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: [redacted]
E-mail:
Dawn.[redacted]@uscg.mil
Fax: 202-493-6937

5890
1/8/09

Sent Via E-Mail and FAX
Address: [redacted]@Marioneny.Com
FAX#: (423) 8929-5122

Marion Environmental Inc
ATTN: Mr. Thomas G. Gallant, III
115 Parmenas Lane
Chattanooga, TN 37405

Re: Claim Number 909029-001

Dear Mr. Gallant:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that $20,268.50 is full compensation for OPA claim number 909029-001.

This determination is based on an analysis of the information submitted. Please see the attached determination for further details regarding the rational 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 202-493-6843.

Sincerely,

[redacted]

Claims Manager

ENCL: Acceptance/Release Form
Claim Summary / Determination Form

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Claim Number: 909029-001	Claimant Name: Marion Environmental Inc 115 Parmenas Lane Chattanooga, TN 37405

I, the undersigned, ACCEPT the determination of $20,268.50 as full compensation for all removal costs incurred.

This determination represents full and final release and satisfaction of all removal costs incurred under the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4), associated with the above referenced claim. 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

CLAIM SUMMARY / DETERMINATION FORM

Date	: 12/22/2008
Claim Number	: 909029-001
Claimant	: Marion Environmental Inc
Type of Claimant	: OSRO
Type of Claim	: Removal Costs
Claim Manager	: [redacted]
Amount Requested	: $20,268.50

FACTS:

Oil Spill Incident: On June 24, 2008 Marion Environmental Incorporated (MEI) received a request from the Chattanooga Fire Department to respond to a gasoline spill at Erwin Marina in Chattanooga, TN. A pleasure craft owned by Mr. Jonathan James of Ringgold, Georgia, had caught fire due to unknown causes; causing a discharge of 120-gallons of gasoline into Lake Chickamauga, a navigable water of the United States.

The National Response Center was notified on June 24, 2008 via report# 875097

Removal Activities: MEI arrived on scene and met with the Fire Department. The spill was isolated by river boom. Absorbent boom and pads were spread over the water to absorb the gasoline. Also, gasoline was recovered by using a skimmer and vacuum truck.

The recovered gasoline and contaminated absorbents were transported to Aqua-Treat Inc. in Chattanooga, TN for disposal in accordance with the NCP.

On June 27, 2008 MEI returned to the river and removed the sorbent and river boom.

The Claim: On November 13, 2008, MEI submitted a removal cost claim to the National Pollution Funds Center (NPFC) for reimbursement of their uncompensated removal costs in the amount of $20,268.50 for the services they provided regarding the gasoline spill at Erwin Marina.

The claim consists of invoices, daily work logs, disposal manifest and an NRC report. The invoices which are the subject of this claim have been submitted to the RP, Mr. Jonathan James. The Claims Manager sent an RP Notification letter to Mr. James on November 24, 2008 and to date, there has been no response from the RP.

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. Findings:

1. The NPFC has determined that the actions undertaken by the claimant are deemed consistent with the NCP. This determination is made in accordance with the Delegation Authority for Determination of Consistency with the National Contingency Plan (NCP) for the payment of uncompensated removal costs claims under section 1012(a)(4), Oil Pollution Act of 1990.

2. The incident involved the discharge of "oil" as defined in OPA 90, 33 USC § 2701(23), to navigable waters.

3. In accordance with 33 CFR § 136.105(e)(12), the claimant has certified no suit has been filed in court for the claimed uncompensated removal costs.

4. The claim was submitted on time.

5. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined that the 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 as set forth below.

6. The review of the actual costs, invoices, and dailies focused on the evaluation of whether such costs qualify as "Compensation Allowable" under 33 CFR Section 136.205.

B. Determined Amount:

The NPFC determines that the OSLTF will pay $20,268.50 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim# 909029-001.

Claim Supervisor: [redacted]

Date of Supervisor's review: 1/8/09

Supervisor Action: APPROVED

Supervisor's Comments: