

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

US COAST GUARD STOP 7100
4200 WILSON BLVD STE 1000
ARLINGTON VA 20598-7100
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

5890
10/05/2011

Sent Via Email: [REDACTED]@ci.farmington.mi.us

Oakland County Mutual Aid Association
Attn: Sgt. Reginald Madeline
58800 Grand River Ave
New Hudson, MI 48165

Re: Claim Number E11519-0001

Dear Sgt. Madeline:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that **\$18,902.32** is full compensation for OPA claim number E11519-0001.

This reconsideration determination is based on an analysis of information submitted.

Disposition of this reconsideration constitutes final agency action.

If you accept this determination, please sign the enclosed Acceptance/Release Form where indicated and return to:

Director (ca)
U.S. Coast Guard
National Pollution Funds Center
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

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, your payment will be mailed within 30 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 800-280-7118.

Sincerely,

[REDACTED]
Thomas S. Morrison
Chief, Claims Adjudication Division

ENCL: Claim Summary / Determination Form
Acceptance/Release Form

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100

Staff Symbol: (CA)

Phone: 202-493-6839

E-mail: [REDACTED]@uscg.mil

Fax: 202-493-6937

Claim Number: E11519-0001	Claimant Name: Oakland County Mutual Aid Association Attn: Sgt. Reginald Madeline 58800 Grand River Ave New Hudson, MI 48165
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I, the undersigned, ACCEPT the determination of **\$18,902.32** 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)), arising from the oil pollution incident. 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

_____	_____	_____
DUNS #	Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION FORM

Date	: 10/04/2011
Claim Number	: E11519-0001
Claimant	: Oakland County Mutual Aid Association
Type of Claimant	: Local Government
Type of Claim	: Removal Costs
Claim Manager	: Alyssa Lombardi
Amount Requested	: \$18,958.32

FACTS:

- 1. Oil Spill Incident:** The United States Environmental Protection Agency (USEPA) Region V reports¹ that, on April 28, 2011, at approximately 1900 hours local time, a caller reported a sheen on the Upper Rouge River to the Farmington Fire Department. The spill was discovered in a drainage retention pond near the intersection of Grand River and Orchard Lake Road in Farmington, MI. The drainage retention pond overflowed into the Upper Rouge River, a branch and tributary of the Rouge River, a navigable waterway of the US. The Responsible Party (RP) is unknown.
- 2. Description of removal actions performed:** On April 28, 2011, the agencies represented by the Claimant, Oakland County Mutual Aid Association (OCMAA), arrived on-scene, placing 55 feet of 3" hydrophobic boom across the Rouge River on the west side of Nine Mile Rd. in order to prevent drifting of oil downstream.

Both an Incident Action Plan (IAP) and a Safety Plan were developed. The IAP consisted of placing containment boom on both sides of the bridge on the Wayne County side (200 feet) with 170 feet of 8" absorbent boom on the inside (upstream). The Safety Plan consisted of having all members near the water, wear personal flotation devices (PFD) or be tied off by rope. 200 feet of containment boom and 170 feet of absorbent boom were placed in the creek to contain any migrating fuel released from the Farmington location.

At 2345 hours, the Claimant and others involved with the Unified Command (UC) assessed the scene and made recommendations to reinforce booms placed by Oakland County Hazmat team (OCH). Safety was performed by OCH, with Western Wayne County Hazardous Response Materials Team (WWC HMRT) placing containment boom on both sides of the bridge under Nine Mile Rd. 100 feet of containment boom was placed in the creek and 120 feet of 5" absorbent boom (from OCH) was placed in the creek on the east side of 9 Mile Rd., south of Grand River.

At 0310 hours, the Claimant cleared the scene, leaving a skeleton crew until it was turned over to Ms. Lori Muller, US EPA Region V at 0900 hours.

THE CLAIM:

On September 13, 2011, the Claimant, OCMAA, presented a removal cost claim to the National Pollution Funds Center (NPFC), for reimbursement of their uncompensated removal costs in the amount of \$18,958.32 for the services provided from April 28 through April 29, 2011. This claim is for removal costs based on the rate schedule in place at the time services were provided. A copy of the vendor rate schedule is provided in the claim submission.

The original claim consisted of the following:

¹ See US EPA POLREP # 1 for this incident, dated 4/29/2011.

1. OSLTF Claim Form;
2. Farmington Department of Public Safety Report # 11-2192;
3. OCH Incident Report;
4. ReachBackID Scientific Assistance Report;
5. OCH Cost Recovery Worksheet;
6. City of Farmington Invoice # 11-2192;
7. Farmington Public Safety Department Personnel Breakdown for Incident # 11-2192;
8. Franklin-Bingham Fire Department Invoice #11-113;
9. Milford Fire Department Invoice;
10. Commerce Township Fire Department Invoice;
11. Farmington Dept. of Public Safety Narrative Report # 11-2192;
12. WWC HMRT Incident Report # 42811;
13. WWC HMRT Invoice # 339;
14. Letter from EPA Region V OSC Lori Muller;
15. US EPA Region V Oil Spill Analysis Report for FPN E11519;
16. US EPA POLREP # 1;
17. US EPA Extended Spill Summary for NRC Report # 974350.

REQUEST FOR RECONSIDERATION:

On August 11, 2011, the NPFC issued its initial determination for this claim. The NPFC denied the claim in part because:

1. For the City of Farmington Invoice, no salary breakdown/explanation of billed costs was provided for Reserve Officers Donovan, Schiffman, Pennington and Cannon;
2. For the Oakland County Hazardous Materials Response Team:
 - a. No salary breakdown/explanation of billed costs were provided for Hazmat Techs Schaffer, Buck, Stefancin, Przbyla, Leece, Gall, White, Doyon, Mason, Dungjen and Bovensiep;
 - b. OCH billed an hourly rate of \$50.00 per hour; however, invoices provided did not reflect this amount. More specifically: Farmington City (Madeline: \$32.17ST and \$48.26/OT), Franklin—Bingham (Schaffer, Buck, Stefancin: \$32.50/hour), Milford County (Przbyla: \$20.00/hour) and Commerce Township (Leece, Gall: \$32.51/hour);
 - c. Costs for Sgt. Reginald Madeline had been double-billed, as he was also listed in costs related to the City of Farmington.

On September 13, 2011, OCMAA made an official request for reconsideration via email to Alyssa Lombardi, NPFC. Upon request, Sgt. Reginald Madeline, OCMAA, submitted documentation to support the claim.

DETERMINATION OF LOSS:

A. Overview:

1. FOSC coordination has been established via a memo from Ms. Lori Muller, US EPA Region V, to the NPFC, dated June 13, 2011. 33 U.S.C. § 2712(a)(4).
2. The incident involved the report of a discharge of "oil" as defined in OPA 90, 33 U.S.C. § 2701(23), to navigable waters.
3. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(2)
4. No RP could be determined. 33 U.S.C. § 2701(32).
5. 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.
6. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined what removal costs presented were for actions in accordance with the NCP, and if the costs for these actions were indeed reasonable and allowable under OPA and 33 CFR § 136.205.

B. Determination on reconsideration

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. The NPFC considered all the documentation submitted by the Claimant. 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. 33 CFR 136.115(d).

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

The NPFC performed a complete review of the documentation presented by the Claimant. In the Claimant's request for reconsideration, the NPFC Claims Manager found that \$8.00 in claimed costs has not been accounted for, and is subsequently denied. Additionally, \$50.00 in claimed costs were denied because, while the NPFC will honor the flat rate of \$50.00 for HAZMAT personnel as set forth in the OCH Rate sheets provided with the claim, it can only compensate for hours worked, not a fixed time of six hours, as is the case here therefore the NPFC is only honoring hours worked as evidenced by the dailies as opposed to what was invoiced.

The NPFC hereby determines that the OSLTF will pay **\$18,902.32** as full compensation for reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim # E11519-0001. 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.

Claim Supervisor: 

Date of Supervisor's Review: *10/5/11*

Supervisor Action: *Reconsideration approved*