

## CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/9/2011
Claim Number	: 911011-0001
Claimant	: Oil Mop, LLC
Type of Claimant	: OSRO
Type of Claim	: Removal Costs
Claim Manager	: Mark Erbe
Amount Requested	: \$12,777.00

### **I. BACKGROUND:**

On November 5, 2007 an oil well owned and operated by Tekoil and Gas Gulf Coast, LLC (Tekoil) of Woodlands, Texas discharged crude oil into Trinity Bay, Texas, which is a navigable waterway of the United States.

Tekoil, the responsible party for the oil spill, contracted<sup>1</sup> with Oil Mop, LLC (Oil Mop) of Belle Chasse, Louisiana to remediate its spill. On February 18, 2008 Oil Mop submitted its invoice to Tekoil in the amount of \$15,032.50.<sup>2</sup>

On July 9, 2008, Tekoil paid \$15,032.50 to Oil Mop.<sup>3</sup> On June 10, 2008, Tekoil & Gas Corporation filed a voluntary chapter 11 with the U.S. Bankruptcy Court, Southern District of Texas the Galveston Division. Subsequently, on August 29, 2008, Tekoil and Gas Gulf Coast, LLC filed chapter 11 joining its sister corporation. Both bankruptcy cases were consolidated and jointly administered under case number: 08-80270-G3-11.

On March 25, 2010, the Bankruptcy Court Order confirmed Tekoil's third amended joint reorganization plan. Under this reorganization plan the Tekoil's Trustee was authorized to assert causes of action and object to claims on behalf of Tekoil's Creditors' Trust (Section 550(a) of the Bankruptcy Code).

On August 25, 2010, Tekoil's Trustee, William G. West filed a Summons and Complaint against Oil Mop in bankruptcy court (Adversary number: 10-08057). The complaint objected to Oil Mop's receipt of \$15,032.50 alleging that the payment was avoidable under Section 547 of the Bankruptcy Code because it was paid within 90-days of Tekoil's bankruptcy petition while Tekoil was insolvent and that Oil Mop received more money than it would have were Tekoil under Chapter 7 of this title. Consequently, the Trustee voided the payment to Tekoil.

On September 22, 2010, Oil Mop negotiated a settlement with the Tekoil Trustee and signed a Stipulation and Settlement agreeing to return \$12,777.00 to the Tekoil Trustee. On or about September 22, 2010 Oil Mop issued a check in the amount of \$12,777.00 to the Tekoil Trustee. The Stipulation and Settlement represents full and final satisfaction and settlement of this claim.

<sup>1</sup> See signed Emergency Service Contract dated 11/05/2008

<sup>2</sup> See Oil Mop invoice # N0802-085 part 3 of admin record & in CPS

<sup>3</sup> See in Part 3 of admin record & CPS: Summary of Trustee's Complaint, pg 2 of 6 in the Complaint and Objection to Claim filed in US Bankruptcy Court Southern District of Texas Galveston Division Case 08-80270 and Case 08-80405 Jointly Administered Under Case 08-80290

## II. Claim:

On November 19, 2010 Oil Mop presented its claim to the Oil Spill Liability Trust Fund (Fund) seeking compensation of uncompensated removal costs for \$12,777.00, the settlement amount returned to the Tekoil Trustee.

## III. APPLICABLE LAW:

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 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 USC 2712(f) Rights of Subrogation. – Payment of any claim or obligation by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.

Under 33 USC 2715 Section 1015 SUBROGATION. (a) In General. – Any person including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights claims and causes of action that the claimant has under any other laws.

## IV. DETERMINATION OF LOSS:

Under the Oil Pollution Act of 1990 the claimant must present its claim for uncompensated removal costs to the Responsible Party. If the claim is not settled within 90-days a claimant may present its claim to the Fund. If the Fund pays the claim the U.S acquires subrogation rights to the claim and must be subrogated to that right upon paying the claimant.

On September 22, 2010 Oil Mop agreed to sign a “Stipulation and Settlement” with Tekoil’s Trustee that reads as follows:

*“Part 2. Upon delivery of the Settlement Payment, the Trustee and the Settling Party shall file a joint stipulation of dismissal with prejudice of all claims asserted in Adversary No. 10-8057 with each party to bear their respective fees and costs.*

*“Part 3. Any and all claims, demands and causes of action held by, or arising by, through or under the Settling Party, known or unknown, against the Trust, the Trustee and the estates of Tekoil & Gas Corporation and Tekoil and Gas Gulf Coast, LLC are released and forever discharged. All proofs of claim, formal or informal, asserted by the Settling Party in Case 08-80270 and 08-80405, are released and forever discharged.”<sup>4</sup>*

<sup>4</sup> See Stipulation & Settlement US Bankruptcy Court Southern District of Texas in Admin Record & CPS dated 9/22/2010

Thus, the Claimant, Oil Mop, settled its claim with the Responsible Party and there are no subrogable right that could be acquired by the U.S.

**AMOUNT:** \$0

**DETERMINATION:**

For the above reasons, the NFPC has determined that Oil Mop has accepted full and final settlement for the removal costs in this claim and there are no subrogable rights that the U.S. could acquire.

Claim Supervisor: 

Date of Supervisor's Review: 2/2/11

Supervisor Action: *Final Approval*

Supervisor's Comments:

U.S. Department of  
Homeland Security

**United States  
Coast Guard**



Director  
National Pollution Funds Center  
United States Coast Guard

NPFC CA MS 7100  
US COAST GUARD  
4200 Wilson Blvd. Suite 1000  
Arlington, VA 20598-7100  
Staff Symbol: (CA)  
Phone: 202-493-6824  
E-mail: [REDACTED]@uscg.mil  
Fax: 202-493-6937  
5890  
February 10, 2011

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**  
Number: 7007 2680 0002 9613 3181

Oil Mop, LLC  
ATTN: Kyle Prest  
131 Keating Drive  
Belle Chasse, LA 70037

RE: NPFC Claim Number: 911011-0001

Dear Mr. Prest:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990 and 33 CFR Part 136, denies payment of the above referenced claim for uncompensated removal costs from Tekoil. Compensation is denied because Oil Mop signed a settlement and release that precludes the Oil Spill Liability Trust Fund (Fund) from acquiring subrogation rights for these costs.

You may make a written request for reconsideration of this claim. The reconsideration must be received by the NPFC within 60 days of the date of this letter and must include the factual or legal basis of the request for reconsideration, providing any additional support for the claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing will constitute final agency action. Failure of the NPFC to issue a written decision within 90 days after receipt of a timely request for reconsideration shall, at the option of the claimant, be deemed final agency action. All correspondence should include claim number 911011-0001.

Mail reconsideration requests to:

Director (ca)  
NPFC CA MS 7100  
US COAST GUARD  
4200 Wilson Blvd, Suite 1000  
Arlington, VA 20598-7100

Sincerely, [REDACTED]  
[REDACTED]  
MARK R. LUDC  
Claims Manager  
U.S. Coast Guard