

CLAIM SUMMARY / DETERMINATION FORM

Date : 2/13/2012
Claim Number : 912016-0001
Claimant : George Washington Memorial Parkway
Type of Claimant : Federal
Type of Claim : Removal Costs
Claim Manager : [REDACTED]
Amount Requested : \$13,756.77

I. Facts

On July 1, 2011, fuel was discovered in the Potomac River—a navigable waterway of the US—from Rock Run, a small tributary that serves as a storm sewer main for Arlington County, VA. The incident was reported to the National Response Center (NRC) via report # 981434 on July 01, 2011, at 14:15 local time by Mr. [REDACTED] with the Alexandria, VA fire and Hazmat team. Agencies responding to the incident include: Arlington County (VA) Fire/EMS/HAZMAT, acting as the lead agency; Alexandria (VA) Fire; Washington Metropolitan Airports Authority; Washington (DC) Fire & EMS; and the US Park Police (USPP).

II. Responsible Party

Samples were taken, but no Responsible Party (RP) could be identified.

III. The Claimant and the Claim

On December 7, 2011, the claimant, Superintendent, George Washington Memorial Parkway (GWMP) (a subsidiary of the National Park Service) submitted a removal cost claim to the National Pollution Funds Center (NPFC), for reimbursement of removal costs in the amount of \$13,756.77 for the services provided from July 1 through July 12, 2011. This claim is for removal costs based on the rate schedule in place at the time services were provided.

The original claim consisted of the following: the Optional OSLTF Claim Form; NRC Report # 981434 and 981439; the GWMP Incident Report; NPS US Government Order for Supplies/Services for this incident; Clean Ventures invoicing for this incident; Maryland Spectral Services invoicing for this incident; GWMP Staff time costs for this incident; disposal manifests for this incident; and photos for this incident.

IV. Request for Reconsideration:

On December 13, 2011, the NPFC issued its initial determination for this claim. The NPFC approved this claim, in the amount of \$13,756.77, as the GWMP was able to demonstrate its loss. On February 10, 2012, GWMP made an official request for reconsideration via email to Ms. [REDACTED] NPFC. GWMP provided its request for reconsideration in order to amend its claim to reflect the actual burdened rates for its personnel, as well as the costs related to the setting up and executing of the contract for this incident. Thus, the amended SUM CERTAIN for this claim is \$13,716.17.

V. DETERMINATION OF UNCOMPENSATED REMOVAL COSTS:

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). The incident involved the discharge of "oil" as defined in OPA 90, 33 U.S.C. § 2701(23), to navigable waters.
2. A Responsible Party was determined, but has not made payment of costs to date. Additionally, the NPFC made notification of this claim to the RP. 33 U.S.C. § 2701(32).
3. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(2)
4. 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.
5. 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. Analysis:

NPFC CA reviewed the actual cost invoices and dailies 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, to be consistent with the NCP or directed by the FOSC, and (4) whether the costs were adequately documented and reasonable.

The NPFC has determined what costs incurred were reasonable and necessary in order to mitigate the effects of the incident. Upon reconsideration, the NPFC has determined that:

1. Costs associated with Clean Ventures in the amount of \$9,741.92 are both reasonable and compensable.
2. Costs associated with Spectral Services in the amount of \$360.00 are both reasonable and compensable.
3. Of the \$3,614.25 in costs associated with the GWMP staff time, only \$3,436.79 is found compensable. \$177.46 in claimed personnel costs are denied because they are associated with the preparation and execution of the contract for this incident. They are considered administrative duties that are not specifically tied to this event, as the contractor's hours are part of the normal operational costs for the GWMP. Therefore, as they are not a result of the oil spill, the costs associated with the contract administrator are denied.

The NPFC hereby determines that the OSLTF will pay **\$13,538.71** as full compensation for reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim # 912016-0001. 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.

C. Determined Amount:

The NPFC hereby determines that the OSLTF will pay **\$13,538.71** as full compensation for the claimed removal costs incurred by the Claimant and submitted to the NPFC under claim 912016-0001.

AMOUNT: \$13,

Claim Supervisor

Date of Supervisor's review: *2/13/12*

Supervisor Action: *offer attorney*