U.S. Department of
Homeland Security

**United States
Coast Guard**

Director
United States Coast Guard
National Pollution Funds Center

US COAST GUARD STOP 7100
4200 WILSON BLVD STE 1000
ARLINGTON VA 20598-7100
E-mail: [redacted]@uscg.mil
Fax: 202-493-6937

5890
3/31/2011

Sent Via Email: [redacted]@marinepollutioncontrol.com

Marine Pollution Control
ATTN: Mr. Walter Putman
8631 W. Jefferson Ave.
Detroit, MI 48209

Re: Claim Number 911043-0001

Dear Mr. Putman:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that $4,811.89 is full compensation for OPA claim number 911043-0001.

This determination is based on an analysis of the information submitted. Please see the attached determination for further details regarding the rationale for this decision.

If you accept this determination, please sign the enclosed Acceptance/Release Form where indicated and return to the above address.

If we do not receive the signed original Acceptance/Release Form within 60 days of the date of this letter, the determination is void. If the determination is accepted, an original signature and a valid tax identification number (EIN or SSN) are required for payment. If you are a Claimant that has submitted other claims to the National Pollution Funds Center, you are required to have a valid Central Contractor Registration (CCR) record prior to payment. If you do not, you may register free of charge at www.ccr.gov. Your payment will be mailed or electronically deposited in your account within 60 days of receipt of the Release Form.

If you have any questions or would like to discuss the matter, you may contact me at the above address or by phone at 202-493-6883.

[redacted]
Claims Manager

ENCL: Claim Summary / Determination Form
Acceptance/Release Form

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Claim Number: 911043-0001	Claimant Name: Marine Pollution Control ATTN: Mr. Walter Putman 8631 W. Jefferson Ave. Detroit, MI 48209

I, the undersigned, ACCEPT the determination of $4,811.89 as full compensation for the removal costs incurred.

This determination represents full and final release and satisfaction of all removal cost incurred under the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4), associated with the above referenced claim. This determination is not an admission of liability by any party. I hereby assign, transfer, and subrogate to the United States all rights, claims, interest and rights of action, that I may have against any party, person, firm or corporation that may be liable for the loss. I authorize the United States to sue, compromise or settle in my name and the United States fully substituted for me and subrogated to all of my rights arising from the incident. I warrant that no legal action has been brought regarding this matter and no settlement has been or will be made by me or any person on my behalf with any other party for costs which are the subject of the claim against the Oil Spill Liability Trust Fund (Fund).

I, the undersigned, agree that, upon acceptance of any compensation from the Fund, I will cooperate fully with the United States in any claim and/or action by the United States against any person or party to recover the compensation. The cooperation shall include, but is not limited to, immediately reimbursing the Fund any compensation received from any other source for the same claim, providing any documentation, evidence, testimony, and other support, as may be necessary for the United States to recover from any other person or party.

I, the undersigned, certify that to the best of my knowledge and belief the information contained in this claim represents all material facts and is true. I understand that misrepresentation of facts is subject to prosecution under federal law (including, but not limited to 18 U.S.C. 287 and 1001).

Title of Person Signing	Date of Signature
Typed or Printed Name of Claimant or Name of Authorized Representative	Signature

Title of Witness	Date of Signature
Typed or Printed Name of Witness	Signature

DUNS #	Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION FORM

Date	: 3/31/2011
Claim Number	: 911043-0001
Claimant	: Marine Pollution Control
Type of Claimant	: Corporate
Type of Claim	: Removal Costs
Claim Manager	: Alyssa Lombardi
Amount Requested	: $4,811.89

FACTS:

1. ***Oil Spill Incident:*** The United States Environmental Protection Agency (USEPA) Region V reported that on August 29, 2010, an unknown oil sheen was discovered on the Saline River, a navigable waterway of the US, and located in Milan, Washtenaw County, Michigan.[1]

   On August 29, 2010, USEPA Region V and the Superfund Technical Assistance and Response Team (START) responded to the spill, naming Clark Construction (that was working at an elementary school nearby) as the Potential Responsible Party. Clark Construction, in turn, hired Marine Pollution Control (MPC) as its clean-up contractor.[2]

   On August 30, 2010, when USEPA returned to the site to observe removal activities, not only had the oil dissipated at the original spill site, but Milan police advised that a sheen was discovered about a half-mile upstream of the Platt Road Bridge. Further investigation revealed that there was significant liquid dumping adjacent to the parking lot of a Kroger in Milan. Kroger was then designated as the Responsible Party and clean up operations were complete by August 31, 2010.[3]

   As the USEPA or its START contractor never took oil or soil samples downriver to link the two locations, the NPFC cannot determine that this is, in fact, the same spill and has chosen not to place this claim under the FPN E10529 originally assigned to the Kroger incident.

2. ***Description of removal actions performed:*** On August 29, 2010 and into the early hours of August 30, 2010, the claimant, MPC, deployed hard boom to the affected area, with the intention of removing it by vac truck during daylight hours. However, by the time crews and EPA returned to track progress and commence removal activities, the oil had dissipated from this location. As such, MPC removed the containment boom it had placed, and the spent absorbent was placed into a roll-off box at the construction site. After inspecting sewer areas with the City of Milan and EPA, MPC determined its work to be complete and departed the scene.

3. ***The Claim:*** On March 24, 2011, MPC submitted a removal cost claim to the National Pollution Funds Center (NPFC), for reimbursement of removal costs in the amount of $4,811.89 for the services provided from August 29-30, 2010. This claim is for removal

[1] See US EPA POLREP #1, dated 9/02/2010.
[2] *Ibid.*
[3] *Id.*

costs based on the rate schedule in place at the time services were provided. A copy of the vendor rate schedule is provided in the claim submission.

This claim consists of copies of the invoicing, posted rate schedule, dailies, EPA POLREP #1, a copy of a letter sent from Clark Construction to Mr. John Gulch, US EPA and internal email correspondence.

The review of the actual cost invoicing and daily logs 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 consistent with the NCP or directed by the FOSC, and (4) whether the costs were adequately documented.

APPLICABLE LAW:

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 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].

Under 33 CFR 136.105(e)(8), the claim must include the reasonable costs incurred by the claimant in assessing the damages claimed. This includes the reasonable costs of estimating the damages claimed, but not attorney's fees or other administrative costs associated with preparation of the claim.

DETERMINATION OF LOSS:

A. ***Overview:***

1. The FOSC coordination has been established via US EPA Region V.[4] 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), to navigable waters.
3. A Responsible Party could not be determined. 33 U.S.C. § 2701(32).
4. The claim was submitted within the six year statute of limitations. 33 U.S.C. § 2712(h)(2)
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 has thoroughly reviewed all documentation submitted with the claim and determined what removal costs presented were for actions in accordance with the NCP, and if the costs for these actions were indeed 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 Claims Manager validated the costs incurred and determined whether or not they were reasonable, necessary and performed in accordance with the National Contingency Plan (NCP).

The Claims Manager hereby determines that the claimant did in fact incur $4,811.89 of uncompensated removal costs and that that 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 #911043-0001. The claimant states that all costs claimed are for

[4] See US EPA Polrep 1, dated 9/02/2010.

uncompensated removal costs incurred by the claimant for this incident from August 29-30, 2010.

C. *Determined Amount:*

The NPFC hereby determines that the OSLTF will pay $4,811.89 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim #911043-0001. These costs 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.

AMOUNT: $4,811.89

Claim Supervisor: [redacted]

Date of Supervisor's review: *3/31/11*

Supervisor Action: ***Approved***

Supervisor's Comments: