

U.S. Department of
Homeland Security

United States
Coast Guard



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 202-493-6843
E-mail:
[REDACTED]@uscg.mil
Fax: 202-493-6937

5890
10/14/2011

Sent via email:

[REDACTED]@la.gov

Louisiana Department of Environmental Quality (LDEQ)
ATTN: Ms. Denise Stafford
602 N Fifth Street
Baton Rouge, LA 70802

Re: Claim Number E10642-0007

Dear Ms. Stafford:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that \$64,993.59 is full compensation for OPA claim number E10642-0007.

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 202-493-6843.

Sincerely,

[REDACTED]

Claims Manager
United States Coast Guard

ENCL: Claim Summary / Determination Form
Acceptance/Release Form

U.S. Department of
Homeland Security

**United States
Coast Guard**



Director
United States Coast Guard
National Pollution Funds Center

NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598-7100
Staff Symbol: (CA)
Phone: 202-493-6843
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

Claim Number: E10642-0007	Claimant Name: Louisiana Department of Environmental Quality ATTN: Denise Stafford 602 N Fifth Street Baton Rouge, LA 70802
---------------------------	--

I, the undersigned, ACCEPT the determination of \$64,993.59 as full compensation for the removal costs incurred by Claimant for services provided for this incident and claimed to the Oil Spill Liability Trust Fund (Fund) under claim number E10642-0007.

This acceptance and the determination and offer on which it is based, is for the payment of uncompensated removal costs claimed by the claimant against the Fund under claim number E10642-0007 and the Oil Pollution Act of 1990, at 33 U.S.C. 2708, and 2712(a)(4) and 2713, and is a full and final release and satisfaction of the amounts claimed. 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

_____	_____	_____
TIN Required for Payment	Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION FORM

Date	: 10/13/2011
Claim Number	: E10642-0007
Claimant	: Louisiana Department of Environmental Quality
Type of Claimant	: State
Type of Claim	: Removal Costs
Claim Manager	: Dawn Unglesbee
Amount Requested	: \$64,993.59

Facts:

On the morning of August 11, 2010 an oil well located in Paincourtville, LA blew out at approximately 0330 hours. The oil well is located 200 yards northwest of the intersection of Louisiana Highway (LA Hwy) 70 and LA Road 1004 within a sugar cane field. The blow out occurred during the completion phase of a drilling operation. Approximately 250-500 barrels of oil and gas discharged per day and 10-15 million cubic feet of natural gas per day was released within the atmosphere. Material discharged into local drainage ditches and land.

Drainage entered the Magnolia Canal south of Highway 70. The Magnolia Canal flows 1.7 miles south-southwest to the Saint Louis Canal. The Saint Louis canal flows approximately 3 miles south-southwest of Grand Bayou. Grand Bayou flows 2 miles south into Lake Verret, a navigable waterway of the United States.

The National Response Center was contacted via incident report # 950574.¹

Responsible Party

The Responsible Party has been identified as Mantle Oil & Gas, LLC (Mantle O&G), headquartered in Houston, TX. The oil rig is owned by Cajun All Well Services.

The National Pollution Fund Center (NPFC) issued a Responsible Party (RP) Notification letter to Mantle O&G in Friends Wood, Texas via email and certified mail.²

The Claimant and the Claim

Claimant, Louisiana Department of Environmental Quality (LDEQ) personnel conducted ambient air monitoring of a one mile in diameter action zone around the well. Monitoring runs were made approximately every two hours and the monitoring teams utilized the TVA model 1000B units that combine a flame ionization device (FID) with a photo ionization device (PID). Monitoring teams recorded volatile organic compound (VOC) readings in parts per million (ppm) at each monitoring point.³

Claimant also deployed the Mobile Air Monitoring Laboratory (MAML) to monitor the ambient air in the surrounding area. The MAML is a vehicle equipped with specialized air monitoring

¹ NRC Report # 950574

² Signed certified mail receipt.

³ TVA rental rates, Enrud Resources, Inc.

and support equipment. It is a self-contained mobile laboratory capable of continuous, real-time sampling and analysis. It can detect chemicals in low parts per billion levels from various environmental sources. Monitoring results from the MAML are used for screening and represent the status of the air at the time of sampling.⁴

Claimant contracted with Compliance Solutions Group (CSG) for monitoring and testing the water for oil, grease, and chloride. The samples were collected using a grab sampling technique with a sample dipping apparatus. The analysis was done in a LDEQ accredited laboratory using approved laboratory methods.⁵

The services provided by the Claimant were acknowledged by Mr. Roberto Bernier, FOOSC, U.S. EPA.⁶

On June 12, 2011, LDEQ submitted a claim to the NPFC for reimbursement of their uncompensated equipment and labor costs.⁷ This claim is based on FEMA's Schedule of Equipment Rates⁸ and LDEQ labor rates.

This claim consists of the Standard NPFC Claim Form, LDEQ Labor and Equipment records, FEMA's Schedule of Equipment Rates, a disk with field notes, time sheets, pictures, reports, labor rates, rates for equipment, and a letter to NPFC.

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 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

⁴ Sampling and Analysis Plan, dtd August 12, 2010, Written by David Wagenecht.

⁵ CSG Surface Water Sampling and Analysis Plan dtd August 12, 2010, written by Mr. Philip Curwick, PE.

⁶ Polreps 1 through 3

⁷ LDEQ Labor and Equipment records.

⁸ FEMA Schedule of Equipment Rates dated May 1, 2008

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. The removal actions were coordinated with the Mr. Bernier, FOSC, U.S. EPA.
2. The incident involved the discharge and continuing substantial threat of discharge of “oil” as defined in OPA 90, 33 U.S.C. § 2701(23), to navigable waters.
3. In accordance with 33 CFR § 136.105(e)(12), the claimant certified that it has filed no suit in court for the claimed uncompensated removal costs.
4. The claim was submitted within six years after the date of completion of all removal actions for this incident.
5. The NPFC Claims Manager thoroughly reviewed all documentation submitted with the claim and determined that the costs presented were for actions in accordance with the NCP and that 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 Claims Manager was able to confirm whether the costs claimed were reasonable and necessary and performed in accordance with the National Contingency Plan (NCP). FOSC oversight was present during this period of response and the record does support the activities performed by the Claimant an appropriate activity as confirmed in the USEPA Pollution Reports.

The NPFC reviewed all of the invoicing, the daily field log information, the FOSC Pollution Reports, and compared the information billed against the pricing in schedule in place at the time services were rendered. The NPFC also verbally confirmed the presence of the Claimant with the FOSC during a phone call on or about June 16, 2011.

C. *Determined Amount:*

The NPFC determines that the OSLTF will pay \$64,993.59 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under Claim Number E10642-0007 for removal costs.

AMOUNT: \$64,993.59

Claim Supervisor:  *Donna Heiberg*

Date of Supervisor's review: *10/14/11*

Supervisor Action: *Approved*

Supervisor's Comments: