U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center

4200 Wilson Blvd Stop 7100
Arlington VA 20598-7100
Staff Symbol: Ca
Phone: [redacted]
Fax: 703-[redacted]
Email: [redacted]@uscg.mil

5890
May 16, 2013

via email [redacted]@dep.state.fl.us

State of Florida
Florida Department of Environmental Protection
ATTN: Ms. PeggyBrown
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000

NPFC Claim Number: 913054-0001
Florida Case No. 2012-4C-46915

Dear Ms. Brown:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that $209.48 is full compensation for OPA claim number 913054-0001.

This determination is based on an analysis of the information submitted. Please see the attached determination for further details regarding the rationale for this decision.

If you accept this determination, please sign the enclosed Acceptance / Release Agreement where indicated and return to the above address.

If we do not receive the signed original Acceptance / Release Agreement within 60 days of the date of this letter, the determination is void. If the determination is accepted, an original signature and a valid tax identification number (EIN or SSN) are required for payment. If you are a Claimant that has submitted other claims to the National Pollution Funds Center, you are required to have a valid Contractor Registration record prior to payment. If you do not, you may register free of charge at www.SAM.gov. Your payment will be mailed or electronically deposited in your account within 60 days of receipt of the Release Agreement.

If you have any questions or would like to discuss the matter, you may contact me at the above address or by phone at [redacted]

Sincerely,

[redacted]

Gina A. Strange
Claims Manager
U.S. Coast Guard
By direction

Enclosures: Claim Summary / Determination
Acceptance / Release Agreement

Department of Homeland Security

United States Coast Guard

Director
United States Coast Guard
National Pollution Funds Center

4200 Wilson Blvd. MS7100
Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: [redacted]

Claim Number: 913054-0001 Florida Case: 2012-4C-46915	Claimant Name: State of Florida ATTN: Peggy Brown Department of Environmental Protection Bureau of Emergency Management 3900 Commonwealth Blvd. Tallahassee, FL 32399-3000

I, the undersigned, ACCEPT the settlement offer of $209.48 as full compensation for all claims, except those for natural resource damages, associated with the above referenced claim. Other than possible claims for natural resource damages, this settlement represents full and final release and satisfaction of all claims under the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4), arising from an oil pollution incident documented in the above noted Florida case number. This settlement is not an admission of liability by any party.

I hereby assign, transfer, and subrogate to the United States all rights, claims, interest and rights of action, except those for natural resource damages, that I may have against any party, person, firm or corporation that may be liable for the loss. I authorize the United States to sue, compromise or settle in my name and the United States fully substituted for me and subrogated to all of my rights arising from the incident. I warrant that no legal action has been brought regarding this matter and no settlement has been or will be made by me or any person on my behalf with any other party for costs which are the subject of the claim against the Oil Spill Liability Trust Fund (Fund).

I, the undersigned, agree that, upon acceptance of any compensation from the Fund, I will cooperate fully with the United States in any claim and/or action by the United States against any person or party to recover the compensation. The cooperation shall include, but is not limited to, immediately reimbursing the Fund any compensation received from any other source for the same claim, providing any documentation, evidence, testimony, and other support, as may be necessary for the United States to recover from any other person or party.

I, the undersigned, certify that to the best of my knowledge and belief the information contained in this claim represents all material facts and is true. I understand that misrepresentation of facts is subject to prosecution under federal law (including, but not limited to 18 U.S.C. 287 and 1001).

Title of Person Signing	Date of Signature
Typed or Printed Name of Claimant or Name of Authorized Representative	Signature

Title of Witness	Date of Signature
Typed or Printed Name of Witness	Signature

CLAIM SUMMARY / DETERMINATION

Claim Number:	913054-0001
Claimant:	Florida Department of Environmental Protection
Type of Claimant:	State
Type of Claim:	Removal Cost[redacted]
Claim Manager:	Gina Strange[redacted]
Amount Requested:	$209.48[redacted]

FACTS:

Oil Spill Incident:

On 9 April 2012, The Florida Bureau of Emergency Response (FL BER) received a call from the Pinellas County 911 Center reporting a gasoline sheen in the waters of the canal system in the Gulfport/Pasadena area. The sheen was located near the Pasadena Yacht and Country Club at the east end of Skimmer Point Blvd, South.

Upon arrival at the scene, FL BER personnel went to the loction and met with the Fire Department, the Police Department, and the United States Coast Guard Personnel to assess the situation. It was determined that approximately 20 gallons had discharged into the waters of the canal. The source of the discharge was a sunken vessel owned by Stanley Pankiewicz.

Notifications were made to the Fire Department, the Police Department, and the United States Coast Guard (USCG).

Description of Removal Activities for this Claimant:

At the time when the FL BER personnel and the Federal On Scene Coordinator (FOSC) from Sector St. Petersburg arrived on scene, they determined the source of the discharge was a sunken vessel. The owner of the vessel, Mr. Pankiewicz, was not on scene at the time. Upon arrival, he took responsibility for the vessel, immediately contacting SWS to respond to the situation. They responded by deploying a vacuum truck and two responders to the scene. The remaining fuel was vacuumed from the vessel, and the gasoline sheen was allowed to dissipate naturally. Towboat US refloated the vessel and towed it to Maximo Marina.

The Claim:

On 6 May 2013, the Florida Department of Environmental Protection (DEP) submitted a removal cost claim to the National Pollution Funds Center (NPFC) for reimbursement of their uncompensated removal costs of State personnek, expenses and equipment costs in the amount of $209.48

APPLICABLE LAW:

Under OPA 90, at 33 USC § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA 90. A responsible party's liability will include "removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan". 33 USC § 2702(b)(1)(B).

"Oil" is defined in relevant part, at 33 USC § 2701(23), to mean "oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil".

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136, to pay claims for uncompensated removal costs that are determined to be consistent with the National Contingency Plan and uncompensated damages. Removal costs are defined as "the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from an incident".

Under 33 USC §2713(b)(2) and 33 CFR 136.103(d) no claim against the OSLTF may be approved or certified for payment during the pendency of an action by the claimant in court to recover the same costs that are the subject of the claim. See also, 33 USC §2713(c) and 33 CFR 136.103(c)(2) [claimant election].

Under 33 CFR 136.105(a) and 136.105(e)(6), the claimant bears the burden of providing to the NPFC, all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim.

Under 33 CFR 136.105(b) each claim must be in writing, for a sum certain for each category of uncompensated damages or removal costs resulting from an incident. In addition, under 33 CFR 136, the claimant bears the burden to prove the removal actions were reasonable in response to the scope of the oil spill incident, and the NPFC has the authority and responsibility to perform a reasonableness determination. Specifically, under 33 CFR 136.203, "a claimant must establish -

(a) That the actions taken were necessary to prevent, minimize, or mitigate the effects of the incident;
(b) That the removal costs were incurred as a result of these actions;
(c) That the actions taken were determined by the FOSC to be consistent with the National Contingency Plan or were directed by the FOSC."

Under 33 CFR 136.205 "the amount of compensation allowable is the total of uncompensated *reasonable* removal costs of actions taken that were determined by the FOSC to be consistent

with the National Contingency Plan or were directed by the FOSC. Except in exceptional circumstances, removal *activities* for which costs are being claimed must have been coordinated with the FOSC." [Emphasis added].

DETERMINATION OF LOSS:

A. Overview

1. FOSC coordination has been provided by Steven Natale of Sector St. Petersburg (USCG) on 23 April 2012.
2. The incident involved the discharge of "oil" as defined in OPA 90, 33 U.S.C. 2701 (23), to navigable waters.
3. In accordance with 33 CFR 136.105(e), the Claimant has certified no suit has been filed in court for the claimed uncompensated removal cost
4. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(1).
5. A Responsible Party was determined, but to date, has not paid this claim. 33 U.S.C. § 2701(32).
6. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined that all removal costs presented were for actions in accordance with the NCP and that the costs for these actions were indeed reasonable and allowable under OPA and 33 CFR § 136.205.

B. Analysis

NPFC CA reviewed the actual cost invoices and dailies to confirm that the claimant had incurred all costs claimed. The review focused on (1) whether the actions taken were compensable "removal actions" under OPA and the claims regulations at 33 CFR 136 (e.g. actions to prevent, minimize, mitigate the effects of the incident); (2) whether the actions taken were determined by the FOSC, to be consistent with the NCP or directed by the FOSC, and (4) whether the costs were adequately documented and reasonable.

The Claims Manager validated the costs incurred and Sector St. Petersburg determined these costs, were reasonable, necessary and performed in accordance with the National Contingency Plan (NCP) as evidenced by their sign off on FL DEP's Emergency Response Incident Report dated 4/23/12. The Claimant states that all costs claimed are for uncompensated removal costs incurred by the Claimant for this incident on April 9, 2012. The Claimant represents that the costs it paid are compensable removal costs, payable by the OSLTF as presented by the claimant.

After a review of the file, and reading the corresponding FL DEP and USCG documents, the response by FL DEP is determined to be reasonable and necessary to mitigate any further damage the oil may have caused. On that basis, the Claims Manager hereby determines that the Claimant incurred $209.48 of uncompensated removal costs and that that amount is payable by the OSLTF as full compensation for the reimbursable removal costs incurred by the claimant and submitted to the NPFC under claim #913054-0001.

C. Determined Amount:

The NPFC hereby determines that the OSLTF will pay $209.48 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim number 913054-0001. All costs claimed are for charges paid for by the Claimant for removal actions as that term is defined in OPA and, are compensable removal costs, payable by the OSLTF, as presented by the Claimant.

AMOUNT: $209.48

Claim Supervisor: ***Donna M. Hellberg***

Date of Supervisor's review: ***May 16, 2013***

Supervisor Action: ***Approved***

Supervisor's Comments: