



***Court-Appointed Distribution Agent and Subsistence Loss Calculations***

1. ***Introduction.*** The Framework for Subsistence Claims attached as Exhibit 9 to the Settlement Agreement outlines the appointment and role of the Court-Appointed Distribution Agent (“CADA”) and directs the Claims Administrator to determine reasonable consumption rates to calculate Subsistence losses. This Alert explains:
  - (a) The CADA’s role for the Subsistence Program;
  - (b) The Third Party Affidavit requirement for deckhands;
  - (c) The Seafood and Game Retail Price Chart; and
  - (d) The information that the Claims Administrator requires to calculate Subsistence losses.
  
2. ***CADA.*** The Settlement Agreement instructed that the Parties jointly propose and appoint a CADA to oversee the Subsistence Program. In August 2012, the Claims Administrator appointed Christina Hendrick as the CADA and the Director of the Subsistence Programs. The CADA operates under the direction of the Claims Administrator and maintains an office in the Exchange Centre in New Orleans.

CADA Team members will work from various Claimant Assistance Centers (Exhibit A). The CADA Team will assist and answer questions from Subsistence claimants and attorneys who represent Subsistence claimants. The CADA Team will also assist with Subsistence Claim Form filing and intake and complete Subsistence interviews and claims reviews.

The CADA Team will call claimants with incomplete Subsistence claims before issuing Incompleteness Notices. Claimants without working telephone numbers will receive Incompleteness Notices by mail or on their portals.

As stated in the Settlement Agreement, Field Visits are mandatory for Subsistence claims with payable base amounts above \$10,000. The base amount is the total payable value of a Subsistence claim before it is multiplied by a Risk Transfer Premium of 2.25. The CADA will appoint a Field Visit Team to conduct Field Visits. The Field Visit Team will travel to claimants’ homes, dock locations, and other applicable areas to evaluate any equipment used by claimants for Subsistence purposes.

3. ***Timing of Claims Reviews and Notices.*** Subsistence reviews are projected to begin by September 20, 2012 with the first Subsistence Notices issued by September 30, 2012.
  
4. ***Third Party Affidavits from Deckhands.*** Deckhands must submit Third Party Affidavits from their captains to be eligible for payments related to their withheld landings or harvests. A form Subsistence Third Party Affidavit, SWS-33, is available on the DWH website ([www.deepwaterhorizoneconomicsettlement.com](http://www.deepwaterhorizoneconomicsettlement.com)).



5. ***Seafood and Game Retail Price Chart.*** The Settlement Agreement requires the Claims Administrator to use post-Spill retail prices of Seafood and Game to calculate the value of a Subsistence claim that is based on consumption. If the post-Spill retail price of a species is unavailable, the Claims Administrator must use a reasonable proxy. In August 2012, the Parties approved a Seafood and Game Retail Price Chart (Exhibit B) for the Claims Administrator to use to value Seafood and Game species. The values of proxy species are included in the Seafood and Game Retail Price Chart.
6. ***Subsistence Loss Calculations.*** The Settlement Agreement directs the Claims Administrator to calculate Subsistence losses for consumption by converting quantities of Seafood and Game into consumable retail products. The Claims Administrator will not pay consumption losses beyond reasonable consumption rates.

The Parties approved a formula that will calculate both consumable retail products and reasonable consumption rates (Exhibit C). This formula requires information about claimants and their family members' genders, ages, and protein consumption patterns to calculate consumption losses. This information was not solicited in the Subsistence Claim Form because the Parties had not finalized all of the Subsistence criteria.

We anticipate that most Subsistence claimants will file claims for losses related to consumption. Claimants who file Subsistence claims only for bartering or non-consumption use **DO NOT** have to submit age, gender, and protein consumption pattern information. However, claimants and/or their attorneys who file Subsistence claims for consumption must submit age, gender, and protein consumption pattern information in order to calculate losses. Claimants can submit this information in three ways:

- (a) **Subsistence Interview Forms.** Claimants and/or their attorneys may complete and submit Subsistence Interview Forms (Exhibit D) by mail, fax, or email. The Subsistence Interview Form will be available on the DWH website ([www.deepwaterhorizoneconomicsettlement.com](http://www.deepwaterhorizoneconomicsettlement.com)).
- (b) **Availability of Subsistence Interview Forms in Claimant Assistance Centers.** Claimant Assistants and the CADA Team will provide Subsistence Interview Forms to claimants who file Subsistence Claim Forms in Claimant Assistance Centers. Subsistence Interview Forms also will be available in Claimant Assistance Centers at the request of claimants.
- (c) **Subsistence Interview Notice.** A Subsistence Interview Notice and a Subsistence Interview Form will be issued to claimants who:
  - (1) Submit complete documentation, including Subsistence Claim Forms, affidavits and fishing and/or hunting licenses (if not exempt);
  - (2) Are not deniable, *e.g.*, Recreational Fisherman, claimants who do not meet the Subsistence definition requirements, etc.; and

- (3) Have not previously submitted complete Subsistence Interview Forms or information about their personal consumption rates or information about their family members' ages, genders, and protein consumption rates.

Claimants who receive Subsistence Interview Notices will have 30 days from the date of their Subsistence Interview Notices to submit completed Subsistence Interview Forms or schedule interviews with the CADA Team.

Claimants who do not submit completed Interview Forms or schedule interviews with the CADA Team within 30 days after their Interview Notices will receive an Incompleteness Notice requesting additional information. Claimants who receive an Incompleteness Notice may then submit a completed Subsistence Interview Form to address the incompleteness.

## **Exhibit A**

### **Claimant Assistance Centers with CADA Team Members**



**Claimant Assistance Centers with CADA Team Members**

**ALABAMA**

**FLORIDA**

**LOUISIANA**

**MISSISSIPPI**

**Bayou La Batre**  
 Northfield Shopping Centre  
 13290 N. Wintzell Avenue  
 Bayou La Batre, AL 36509  
 (251) 824-2340

**Gulf Shores**  
 Palm South Plaza  
 3501 Gulf Shores Parkway  
 Suites 4, 5, and 6  
 Gulf Shores, AL 36542  
 (251) 967-2108

**Mobile**  
 Skyland Shopping Center  
 3976 B Government Road  
 Mobile, AL 36693  
 (251) 665-4500

**Apalachicola**  
 194 14th Street  
 Suite 106  
 Apalachicola, FL 32320  
 (850) 653-4785

**Fort Walton Beach**  
 348 Miracle Strip S.W.  
 Parkway  
 Suite 34  
 Fort Walton Beach, FL  
 32548  
 (850) 243-0549

**Panama City Beach**  
 7938 Front Beach Road  
 Panama City Beach, FL  
 32408  
 (850) 233-0727

**Cut Off**  
 16263 E. Main Street  
 Tarpon Heights Shopping  
 Center  
 Unit 2  
 Cut Off, LA 70345  
 (985) 632-1087

**Lafitte**  
 2654 Jean Lafitte  
 Lafitte, LA 70067  
 (504) 233-1205

**New Orleans East**  
 9671 Chef Menteur Hwy.  
 New Orleans, LA 70127  
 (504) 240-0418

**Bay St. Louis**  
 1171 Highway 90  
 Bay St. Louis, MS 39520  
 (228) 463-8200

**Biloxi**  
 15812 Lemoyne Boulevard  
 Biloxi, MS 39532  
 (228) 396-4637

**TEXAS**

**Bridge City**  
 2017 Texas Ave.  
 Bridge City, TX 77611  
 (409) 697-3815

## **Exhibit B**

### **Subsistence Seafood and Game Retail Price Chart**



<b>Subsistence Seafood and Game Retail Price Chart</b> <b>As of July 18, 2012</b>					
	<b>Species/Product</b>	<b>Group</b>	<b>May - Dec. 2010 Value Per Pound</b>	<b>May - Dec. 2011 Value Per Pound</b>	<b>2012 Value</b>
1.	Shrimp	Shrimp	\$6.26	\$6.75	N/A
2.	Catfish	Finfish	\$4.91	\$6.38	N/A
3.	Tilapia	Finfish	\$5.51	\$6.62	N/A
4.	Other Fish	Finfish	\$6.55	\$6.46	N/A
5.	Tuna	Finfish	\$7.32	\$8.30	N/A
6.	Flounder	Finfish	\$4.17	\$4.19	N/A
7.	Trout	Finfish	\$7.84	\$4.74	N/A
8.	Perch	Finfish	\$4.33	\$3.88	N/A
9.	Snapper	Finfish	\$9.08	\$9.58	N/A
10.	Oysters	Mollusks	\$6.27	\$5.99	N/A
11.	Clams	Mollusks	\$5.38	\$5.66	N/A
12.	Crabs	Crustaceans	\$7.64	\$8.57	N/A
13.	Lobsters	Crustaceans	\$10.90	\$12.40	N/A
14.	Beef	Game	\$3.16	\$3.43	N/A
15.	Ham	Game	\$2.29	\$2.38	N/A
16.	Turkey	Game	\$1.25	\$1.40	N/A
17.	Chicken	Game	\$1.20	\$1.21	N/A
18.	Turtle	Reptile	N/A	N/A	\$14.51
19.	Alligator	Reptile	N/A	N/A	\$11.70 (per pound)
20.	Frogs	Amphibian	N/A	N/A	\$10.95 (two legs)

## **Exhibit C**

### **Example of Subsistence Calculation and Caloric and Protein Intake Charts**



**Table 1**  
**Caloric Intake Guidelines**

Age	Male	Female
2	1,000	1,000
3	1,400	1,400
4	1,600	1,400
5	1,600	1,600
6	1,800	1,600
7	1,800	1,800
8	2,000	1,800
9	2,000	1,800
10	2,200	2,000
11	2,200	2,000
12	2,400	2,200
13	2,600	2,200
14	2,800	2,400
15	3,000	2,400
16	3,200	2,400
17	3,200	2,400
18	3,200	2,400
19–20	3,000	2,400
21–25	3,000	2,400
26–30	3,000	2,400
31–35	3,000	2,200
36–40	2,800	2,200
41–45	2,800	2,200
46–50	2,800	2,200
51–55	2,800	2,200
56–60	2,600	2,200
61–65	2,600	2,000
66–70	2,600	2,000
71–75	2,600	2,000
76+	2,400	2,000

Source: USDA/HHS, Dietary Guidelines for Americans 2010, Appendix 6, p. 78

Note: Calorie levels represent guidelines for Active individuals.

**Table 2**  
**Daily Protein Intake Guidelines**

Calorie Level	Intake of Protein Foods per Day (oz.)
1,000	2.0
1,200	3.0
1,400	4.0
1,600	5.0
1,800	5.0
2,000	5.5
2,200	6.0
2,400	6.5
2,600	6.5
2,800	7.0
3,000	7.0
3,200	7.0

Source: USDA/HHS, Dietary Guidelines for Americans 2010, Appendix 7, p. 79.

## Example of Subsistence Calculation

		Total	Family Member			
			Adult Male	Adult Female	Child	Child
Number of Individuals Subsisting on Claimant's Activities	[a]	4	1	1	1	1
Percent of Weekly Protein Supplied by Subsistence Activities	[b]	50%	50%	50%	50%	50%
USDA Recommended Daily Calories	[c]		3000	2400	1600	1400
USDA Recommended Protein Consumption per Day (oz.)	[d]		7	6.5	5	4
USDA Recommended Weekly Protein Consumption (lbs.)	[e]=[d]*7/16	9.84	3.06	2.84	2.19	1.75
Number of Weeks of Lost Subsistence	[f]	24	24	24	24	24
Percent of Losses Attributable to Shrimp	[g]	75%	75%	75%	75%	75%
Replacement Price for Shrimp	[h]	\$6.26	\$6.26	\$6.26	\$6.26	\$6.26
Total Replacement Cost for Shrimp	[i]=[b]*[e]*[f]*[g]*[h]	\$555	\$173	\$160	\$123	\$99
Percent of Losses Attributable to Snapper	[j]	25%	25%	25%	25%	25%
Replacement Price for Snapper	[k]	\$9.08	\$9.08	\$9.08	\$9.08	\$9.08
Total Replacement Cost for Snapper	[l]=[b]*[e]*[f]*[j]*[k]	\$268	\$83	\$77	\$60	\$48
Total Replacement Cost	[m]=[i]+[l]	\$823	\$256	\$238	\$183	\$146
RTP	[n]	2.25	2.25	2.25	2.25	2.25
Total Payment	[o]=[m]+[m]*[n]	\$2,674	\$832	\$772	\$594	\$475

## **Exhibit D**

### **Subsistence Interview Form**



6.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
7.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
8.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
9.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
10.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
11.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		
12.	Name:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
	Relationship:		

**C. PERCENT OF WEEKLY PROTEIN SUPPLIED BY SUBSISTENCE ACTIVITIES**

You must state the total percent of weekly protein you consumed or supplied to each family member as a result of your subsistence activities. For example, if the fish you caught provided half of the total protein a family member ate during the week, then you would write or type 50% in the column labeled "Percent of Weekly Protein" for that family member.

	Claimant or Family Member Name	Percent of Weekly Protein
1.		
2.		
3.		
4.		
5.		
6.		
7.		

**D. NAME OF THE PERSON WHO COMPLETED THIS FORM**

In the space below, print or type the date you completed this form, your name, and your relationship to the claimant (e.g. self, attorney or CADA Team).

<b>Date Completed:</b>	_____ <small>(Month/Day/Year)</small>	_____ Name (Printed or Typed)
		_____ Relationship to Claimant