

CLAIM SUMMARY / DETERMINATION FORM

Claim Number	: 915080-0001
Claimant	: O'Brien's Response Management LLC
Type of Claimant	: Corporate
Type of Claim	: Removal Costs
Claim Manager	: [REDACTED]
Amount Requested	: \$17,608.70

I. Facts

The USCG Sector New Orleans received notification¹ that on December 12, 2014, a spill was reported emanating into state lease waters from a shut in well located in Garden Island Bay, near Venice, LA. Garden Island Bay drains directly into the Gulf of Mexico, both of which are navigable waterways of the US.

This incident was reported to the National Response Center (NRC) via Report # 1103268.²

II. Responsible Party

Dune Operating, Inc. owned the affected at the time of the incident and is a Responsible Party (RP) under the Oil Pollution Act. On March 8, 2015, the RP filed for Chapter 11 Bankruptcy. The Claimant, O'Brien's Response Management, LLC, did not file a Proof of Claim with the Bankruptcy Court for the amount claimed.

III. The Claimant and the Claim

On May 11, 2015, O'Brien's submitted a removal cost claim to the National Pollution Funds Center (NPFC), for reimbursement of removal costs in the amount of \$17,608.70 for the services provided from December 12, 2014 through January 5, 2015.

IV. Request for Reconsideration:

On June 23, 2015, the NPFC issued its initial determination for this claim. The NPFC denied \$67.90 in claimed mileage costs as a result of an NPFC error in not applying a footnote in the amended rate schedule that reflected the claimed rate of \$0.56/mile (as opposed to the \$0.50/mile shown in the original rate sheets). However, as the claimant still needed to provide the documentation used in determining the rate used, the NPFC requested that it submit a reconsideration of its claim, attaching the pertinent documentation. On June 25, 2015, O'Brien's made an official request for reconsideration via email to Ms. [REDACTED], NPFC. O'Brien's provided both a copy of its standard contract and the 2014 IRS Standard Mileage Rates for business.

V. DETERMINATION OF UNCOMPENSATED REMOVAL COSTS:

A. Overview:

¹ See USCG Sector New Orleans Case Report # 717253, opened 12/12/2014.

² See NRC Report # 1103268, opened 12/12/2014.

1. FOSC Coordination has been established via USCG Sector New Orleans.³ 33 U.S.C. § 1321(d)(2)(K).
2. The incident involved the report of a discharge of “oil” as defined in OPA 90, 33 U.S.C. § 2701(23); however, it did not pose a substantial threat to navigable waters.
3. A Responsible Party was determined and subsequently notified by the NPFC. 33 U.S.C. § 2701(32).
4. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(1)
5. In accordance with 33 CFR § 136.105(e)(12), the claimant has certified no suit has been filed in court for the claimed uncompensated removal costs.
6. The NPFC Claims Manager reviewed all documentation submitted with the claim and determined which removal costs were incurred for removal actions in accordance with the NCP and whether the costs for these actions were reasonable and allowable under OPA and 33 CFR § 136.205.

B. Analysis:

NPFC CA 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, to be consistent with the NCP or directed by the FOSC, and (4) whether the costs were adequately documented and reasonable.

The NPFC has determined that the costs incurred were reasonable and necessary in order to mitigate the effects of the incident. O’Brien’s provided a well-documented claim to demonstrate that the actions it performed were for OPA-related costs—which was expanded to include the requested mileage documentation on reconsideration-- and that the work performed mitigated the effects of the oil that was released from the compromised well/flow-line. Additionally, the USCG Sector New Orleans confirmed the actions performed for this incident.

The NPFC hereby determines on reconsideration that the OSLTF will pay **\$17,608.70** as full compensation for reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim # 915080-0001. All costs claimed are for charges paid for by the Claimant for removal actions as that term is defined in OPA and, are compensable removal costs payable by the OSLTF as presented by the Claimant.

³ See USCG Sector New Orleans Case Report # 717253, opened 12/12/2014.

Determined Amount:

The NPFC hereby determines that the OSLTF will pay \$17,608.70 as full compensation for the claimed removal costs incurred by the Claimant and submitted to the NPFC under claim 915080-0001.

AMOUNT: \$17,608.70

Claim Supervisor: [REDACTED]

Date of Supervisor's review: 06/3 [REDACTED]

Supervisor Action: Approved