

CLAIM SUMMARY / DETERMINATION ON RECONSIDERATION

Claim Number:	N14026-0003
Claimant:	BW Green Carriers AS
Type of Claimant:	CORPORATION
Type of Claim:	Loss of Profits and Impairment of Earnings Capacity
Claim Manager:	[REDACTED]
Amount Requested:	\$187,844.24

Incident:

On March 22, 2014, at about 1235 central daylight time, the Tug MISS SUSAN was pushing two barges from Texas City to Port Bolivar on the eastern side of the Houston Ship Channel. The bulk carrier M/V SUMMER WIND with a Houston pilot on board was headed north, inbound from the Gulf of Mexico toward Houston. The SUMMER WIND and the forward barge, KIRBY 27706, collided in the Houston Ship Channel causing a discharge from the barge. The barge discharged heavy marine fuel oil into Lower Galveston Bay at the Texas City Y, the intersection of the Texas City Ship Channel and the Houston Ship Channel. Coast Guard Marine Safety Unit Texas City initially responded. On the same day, the CG closed the Houston Ship Channel, the Texas City Ship Channel, and the Intracoastal Waterway in the area. The waterways were reopened to commercial traffic in the early afternoon on March 25, 2014.

The identified responsible party (RP) is KIRBY INLAND MARINE LP (Kirby or RP), as owner and operator of the KIRBY 27706.

Claimant:

The Claimant, BW Green Carrier AS (Claimant or BW), is the owner of the BW Maple, a gas carrying tanker operating between Houston to Cristobal under a voyage charter party dated March 7, 2014.

RP Presentment:

By letter dated June 19, 2014, Counsel for Kirby Maritime, [REDACTED], on behalf of Stepp & Sullivan, P.C., contacted the Claimant's Counsel, requesting additional information in response to the Claimant contacting the spill incident's claim telephone hotline.¹ In response to this letter, on behalf of the Claimant, [REDACTED] contacted the RP by letter dated January 27, 2015, seeking \$188,354.99 in damages and expenses. No supporting documentation was provided. BW Green Carrier AS then submitted its claim for the lesser amount of \$187,844.24 to the Oil Spill Liability Trust Fund (OSLTF or Fund).² The claim was submitted via letter dated December 15, 2016, and received by the NPFC on December 21, 2016.

¹ See email from [REDACTED] Crawford & Co., to [REDACTED] Counsel, dated June 9, 2014.

² The Claimant also submitted a claim for the lesser amount of \$142,533.34 in the instance that the higher claim amount is denied. See letter from [REDACTED] Nordisk Legal Services, to [REDACTED] Stepp & Sullivan, and P.C. (RP) dated January 27, 2015.

Procedural History

On February 21, 2017, the NPFC received a phone call from [REDACTED] associate of Kirby Maritime, stating that Kirby recently submitted an offer to the Claimant and is now waiting on its response.³ On March 28, 2017, the NPFC received notice that Kirby settled BW's claim for damages and BW released Kirby from all claims and liability relating to the incident.⁴

DETERMINATION:

Since the Claimant notified the NPFC that it reached settlement of its claim with Kirby on March 21, 2017, BW no longer seeks reimbursement of losses from the OSLTF. In supplying its notice of settlement to the NPFC, the Claimant also provided copies of the documents finalizing the settlement with the RPs.⁵ Having been fully compensated for its losses, the claimant fully released the Responsible Party of all damages resulting from this incident. As a result, BW no longer has a compensable claim before the Fund. Therefore, the NPFC denies the claim.

Claim Supervisor: [REDACTED]

Date of Supervisor's review: 03/29/2017

Supervisor Action: ***Denial Approved***

Supervisor's Comments:

³ See phone record between [REDACTED] RP, and [REDACTED] NPFC, dated February 21, 2017.

⁴ See email from [REDACTED] Claimant, to [REDACTED] NPFC, dated March 28, 2017.

⁵ See Receipt, Release, and Indemnification Agreement dated March 21, 2017.