

CLAIM SUMMARY / DETERMINATION

Claim Number:	A08027-0001
Claimant:	State of California
Type of Claimant:	State
Type of Claim:	Removal Costs
Claim Manager:	[REDACTED]
Amount Requested:	\$3,523.88

FACTS:

On June 19, 2008 the F/V Reward, a 40 foot commercial fishing vessel, was observed by two USCG vessels departing from Pier 45 in San Francisco fully loaded with crab pots. The vessel heeled to the port then righted itself before capsizing with four people on board. All four people were recovered from the water. It was determined that an estimated 300 gallons of diesel fuel was on board the vessel. The vessel was approximately 95% submerged sitting on its side in position 37-48.71N 122-25.13W. Debris from the vessel was reported in the water as well as a sheen.¹

National Response Corporation (NRC) was contracted by the Federal On Scene Coordinator (FOSC) to salvage the vessel when the vessel owner was not taking effective action. The vessel was partially refloated, utilizing float bags, and towed inside the breakwall securing it to Pier 45. Containment boom was placed around the vessel and the fuel vents were plugged to prevent any further discharge into the marine environment.

On June 20, 2008 NRC refloated the vessel and had it moved to the Hyde Street Pier where it was safely moored.

CLAIM AND CLAIMANT:

On June 20, 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 \$3,523.88 seeking reimbursement of their alleged uncompensated removal costs. The costs are for OSPR personnel costs, vehicle costs and administrative costs.

The NPFC made an initial offer on the original claim submission in the amount of \$1,026.90 on October 12, 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.

REQUEST FOR RECONSIDERATION:

On October 29, 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.

¹ USCG MISLE Case Report #408900.

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] are incomplete. The reports do not contain start and/or stop times so NPFC is unable to determine total time spent by this individual in support of the response. NPFC determines \$714.60 in personnel costs remain unsubstantiated and denied;
2. The Daily Activity Reports submitted to support the personnel costs for Mr. [REDACTED] 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 \$1,387.62.
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, the affiliated vehicle usage costs in the amount of \$67.50 are also approved.

Based on the foregoing and in light of the new documentation provided, the NPFC has determined that \$2,001.69 is OPA compensable. The NPFC has denied \$1,522.19 for which the Claimant has not requested reconsideration or produced new information to overturn the original denial of said costs.

DETERMINED AMOUNT ON RECONSIDERATION: \$2001.69

Claim Supervisor: [REDACTED]

Date of Supervisor's Review: *11/15/12*

Supervisor Action: *Approved on reconsideration as stated above*

Supervisor's Comments: