

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/12/2009
Claim Number	: 909073-001
Claimant	: United Kingdom P & I Club and Prime Marine Management
Type of Claimant	: Corporate (US)
Type of Claim	: Removal Costs
Claim Manager	: Eric Bunin
Amount Requested	: \$41,116.35

FACTS:

1. Oil Spill Incident: On or about March 7, 2005, the M/V PUMA, managed by Prime Marine Management, was in the Port of Jacksonville, Florida engaging in cargo operations and obtained bunkers. The Port of Jacksonville is located on the St. Johns River, a navigable water of the United States. During the bunkering operations a small amount of bunkers spilled onto the vessel's deck, but none reached the water. The vessel's representatives notified the Coast Guard (CG) of the spill. Since it appeared that no oil had reached the water, the CG did not restrict the vessel's operations and allowed it to depart the port once bunkering operations were complete. Later that day a homeowner along the water contacted the CG stating that he saw oil along the river bank. The vessel's local agent was served a CG Notice of Federal Interest identifying the vessel as the source of the oil in the river and was also issued an Administrative Order instructing the vessel's interests to clean up the spill.

While the vessel interests denied responsibility for the spill into the water, they complied with the CG Order and initiated cleanup operations by calling out several individuals and companies. The removal response was executed quickly and was complete by the end of March 11, 2005.

The vessel interests hired a laboratory to analyze oil samples from the river and from the PUMA. None of the spill samples matched the samples taken from the PUMA. The CG and Florida Department of Environmental Protection (DEP) investigations concluded that the PUMA was not the source of the oil in the river. Therefore, by letter dated September 25, 2007 the CG notified the vessel interests that the PUMA was not the source of the discharge. By letters dated December 16 and December 19, 2005, the Florida DEP notified the vessel interests that the spill was reclassified as a mystery spill.

2. Claim: Since the spill is a mystery, no responsible party has been identified to which claims must be submitted. The claimants, Prime Marine Management and United Kingdom P & I Club, the subrogated insurer of the vessel, thus presented this claim for response and removal costs to the NPFC directly. The claim was received by the NPFC on February 11, 2009.

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].

33 U.S.C. §2713(d) provides that "If a claim is presented in accordance with this section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund."

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. The FOSC has determined the incident to be a "mystery spill."

2. The incident involved the discharge of “oil” as defined in OPA 90, 33 USC § 2701(23), to navigable water.
3. In accordance with 33 CFR § 136.105(e)(12), the claimant certified that no suit has been filed in court for the claimed uncompensated removal costs.
4. The original claim and the request for reconsideration were submitted timely.
5. The NPFC has thoroughly reviewed all documentation submitted with the claim.

B. Determined Amount:

The NPFC hereby determines that the OSTF will pay \$41,116.35 as full compensation for the reimbursable removal costs incurred by the claimant. All costs claimed are for charges paid by the Claimants for removal actions performed as defined by OPA and are compensable removal costs payable by the Oil Spill Liability Trust Fund.

AMOUNT: \$41,116.35

Claim Supervisor: Donna Hellberg

Date of Supervisor’s review:

Supervisor Action:

Supervisor’s Comments:

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
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Staff Symbol: (CA)
Phone: 2 [REDACTED]
E-mail: [REDACTED]n@uscg.mil
Fax: 202-493-6937

5890
2/18/2009

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7007 2680 0002 9613 5000

United Kingdom P & I Club and Prime Marine Management
c/o Moseley, Prichard, Parrish, Knight & Jones
501 West Bay Street
Jacksonville, FL 32202

Re: Claim Number 909073-001

Dear Gentlemen:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that \$41,116.35 is full compensation for OPA claim number 909073-001.

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 Form where indicated and return to the above address. If we do not receive the signed original Acceptance/Release Form 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 Central Contractor Registration (CCR) record prior to payment. If you do not, you may register free of charge at www.ccr.gov. Your payment will be mailed or electronically deposited in your account within 60 days of receipt of the Release Form.

If you have any questions or would like to discuss the matter, you may contact me at the above address or by phone at 2 [REDACTED]

Sincerely,

Eric Bunin
Claims Manager

ENCL: 1) Acceptance/Release Form
2) Claim Summary/Determination Form

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 2 [REDACTED]
E-mail: E [REDACTED] n@uscg.mil
Fax: 202-493-6937

Claim Number: 909073-001	Claimant Name: United Kingdom P & I Club and Prime Marine Management c/o Moseley, Prichard, Parrish, Knight & Jones 501 West Bay Street Jacksonville, FL 32202
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I, the undersigned, ACCEPT the determination of \$41,116.35 as full compensation for the claim listed above.

This determination represents full and final release and satisfaction of all claims under the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4)), associated with the oil pollution incident which occurred on or about March 7, 2005 in the St. Johns River. This determination 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, 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

_____	_____	_____
TIN Required for Payment	Bank Routing Number	Bank Account Number