

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: 202-493-6843
E-mail:
[REDACTED]@uscg.mil
Fax: 202-493-6937

5890
10/24/2011

Sent via email:
[REDACTED]@bollingershipyards.com

Bollinger Quick Repair LLC
Attn: Ms. Falgout
615 Destrehan Ave
P.O. Box 116
Harvey, LA 70059-0116

Re: Claim Number 911117-0001

Dear Ms. Falgout:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that \$850.50 is full compensation for OPA claim number 911117-0001.

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.

All costs that are not determined as compensable are considered denied. You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claims. Reconsideration will be based upon the information provided and a claim may be reconsidered only once. Disposition of the reconsideration will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include corresponding claim number.

Mail reconsideration request to:

Director (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

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,



Dawn Unglesbee
Claims Manager
United States Coast Guard

ENCL: Claim Summary / Determination Form
Acceptance/Release Form

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Homeland Security

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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: 202-493-6834
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

Claim Number: 911117-0001	Claimant Name: Bollinger Quick Repair LLC 615 Destrehan Ave P.O. Box 116 Harvey, LA 70059-0116
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I, the undersigned, ACCEPT the determination of \$850.50 as full compensation for the 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

Claim Number : 911117-0001
Claimant : Bollinger Quick Repair LLC
Type of Claimant : Corporate (US)
Type of Claim : Removal Costs
Claim Manager : Dawn Unglesbee
Amount Requested : \$1,173.00

Facts

On May 19, 2011 the waterfront property owned by Bollinger Quick Repair, L.L.C. (Bollinger or Claimant) was contaminated by a mystery spill of oil in the Harvey Canal, a navigable waterway of the United States.

Claimant contacted the National Response Center (NRC) via report #976715¹.

The Claimant and the Claim

Bollinger immediately deployed sorbent boom and pads to clean up the mystery oil that was impacting the facility's dry dock and bulk head. The oil and debris were taken to American Recovery, LLC in Houma, Louisiana for disposal.²

On September 8, 2011, Claimant presented their Personal Property claim to the National Pollution Funds Center (NPFC) for reimbursement of the funds expended to restock their conex box located at Bollinger's facility. Based on the nature of the claim, the NPFC reclassified this submission as a removal cost claim as opposed to a personal property claim.

Applicable Law

"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".

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 136.115(d), the Director, NPFC, will, upon written request of the claimant or the claimant's representative, reconsider any claim denied. The request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. The request for reconsideration must be received by the NPFC within 60 days after the date the denial was mailed to the claimant or within 30 days after receipt of the denial by the claimant, whichever date is earlier.

¹ NRC Report # 976715

² See, American Recovery, LLC Manifest # 273261

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 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 of Authority for Determination of Consistency with the NCP for the payment of uncompensated removal cost claims and is consistent with the provisions of sections 1002(b)(1)(B) and 1012(a)(4) of OPA, 33 U.S.C. §§ 2702(b)(1)(B) and 2712(a)(4).
2. The incident involved the discharge of "oil" as defined in OPA 90, 33 U.S.C. §2701 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 costs.
4. In accordance with 33 CFR § 136.101(a)(2), the claim was submitted within the six year statute of limitations for removal costs.
5. The NPFC Claims Manager thoroughly reviewed all documentation submitted with the claim and determined what costs presented were for actions in accordance with the NCP and that the costs for these actions were reasonable and allowable under OPA and 33 CFR § 136.205.

B. Analysis:

The NPFC Claims Manager has reviewed the actual cost documents 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 costs were incurred as a result of these actions; (3) whether the actions taken were determined by the FOSC, and (4) whether the costs were adequately documented and reasonable.

Claimant provided United States Environmental Services LLC (USES) invoices with proof of payment³ for five 4 section bags of 5"x10' sections of sorbent boom, two bales of sorbent pads (100 per bale), two 55-gallon steel drums, two rolls of duct tape, 18 pairs of gloves, and three hand tools as evidence of the new supplies that had to be purchased to resupply Bollinger's conex box.⁴

On October 5, 2011, the NPFC requested that the Claimant provide the name of the manufacturer of the boom used to clean the spill, the make and model, shelf life of the boom, the age of the boom, and proof of payment with the receipts for the original purchase of boom.⁵ Claimant has not provided this information therefore the NPFC depreciated the newly purchased boom by 50% as fair and reasonable compensation since the Claimant failed to provide the requested information (\$525.00 [cost of new boom] ÷ 50% = \$262.50). The NPFC finds \$262.50 reasonable therefore approves **\$262.50** for the newly purchased boom.

Accordingly, the NPFC has determined that the cost for sorbent pads, drum, tape, gloves, and disposal costs presented by Claimant are reasonable and therefore approves **\$588.00** for the newly purchased equipment and disposal.

C. Determined Amount:

The NPFC hereby determines that the OSLTF will pay **\$850.50** as full compensation for boom, pads, disposal, drum, tape, and gloves.

AMOUNT: \$850.50

Claim Supervisor: *Donna Heiberg*

Date of Supervisor's review: *10/25/11*

Supervisor Action: *Approved*

Supervisor's Comments:

³ Check # 56-1544/441 dtd 9/15/11 to USES.

⁴ USES Invoice dtd 6/29/11 for \$1,037.00.

⁵ Email dtd 10/5/2011 requesting the A.I. for the boom.