CLAIM SUMMARY / DETERMINATION

Claim Number:	912084-0001
Claimant:	State of California
Type of Claimant:	State
Type of Claim:	Removal Costs
Claim Manager:	[redacted]
Amount Requested:	$14,022.45

FACTS:

On April 26, 2007, a vessel owner reported that oil was pouring into Long Beach Harbor from a storm drain outfall in the vicinity of berth 55. The spill was traced to a failed pipeline that leaked into the storm drain. The pipeline is owned by Chemoil Corporation and was being leased by Paramount Corporation, the Responsible Party (RP).[1] An uncertain amount of crude oil was released from the pipeline, but a total of approximately 142 gallons were collected from the marine waters.[2] The oil spill was reported to have contaminated the seawalls, riprap, pilings, vessels, and marine species in the area.

A Unified Command (UC) was established between USCG, DFG-OSPR, and Paramount Petroleum. The National Response Corporation was contracted for the on-water containment, recovery, and cleanup. Patriot Environmental was contracted for shore-side containment, recovery, and cleanup.[3]

Control and containment of oil from the storm drain was completed by constructing a sandbag dike at the outflow of the pipe. Oil was contained on the water by booming off the basin around berth 55. Oil was collected on the water with skimmers and absorbent materials. Seawalls were all steam cleaned and contaminated coble surfaces were replaced with new. Exposed vessel waterlines were cleaned with hand cleaner and rags.[4]

CLAIM AND CLAIMANT:

On July 25, 2012, State of California, Department of Fish and Game, Office of Spill Prevention and Response (DFG OSPR), presented a claim to the Oil Spill Liability Trust Fund (OSLTF) for $14,022.45 seeking reimbursement of their alleged uncompensated removal costs. The costs are for OSPR personnel costs, travel costs, vehicle costs and administrative costs.

The NPFC made an initial offer on the original claim submission in the amount of $6,368.87 on October 18, 2012. The remaining costs were denied because:

- Claimant failed to provide the additional information that was requested by NPFC, or
- Costs were not reasonable response costs, or
- Costs were unsubstantiated.

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[1] USCG Documentation to include MISLE Case #347619 and POLREP.
[2] DFG-OSPR Environmental Incident Report (drafted by [redacted] page 1.
[3] DFG-OSPR Environmental Incident Report, (drafted by [redacted] page 2.
[4] DFG-OSPR Environmental Incident Report, (drafted by [redacted] page 3.

REQUEST FOR RECONSIDERATION:

On November 8, 2012, the Claimant sent an email request for reconsideration to the NPFC along with supplemental supporting documentation. The Claimant provided Daily Activity Reports to support the personnel cost associated with two people involved in the response that were previously denied by NPFC. This documentation was not included in original submission.

The Claimant asserts in their first submission they did not have access, within the specified time frame, to all the documentation requested by the NPFC.

NPFC 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. Under 33 CFR § 136.233, a claimant must establish loss of profits or impairment of earning capacity and that the loss was due to the destruction or injury to real or personal property or natural resources. 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.

Upon consideration of all information and arguments made by the Claimant on reconsideration, the NPFC offers the following:

1. The Daily Activity Reports submitted to support the personnel costs for Mr [redacted] for April 29, 2007 adequately shows his involvement in the spill response. The NPFC has determined OPA compensable personnel costs for Mr. [redacted] is approved in the amount of $213.24.
2. The Daily Activity Reports submitted to support the personnel costs for Mr. [redacted] for April 26-27, 2007 adequately shows his involvement in the spill response. The NPFC has determined OPA compensable personnel costs for Mr. [redacted] is approved in the amount of $984.64.
3. Vehicle usage costs were originally denied for Mr. [redacted] because his personal time was denied due to inadequate documentation to support his response activities. Now that Mr. [redacted]'s response time has been approved for April 26-27, 2012, the affiliated vehicle usage costs in the amount of $146.91 are also approved.
4. Travel costs were originally denied for Mr. [redacted] because his personal time was denied due to inadequate documentation to support his response activities. Now that Mr. [redacted]'s response time has been approved for April 26-27, 2012, the affiliated travel costs in the amount of $163.20 are also approved.
5. On May 7, 2007, the Unified Command determined the spill site was satisfactorily decontaminated[5]. Personnel costs for Mr. [redacted] are denied for August 1, 2, 20, 27

[5] DFG-OSPR Environmental Incident Report (drafted by [redacted]), page 3.

and September 17, 2007 because the documented activity, working on Supplemental Environmental Report, was not in direct support of the spill response.

Based on the foregoing and in light of the new documentation provided, the NPFC has determined that $7,876.86 is OPA compensable. The NPFC has denied $6,145.59 for which the Claimant has not requested reconsideration or produced new information to overturn the original denial of said costs.

DETERMINED AMOUNT ON RECONSIDERATION: $7,876.86

[redacted]

Claim Supervis[redacted]

Date of Supervisor's Review: *11/27/12*

Supervisor Action: ***Approved on reconsideration as stated above***

Supervisor's Comments: