

CLAIM SUMMARY / DETERMINATION

Claim Number:	914023-0001
Claimant:	City of Monterey Office of the Harbor Master
Type of Claimant:	Corporate
Type of Claim:	Removal Costs
Claim Manager:	[REDACTED]
Amount Requested:	\$32,367.54

FACTS:

- 1. Oil Spill Incident:** On December 12, 2013, United States Coast Guard Sector San Francisco received notification that the Commercial Fishing Vessel (CFV) ANDREA sank and discharged diesel into the Monterey Bay, a navigable waterway of the US.¹ The incident was reported to the National Response Center (NRC) via report # 1068351 on December 13, 2013. On December 29, 2013, Sector San Francisco in its capacity as the Federal On Scene Coordinator (FOSC), issued a Notice of Federal Interest (NOFI) to Mr. [REDACTED]. The NOFI indicates that it was mailed certified mail to Mr. [REDACTED] on January 10, 2014.²
- 2. The Claim:** The Claimant, City of Monterey, Office of the Harbormaster presented this removal cost claim to the National Pollution Funds Center (NPFC) in the initial amount of \$33,125.26. The claim was received by the NPFC on February 21, 2014. It is important to note that the Claimant amended their sum certain a couple times with the final amendment to the sum certain being made on July 14, 2014 via email to \$32,367.54.³ The NPFC sent the original settlement package on July 16, 2014 offering the Claimant \$28,467.54. The NPFC denied \$3,900.00 in costs that it determined appeared to be salvage related via Monterey Bay Diving invoice # 6087.
- 3. The Request for Reconsideration:** On August 5, 2014, via e-mail, the Claimant made a written request for Reconsideration to the NPFC. The Reconsideration is for \$3,900.00 of costs previously denied as being salvage in the original Settlement Offer. The Claimant sent via email and facsimile on August 5, 2014, its one page written request for reconsideration stating that it obtained a letter from its response contractor that explains the use of the term "salvage" was not representative of the actions performed by the contractor and that all actions undertaken were in fact for the movement of the vessel across the waterway where it was to be later salvaged. It is important to note that the Claimant did not present the salvage invoices to the NPFC for reimbursement.

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. 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).

¹ See, USCG MISLE Case # 666039, Activity ID # 4768911.

² See, NOFI dated December 29, 2013.

³ See, Email from Claimant to NPFC dated July 14, 2014.

The NPFC performed a *de novo* review of the entire claim submission upon reconsideration.

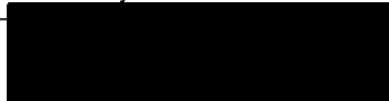
The NPFC Claims Manager has reviewed the actual cost invoices and dailies to confirm that the Claimant had incurred all costs claimed. The review focused on: (1) whether the actions taken were compensable "removal actions" under OPA and the claims regulations at 33 CFR 136 (e.g., actions to prevent, 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, and (4) whether the costs were adequately documented and reasonable.

Upon review of the new information provided by the Claimant on reconsideration, the NPFC has determined that the \$3,900.00 originally denied as being related to salvage operations vice oil spill response was miscatagorized by the NPFC and should be paid. Based on the contractor's explanation that use of the word "salvage" in the invoicing is not representative of the work being for salvage activity. The contractor further stated that the hours billed on invoice # 6087 were strictly for containing the leaks within the vessel, cleaning the spill site, raising the vessel for de-fueling, pumping water from the vessel, and assisting in the transport of the vessel to the haul-out site which was coordinated with the FOSC.

Based on the foegoing, the NPFC hereby determines that the OSLTF will pay \$32,367.54 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim #914023-0001.

DETERMINED AMOUNT: \$32,367.54

Claim Supervisor:



Date of Supervisor's review: 8/7/14

Supervisor Action: *Reconsideration offer approved as stated above*

Supervisor's Comments: