

CLAIM SUMMARY / DETERMINATION FORM

Date : 10/13/2010
Claim Number : N08057-024
Claimant : United States Environmental Services, LLC
Type of Claimant : OSRO
Type of Claim : Removal Costs
Claim Manager : (b) (6)
Amount Requested : \$295,238.50

I. Facts

On the morning of July 23, 2008, the tank barge DM 932 sank as a result of a collision with M/T TINTOMARA and discharged oil into the Mississippi River, a navigable waterway of the United States. American Commercial Lines LLC (ACL) owned the barge at the time of the incident and is a responsible party under the Oil Pollution Act (OPA).

II. History of the Claim:

The Claimant, United States Environmental Services LLC (USES or the Claimant), presented its removal costs invoices to the RP; however, the RP did not pay USES in full. Subsequently, the Claimant submitted a removal cost claim to the National Pollution Funds Center (NPFC) on May 14, 2009, for reimbursement of uncompensated removal costs in the amount of \$618,852.24 for the time period of August 4, 2008 through August 10, 2008. ACL prepared a financial audit for USES invoices, providing a line by line itemization of materials, equipment, and personnel submitted for payment by USES and payments made to USES by ACL. The NPFC reviewed this audit in order to determine which removal costs had not been compensated by the RP. On January 12, 2010, USES reduced its sum certain to \$460,924.78 to reflect a \$157,927.46 payment received from ACL for certain removal costs. NPFC made an offer on July 20, 2010, in the amount of \$83,575.94

IV. Request for Reconsideration

On September 13, 2010, USES requested reconsideration of their claim via email¹ citing some mathematical errors and misinterpretations of the ACL audit. Claimant asserted that their uncompensated removal costs were \$295, 238.50.

V. Analysis on Reconsideration:

The NPFC reviewed Claimant's Attachment (B)(2), which reflects adjustments agreed to by the RP and the Claimant. USES agreed to certain reductions, which were amounts not known to the claims manager when she first adjudicated this claim. The NPFC removed the denied amounts it had previously entered for the LES line items as these were items already denied by ACL, which resulted in double deductions. After a review of the Claimant's Attachment (B) 2² the NPFC determines that the Claimant incurred \$295,238.50 of uncompensated removal costs that are supported by the record.

¹ See, USES email to Claims Manager requesting Reconsideration.

² See, ATT B 2.

VI. Determined Amount

The NPFC hereby determines that the OSLTF will pay **\$295,238.50** as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim # N08057-024. 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: Thomas S. Morrison

Date of Supervisor's Review:

Supervisor Action:

Supervisor's Comments: