 90 days, you can submit a claim to the National Pollution Fund Center (NPFCC) which administers the Oil Spill Liability Trust Fund (see page 4 of this brochure for NPFCC contact information). If the parish does not receive full compensation for its claim, the parish government should consult its local legal counsel and the Attorney General regarding its legal remedies. If all appeals fail, you may choose on the advice of counsel to file suit in a court of competent jurisdiction.

Watch for These Pitfalls

The following problems could cause claims to be denied in whole or in part:

Mathematical or technical errors in calculations - Errors in calculating claims could cause a reduction in the payment of the claim.

Insufficient documentation - Not having thorough, supportive documentation will cause delays in the process.

Policy differences - Parishes may be trying to use pre-existing policies related to emergencies and disasters (e.g., FEMA regulations). BP may not approve claims filed if you are filing claims based on such regulations/policies. Consult your legal counsel for guidance and BP for further clarification.

**Daryl G. Purpera,
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Learn from Success Stories

The parishes that had success with their claims had two things in common:

Claims were well documented - A claim with logical and concise documentation will expedite the recovery process. Good documentation includes summary spreadsheets with supporting receipts/verification, vehicle/equipment use logs, and other evidence prepared in a logical manner.

Constant communication with BP - The BP claims center is available for claims information. The phone number is (877) 710-4064.

Loss of Parish Government Revenues

Three key industries were adversely affected by the Oil Spill and resulting fishing ban and oil drilling moratorium. Negative effects on the **oil industry, the seafood industry, and tourism** have resulted in loss of revenue for many parish governments.

Although these are not the only industries that may have been affected, adverse effects to them have driven many of the revenue losses in the categories presented below.

A number of taxes, fees, and fines have been and could be affected by the spill and ensuing fishing ban and drilling moratorium. Below, we present potential types or categories of losses. This is not a comprehensive list, but offers some major categories affected or that could be affected.

Potential types of losses with practical examples are as follows:

- **Sales and Use Taxes** (sales of fishing tackle/rental of chartered fishing trips, seafood retail sales, or taxable restaurant income decrease dramatically)
- **Franchise Taxes** (restaurants close or choose not to come to affected areas)
- **Occupational License Taxes** (construction slows down and licensing of builders/carpenters/plumbers decreases)
- **Hotel/Motel Occupancy Tax** (visitors decrease because of perceptions of contaminated areas)

- **Property Taxes** (many property owners move from affected areas, lowering collections)
- **Public Utility Service Fees** (unemployment affects customers' ability to pay parish utilities)
- **Interest Income Lost** (fund balance monies that would otherwise be invested are used to cover expenses)

Potential Methodology to Recoup Loss of Revenues

Steps to Consider

1. Obtain financial statement information for the past three years focusing on revenues.
2. Refer to BP's criteria listed on its Web site for identifying and documenting revenue losses. **IMPORTANT** - Just because BP's criteria indicate that you do not have a claim does not mean that you should not file a claim if you have a loss.
3. Determine if your parish will file claims monthly, quarterly, semiannually, or annually. You should organize data and conduct analysis accordingly.
4. Using information collected in Step 1, identify specific revenue streams before the Oil Spill.
5. Calculate average annual change in revenues over the three-year period.
6. Based on historical average calculated in Step 5, estimate annual future collections for the next three years.
7. From parish accounting records, gather actual revenues collected after the Oil Spill.
8. Subtract the estimated revenues from the actual revenues collected.
9. The difference is the amount of claim to be filed.
10. Continue until Oil Spill no longer affects the parish.

Factors to Consider

1. Assumptions will have to be made when projecting revenue losses. You should document all assumptions used to estimate revenue losses.

2. Make sure you clearly document all of your analyses and related evidence to support the claims you make to BP. Detailed information is included in BP's *Protocol for Submission of Claims by Government Entities* located on BP's Web site.
3. Filing the claim is necessary to receive any money - **you must file the claim**. Also, you will be contacted by BP representatives when you do file the claim.
4. BP has informed us that you do not have to project using data for three years; you can use data for one year. However, you must consider what is in the best interest of your parish.
5. Be aware that temporary revenue increases may occur because of Oil Spill recovery activities (e.g., clean-up workers renting hotel rooms). The "bump" in revenues should be calculated and removed.
6. Remember, just because you do not see current impacts, you should **consider possible long-term effects**.
7. If your parish is trying to use other emergency/disaster response policies to claim reimbursement for the BP Oil Spill, BP may not approve such claims. Seek guidance from your legal team and further clarification from BP.

Cost Increases to Local Government

Expenditures have increased because of oil clean-up, removal, and increases in governmental services provided. These costs may have occurred during the initial stages of the Oil Spill or may be occurring now (e.g., increased police security due to initial emergency compared to increased security due to a subsequent spike in crime). The following are specific areas and related examples of where expenditures have increased or could increase as a result of the Oil Spill:

- **Clean-up and Removal** (labor costs increase)
- **Police/Security** (unemployment and behavioral health problems cause spike in crime and police force is increased)
- **Payroll** (employees work longer and more are hired)
- **Unemployment Tax** (higher tax rate caused by area layoffs)

Potential Methodology to Recoup Increased Costs

You need to identify what services your parish has provided in response to the Oil Spill and how these additional responsibilities have affected costs.

Detailed documentation is necessary when you are preparing to file your claim. See page 4 of this brochure for helpful



Courtesy: United States Coast Guard

resources. **We**

stress again that you must file a claim to receive any compensation. If the parish does not receive full compensation for its claim, the parish government should consult its local legal counsel and the Attorney General regarding its legal remedies.

The following are questions that you should address when considering the impacts that the Oil Spill has had on your parish's expenditures - however, there may be many other questions you need to consider as you move forward:

Cost Impacts to Consider

1. **Clean-up:** What impacts have there been on labor and equipment to clean marshes and beaches?
2. **Security:** Has my parish experienced a spike in crime because of the Oil Spill and its aftermath (e.g., drug use increase tied to unemployment)? Has my parish had to hire more officers? Do more officers work a single shift now?
3. **Payroll:** Does my parish have to pay for overtime that is a result of the Oil Spill? Has my parish had to hire additional temporary staff as a result of the Oil Spill?
4. **Unemployment Tax:** Have parish layoffs increased and how will this affect my parish's unemployment tax rate/expense?
5. **Road and Other Capital Asset Depreciation:** Were roads used extensively and worn prematurely? What about other damaging effects on other capital assets?
6. **Borrowing Money:** Has my parish had to borrow money to cover immediate costs?

7. **Bond Costs:** Are the costs associated with bonds increasing because of the effects on parish revenues?

Link: www.gulfcoastclaimsfacility.com

Factors to Consider

1. Assumptions will have to be made when projecting expenditure increases. You should document all assumptions used to calculate these increases.
2. Make sure you clearly document all of your analyses and related evidence to support the claims you make to BP. Detailed information is included in BP's *Protocol for Submission of Claims by Government Entities* located on BP's Web site. You may want to have your legal counsel critically review submission documentation and what you are submitting.
3. Remember, just because you do not see current impacts, you should **consider possible long-term effects**.
4. If your parish is trying to use other emergency/disaster response policies to claim reimbursement for the BP Oil Spill, BP may not approve such claims. Seek guidance from your legal team and further clarification from BP.

State of Louisiana Sites

Louisiana Governor's Office of Homeland Security and Emergency Preparedness - State of Louisiana's primary Web site for Oil Spill information.

Link: www.emergency.la.gov

LLA's Disaster Assistance Web site - Provides overall guidance for the Oil Spill disaster and subsequent fishing bans and drilling moratorium.

Link: www.la.gov/disasterassistance

Federal Sites

Official Federal Response Portal - Contains fact sheets for claims by state and local governments. Has links to information on Natural Resource Damage Assessments--the process provided by the Oil Pollution Act (OPA) in which "natural resource trustees" may assess damages caused by an Oil Spill and collect for those damages.

Link: www.restorethegulf.gov

National Oil Spill Commission, Final Report to the President - Assesses the causes of the Deepwater Horizon disaster and its aftermath including specific economic and environmental impact on Louisiana and its residents.

Link: www.oilspillcommission.gov/final-report

National Pollution Funds Center Web site - Contains information presented by the U.S. Coast Guard regarding Oil Spill funding and claims processes.

Link: www.uscg.mil/npfc

Available Resources

Parish officials should use these sites to assist with identifying impacts, preparing claims, and providing valuable information to their residents. Please keep in mind, links to Web sites may change over time.

BP Sites

BP Government Claims Web site - Provides information on the types of claims and damages that may be filed under the Oil Pollution Act (claims checklists and forms).

Link: www.bp.com/governmentclaims

BP Web site for Individuals and Businesses - Provides claims processes, forms, and answers to Frequently Asked Questions (FAQ). Also provides claims statistics by state as compiled by Gulf Coast Claims Facility (GCCF).

Need more information?

Contact

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