

CLAIM SUMMARY / DETERMINATION

Claim Number:	913009-0001
Claimant:	State of California
Type of Claimant:	State
Type of Claim:	Removal Costs
Claim Manager:	██████████
Amount Requested:	\$4,976.82

FACTS:

On June 10, 2010, the vessel HEADWAY, Official Number 518806, was reported to have sunk at a pier located at 307 Fulton Street Shipyard, Antioch, California. Responders found the vessel partially submerged and leaking a combination of hydraulic fluid and diesel mixture creating a visible sludge and sheen on the San Joaquin River, a navigable waterway of the US.

The Responsible Party (RP) contracted National Response Corporation (NRC) to deploy boom around the barge, remove and dispose of all product within the cargo tanks of the vessel.¹ The RP also contracted 24-7 MER LLC to dive and plug all vents on the vessel.

On June 15, 2010, after the vessel was refloated and cargo removed, the FOSC and OSPR declared the vessel to be clean and that no additional FOSC action is required.²

CLAIM AND CLAIMANT:

On July 12, 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 \$5,894.99 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 \$4,579.11 on November 27, 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 January 3, 2013, 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 Mr. David Price who was 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

¹ DFG Narrative/Supplemental Report (prepared by MURTHA #526) & USCG MISLE Case Report 504572

² DFG Narrative/Supplemental Report (prepared by MURTHA #526) & USCG MISLE Case Report 504572

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:

- The Daily Activity Reports submitted to support the personnel costs for Mr. Price adequately shows his involvement in the spill response. The NPFC has determined OPA compensable personnel costs for Mr. Price is approved in the amount of \$397.71.

Based on the foregoing and in light of the new documentation provided, the NPFC has determined that \$4,976.82 is OPA compensable. The NPFC has denied \$918.17 for which the Claimant has not requested reconsideration or produced new information to overturn the original denial of said costs.

DETERMINED AMOUNT ON RECONSIDERATION: \$4,976.82

Claim Supervisor: 

Date of Supervisor's Review: 1/07/13

Supervisor Action: *Approved on reconsideration as stated above*

Supervisor's Comments: