



Upholding our human right to live in a  
healthy environment

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## **KNOW YOUR RIGHTS: DAMAGE RECOVERY AFTER THE BP OIL DRILLING DISASTER**

The **Oil Pollution Act** of 1990 (“OPA”) is the main federal law that imposes liability for damages resulting from an incident like the British Petroleum (“BP”) oil drilling disaster on April 20, 2010 off the coast of Louisiana. BP has been deemed the “responsible party” for the damages resulting from the continuing oil discharge caused by the disaster. Under OPA, BP’s total liability for damage claims is limited to \$75 million but members of Congress have recently proposed federal legislation to raise this amount to \$10 billion. However, the responsible party’s liability is unlimited if it is determined that the incident was caused by gross negligence, willful misconduct or the violation of federal law.

**What damages can an individual claim?** Under OPA, an individual may claim damages for injury to or economic losses resulting from the destruction of real or personal property; loss of subsistence use of natural resources; and loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources.

**How does an individual file a claim for damages?** All claims for damages must first be filed with the responsible party.

**Is it possible for an individual to get interim financial assistance before his/her claim is settled in full with the responsible party?** Yes. A claim for interim, short-term damages representing less than the full amount of damages to which an individual may ultimately be entitled is allowed under OPA. In addition, the federal government sets up a loan program to provide alternative interim assistance to fishermen and aquaculture producers, who have claims pending for damages, but have not received an interim payment on their claims. The loan must have flexible terms; be for a period that is the later of either 5 years after the date on which the loan is made or the date on which the fisherman or aquaculture producer received payment; and be at a low interest rate.

**In addition to filing a damage claim with the responsible party, can an individual file a lawsuit in court?** Yes, but *only* after the responsible party denies all liability for the claim or the claim has not settled by payment within 90 days after the claim was filed.

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