

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**In re: Oil Spill by the Oil Rig  
“Deepwater Horizon” in the Gulf  
of Mexico, on April 20, 2010**

**MDL 2179**

**SECTION “J”**

**This Document Relates To:  
*No. 15-4143, 15-4146 & 15-4654***

**Judge Barbier  
Chief Magistrate Judge  
Joseph C. Wilkinson, Jr.**

**REPORT BY THE HALLIBURTON AND TRANSOCEAN  
SETTLEMENTS’ OLD AND NEW CLASS CLAIMS  
ADMINISTRATORS**

**STATUS REPORT NO.**

**11**

**DATE**

**AUGUST 1, 2018**

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**Judge Carl Barbier  
Chief Magistrate Judge  
Joseph C. Wilkinson, Jr.**

**JOINT STATUS REPORT BY THE HALLIBURTON AND TRANSOCEAN  
SETTLEMENTS’ OLD AND NEW CLASS CLAIMS ADMINISTRATORS  
STATUS REPORT NO. 11 FILED AUGUST 1, 2018**

The Old and New Class Claims Administrators for the HESI Punitive Damages and Assigned Claims Settlement Agreement and the Transocean Punitive Damages and Assigned Claims Settlement Agreement (Settlement Agreements) submit this Status Report pursuant to this Court’s October 23, 2015 Order [Rec. Doc. 15481] to inform the Court on the status of implementation of the Settlement Agreements. All capitalized terms in this Status Report shall have the same meaning as in the Settlement Agreements and orders of this Court, or as otherwise set forth herein.

**I. STATUS OF IMPLEMENTATION OF SETTLEMENT AGREEMENTS**

**A. Overview**

**Old Class**

The Old Class Claims Administrator is currently identifying the claims that must be held in reserve as their DHEPDS outcomes are not yet final in order to prepare a motion for distribution and memorandum in support for submission to the Court in the coming weeks. The program remains on track to conduct an initial distribution to all but these few hundred reserve claimants on the timeline previously indicated of Fall 2018.

## **New Class**

Processing of deficiencies and denial appeals have continued over the past quarter along with mapping reviews for the various real property claim types. The Claims Administrator has determined that the real property claim category consisting of Coastal Real Property, Wetlands Real Property, and Oyster Leaseholder properties will not be completed in time to be included in the initial distribution and thus all claims in this pool will be held back in order to allow for an initial distribution of the balance of the New Class relevant claim types to occur in 2018. It is anticipated the distribution for the real property categories will occur in early 2019.

### **B. Claims Process**

## **Old Class**

Since the last quarterly report, the number of claims pending determination by the CSSP and appeals pending before the United States Court of Appeals for the Fifth Circuit has dropped below 1,000 claims at this point. The undetermined claims as of July 9, 2018 are being assigned maximum values to allow for creation of the reserve fund that will compensate claims deemed payable at a later date once all due process rights have been exhausted.

The distribution motion and memorandum in support of distribution is in process and upon receiving an update from the Court-appointed Neutrals with the most recent round of settlement values for inclusion in the Old Class distribution in conjunction with determining the Old Class reserve fund and administrative fund values, the Claims Administrator will submit his findings to the Court for approval prior to initiating distribution. Barring any appeal of the Court's Order, payments will be issued in late Fall 2018.

Additionally, letters to the US Trustees of bankrupt claimants and third-party lien holders from DHEPDS to confirm the statuses in the claimant files remain accurate so that payments may be made the proper parties will be issued in the next six weeks to have the most accurate information available for distribution and reduce the costs associated with reissues.

## **New Class**

Claimant-level denials and sub-claim level deficiency and denial notices continue to be mailed on a rolling basis. The Program has mailed 1,162 deficiency and 756 denial letters on the sub-claim level and 712 determination letters indicating the claimant has a zero dollar valuation for all claims or is otherwise denied on the claimant level due to a lack of prior underlying

compensation upon which to base a punitive damages award or failure to comply with the filing deadline. Eligible claim notification letters are being issued on a rolling basis at this point as well.

The New Class claim reconciliation letters are slated to mail in mid-August to allow existing DHEPDS claimants with New Class-relevant claim types and New Class new claim claimants to have a full picture of their pending claims and advise the Claims Administrator of any concerns or discrepancies in the transferred records prior to the preparation of the motion for and memoranda in support of distribution so that any issues can be addressed. This letter will also include formal notice of the Court's decision on attorneys' fees [*see* Rec. Doc. 24470], will update class members on the status of their W-9, and will provide the opportunity to submit address changes, updates to representation, and/or provide documentation regarding a claimant who is deceased, a minor, or incompetent.

Program appeal and Court Review processing has continued to move forward as well. A total of 1,284 claimants' appeals have been received to date. Determination letters have been sent for all determined appeals that were not withdrawn by the filer, inclusive of a Court Review request form for any denied appeal. There are 52 appeals pending. At this time 39 are being prepared for the Claims Administrators' review. The remainder have been reviewed by the Claims Administrator and have received determination notices.

There have been 95 Court Review requests. Chief Magistrate Judge Wilkinson has no requests pending review at this time, but more requests are anticipated as additional appeal determination letters continue to mail on a rolling basis.

In anticipation of distributing the New Class Settlement Fund the Claims Administrator has determined that the number of New Class, new claim Wetlands Real Property and Coastal Real Property claims that remain out for GIS mapping and zone determination make it untenable to establish a reserve for only specific, undetermined claims within this claim pool at this time. Any attempt to predict the overall recognized loss amount for this claim category with so many claims without zoning determinations and additional outstanding deficiencies would not have a strong mathematical basis and would yield a proration factor estimate that is unreliable. As such, the Claims Administrator has determined to hold back this claim category for later distribution in early 2019 when there should be no more than a limited need to consider reserving funds for undetermined claims that may be pending court review or other appeal. In addition to the Real Property claim category, the Claims Administrator will maintain reserve funds for: undetermined DHEPDS claims for relevant claim types, claims currently related to the appeal to the United States Court of Appeals for the Fifth Circuit, anticipated administrative costs, and appeals litigation costs.

The appeal made earlier this year to the United States Court of Appeals for the Fifth Circuit remains pending. The New Class Claims Administrator still does not anticipate that the appeal in Case No. 18-30243 will prevent distribution from timely occurring, but it is an ongoing issue that will require additional reserves for both potential payment of the underlying claims, if a decision were made that these claims should be considered and then are determined eligible, along with litigation expenses, presuming the matter has not been disposed of at the time the motion for and memorandum in support of distribution is submitted to the Court.

### **Determinations and Distribution**

The Old Class Claims Administrator is moving forward with preparations to complete the primary distribution later this Fall assuming the Court enters an order in favor of distribution that is not appealed.

A partial distribution for the New Class, holding back the pool for Real Property and any other claims in process pending appeal or court review that cannot be determined in time to be included in the partial distribution, will take place later this year as well, again, pending Court approval to move forward with distribution and assuming that there are no appeals of the Court's order at that time.

Both of these distributions will be subject to a reserve for DHEPDS claims that are potentially eligible to participate, but have not received a final determination from DHEPDS as of the point the distribution motions and memoranda are prepared and submitted to the Court for consideration. Funds will be reserved for future administrative costs for both classes and potentially litigation expenses for the New Class as well.

## **II. CONCLUSION**

The Old and New Class Claims Administrators respectfully submit this Status Report so that the Court may be fully apprised of the status of the implementation of the Settlement Agreements. In the event the Court would like additional information, the Old and New Class Claims Administrators are prepared to provide further details at the Court's request.

/s/ Patrick A. Juneau  
PATRICK A. JUNEAU  
OLD CLASS CLAIMS ADMINISTRATOR

/s/ Michael J. Juneau  
MICHAEL J. JUNEAU  
NEW CLASS CLAIMS ADMINISTRATOR