

## CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: 912041-0001
Claimant	: Guilford County NC Environmental Health
Type of Claimant	: Local Government
Type of Claim	: Removal Costs
Claim Manager	: [REDACTED]
Amount Requested	: \$2,327.21

### **FACTS:**

On 6 January 2012, the Greensboro Fire Department notified the Claimant, Guilford County Environmental Health, of the discovery of home heating oil that was flowing from the City of Greensboro's storm sewer system through a drain pipe into an unnamed creek flowing through Fisher Park.

### **CLAIM & CLAIMANT**

On 1 March 2012, Guilford County Environmental Health presented a claim to the National Pollution Funds Center (NPFC) for its uncompensated removal costs in the amount of \$2,327.21. The NPFC reviewed, considered that claim and denied that claim on or about 9 May 2012.

### **REQUEST FOR RECONSIDERATION & CLAIMANT'S ARGUMENTS**

The NPFC denied the initial request on or about 9 May 2012. The Claimant requested that this decision be reconsidered on or about 21 June 2012. In support of its request for reconsideration, the Claimant included the following:


1. Sections of the Clean Water Act that the Claimant asserts are applicable to this incident;
2. Aerial photographs to show the spill location;
3. A topographical map with the location of the spill highlighted;
4. A narrative of the Incident to include specific actions of each of claimant's personnel;
5. Rate sheets for A&D January 2010 – December 2010;
6. Photographs of the spill location on CD
  - a. These photographs showed the location of the spill, the outfall from the spill location; showed clearly that the un-named tributary was navigable at the spill location.
7. The Claimant also made a statement that the discharge of oil that took place in this incident was discharged directly into the storm drain system and did not go through the waste water treatment system as the NPFC initially indicated.
8. The Claimant provided the rate sheet for A&D Environmental, their subcontractor for the services they provided.
9. The Claimant provided a detailed narrative of the actions that The County personnel performed during the spill. Because the Claimant did this, the NPFC was able to discern that all of the Claimant's actions were removal actions and not "government revenues" as the Claimant initially identified them to be. Therefore, all actions taken and costs incurred are determined to be removal costs.

**DETERMINATION OF LOSS:**

The Claimant bears the burden of proving all elements of its Claim before the Fund.<sup>1</sup> Upon reconsideration, the Claimant has provided sufficient evidence to demonstrate that the discharge of oil was in fact a discharge of oil into the navigable waters of the United States. The photographs submitted make the nexus between the discharge to an un-named tributary as the navigable water required to make the actions taken and costs incurred removal costs under the provisions of the Claims Regulations.

Upon reconsideration, the NPFC has also determined that this claim should be paid in the amount of \$2,227.21 as full compensation for this claim. The NPFC has denied \$100.00 in costs that are not supported by the rate sheet as follows: the cost for drum disposal in the amount of \$50.00 x 2 = \$100.00 as the Claimant does not have drum disposal on the rate sheet nor has the Claimant produced the underlying invoice from the disposal facility for the amount claimed.

**DETERMINED AMOUNT: \$2,227.21**

Claim Supervisor: 

Date of Supervisor's Review: 7/5/12

Supervisor Action: *Reconsideration approved*

Supervisor's Comments:

<sup>1</sup> Claim Regulations 33 CFR 136