

CLAIM SUMMARY / DETERMINATION

Claim Number:	A15018-0001
Claimant:	City of Redondo Beach, Fire Department
Type of Claimant:	Government
Type of Claim:	Removal Costs
Claim Manager:	[REDACTED]
Amount Requested:	\$1,524.57

FACTS:

Oil Spill Incident: On May 27, 2015, the City of Redondo Beach Fire Department (RBF), CA received notification from LA County Life Guards that an unusually large volume of tar balls washed up along 6.8 miles of Redondo Beach. Also, about that time RBF responded to complaints of an oil sheen observed on the waters of Kings Harbor. King Harbor is within the City of Redondo Beach. Redondo Beach and Kings Harbor waters are part of the Pacific Ocean; a navigable waterway of the United States.

The Claim: On July 16, 2015, the City of Redondo Beach Fire Department RBF, (Claimant) presented its claim to the Oil Spill Liability Trust Fund seeking \$1,524.57 in uncompensated removal costs. The RBF submitted copies of its employees' daily activities log, pay schedule with the employee's name and title and their hourly wage costs.¹ Upon receipt of the claim, the NPFC advised the Claimant that they needed to make presentment of their costs to Plains All American Pipeline (PAAP) as the Potential Responsible Party (PRP) for this particular incident. As such, the Claimant properly presented to the PRP on August 4, 2015 via their claims administrator, Worley Catastrophe.²

Federal On-Scene Coordinator: The acting Federal On-Scene Coordinator Representative (FOSCR) is [REDACTED] USCG, Sector Los Angeles – Long Beach, Incident Management Division (IMD). Tar balls that washed up on Redondo Beach and the oil sheen observed in Kings Harbor is classified as the South Bay Tar Ball incident (Federal Project Number A15018).

Description of Removal Activities for this Claimant: The City of Redondo Beach City Fire Department tended the boom at King Harbor. RBF's duties are documented in the Coast Guard's Pollution Report (Polrep) 1 which was generated by the FOOSC. RBF submitted dailies on Coast Guard form ICS-214 Activity Log, from May 27, 2015 to May 29, 2015.³

APPLICABLE LAW:

¹ See copy of the RBF pay schedule and activity log

² See email from [REDACTED], Worley Catastrophe to NPFC dated August 5, 2015 confirming presentment.

³ See SITREP 1 that provides RBF's duties during the spill response

Under OPA 90, at 33 USC § 2702(a), responsible parties are liable for removal costs and damages resulting from the discharge of oil into navigable waters and adjoining shorelines, as described in Section 2702(b) of OPA 90. A responsible party's liability will include "removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan". 33 USC § 2702(b)(1)(B)

"Oil" is defined in relevant part, at 33 USC § 2701(23), to mean "oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil".

The Oil Spill Liability Trust Fund (OSLTF), which is administered by the NPFC, is available, pursuant to 33 USC §§ 2712(a)(4) and 2713 and the OSLTF claims adjudication regulations at 33 CFR Part 136, to pay claims for uncompensated removal costs that are determined to be consistent with the National Contingency Plan and uncompensated damages. Removal costs are defined as "the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from an incident".

Under 33 USC §2713(b)(2) and 33 CFR 136.103(d) no claim against the OSLTF may be approved or certified for payment during the pendency of an action by the claimant in court to recover the same costs that are the subject of the claim. See also, 33 USC §2713(c) and 33 CFR 136.103(c)(2) [claimant election].

33 U.S.C. §2713(d) provides that "If a claim is presented in accordance with this section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund."

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 136.105(b) each claim must be in writing, for a sum certain for each category of uncompensated damages or removal costs resulting from an incident. In addition, under 33 CFR 136, the claimant bears the burden to prove the removal actions were reasonable in response to the scope of the oil spill incident, and the NPFC has the authority and responsibility to perform a reasonableness determination. Specifically, under 33 CFR 136.203, "a claimant must establish -

- (a) That the actions taken were necessary to prevent, minimize, or mitigate the effects of the incident;
- (b) That the removal costs were incurred as a result of these actions;

(c) That the actions taken were determined by the FOSC to be consistent with the National Contingency Plan or were directed by the FOSC.”

Under 33 CFR 136.205 “the amount of compensation allowable is the total of uncompensated *reasonable* removal costs of actions taken that were determined by the FOSC to be consistent with the National Contingency Plan or were directed by the FOSC. Except in exceptional circumstances, removal *activities* for which costs are being claimed must have been coordinated with the FOSC.” [Emphasis added].

DETERMINATION OF LOSS:

A. Overview:

1. Captain [REDACTED] USCG, Sector Los Angeles – Long Beach, as the Federal On-Scene Coordinator (FOSC) for this incident determined that the actions undertaken by City of Redondo Beach Fire Department were consistent with the NCP as documented in Coast Guard Pollution Report (Polrep) # 1. 33 U.S.C. §§ 2702(b)(1)(B) and 2712(a)(4);
2. The incident involved the discharge or substantial threat of a discharge of “oil” as defined in OPA 90, 33 U.S.C. §2701 to “navigable waters;
3. 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;
4. The claim was submitted within the six year period of limitations for removal costs claims. 33 U.S.C. §2712(h)(1);
5. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined that the removal costs presented were for actions in accordance with the NCP and that the costs for these actions were allowable under OPA and 33 CFR § 136.205.

B. Analysis:

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

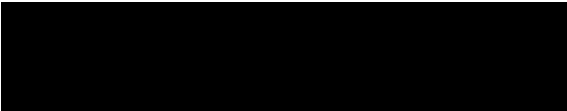

FOSC-R Coordination: The USCG incident situation reports for the South Bay Tar Ball incident report Claimant’s activities of maintaining the harbor boom. The Claims Manager finds that USCG situation reports (PolReps) indicate that the RBFD participated in response and in fact did perform removal actions of booming Kings Harbor and the jetty area. Based on the information found in Coast Guard’s situation

reports, Claimant's actions were coordinated with the FOSCR.⁴ Therefore, the NPFC finds that the Claimant has met its burden pursuant to the claims regulations found at 33 CFR 136.203 and 205 demonstrating that its actions were determined by the FOSCR to be reasonable, necessary and consistent with the National Contingency Plan (NCP).⁵

Uncompensated Removal Costs: Claimant provided daily activity logs (USCG form ICS-124) from May 27, 2015 through May 29, 2015. Claimant activity logs show that three city personnel including RBF Division Chief, [REDACTED] responded to the report of tar balls on Redondo Beach and the oil sheen in Kings Harbor and that from May 27 to May 29, 2015, the Division Chief supervised two other city personnel maintaining the boom across Kings Harbor to contain the oil sheen.

The Claims Manager finds that the Claimant's hourly personnel costs are based on the City's classification and pay schedule and that the hours invoiced match with daily activity logs.⁶ Based upon the foregoing, the NPFC finds that Claimant has provided sufficient documentation demonstrating that it incurred removal costs arising from this incident. The Claims Manager hereby determines that the Claimant did incur \$1,524.57 in uncompensated removal costs and that this amount is payable by the OSLTF as full compensation for the reimbursable removal costs incurred by the claimant and submitted to the NPFC under claim A15018-0001 in accordance with 33 CFR 136.203 & 205.

AMOUNT: \$1,524.57


Claim Supervisor: 
Date of Supervisor's review: <i>November 3, 2015</i>
Supervisor Action: <i>Approved</i>
Supervisor's Comments:

⁴ See USCG SITREP 1- 6

⁵ See USCG SITREP 1- 6

⁶ See claim submission package and emails dated October 22, 2015 from the Claims Manager for Additional Information