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
Phone: [redacted]
Fax: 703-872-6137

5890
11/28/2012

Sent Via Email: [redacted]@travelers.com

Travelers Insurance
Attn: Ms. Angela Houk Mattson
P.O. Box 2954
Milwaukee, WI 53402

Re: Claim Number: M12041-0003

Dear Ms. Mattson:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that $3,463.87 is full compensation for OPA claim number M12041-0003.

This determination is based on an analysis of the information submitted. Please see the attached determination for further details regarding the rational 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 System for Award management (SAM) record prior to payment. If you do not, you may register free of charge at www.SAM.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 [redacted]

[redacted]

Alyssa Lombardi
Claims Manager

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

US COAST GUARD STOP 7100
4200 Wilson Blvd. Suite 1000
Arlington, VA 20598c7100
Staff Symbol: (CA)
Phone: [redacted]
E-mail: [redacted]@uscg.mil
Fax: 703-872-6113

Claim Number: M12041-0003	Claimant Name: Travelers Insurance Attn: Ms. Angela Houk Mattson P.O. Box 2954 Milwaukee, WI 53402

I, the undersigned, ACCEPT this settlement offer of as full and final compensation for real or personal property damages arising from the specific claim number identified above.

This settlement represents full and final release and satisfaction of the amounts paid from the Oil Spill Liability Trust Fund under the Oil Pollution Act of 1990 for this claim. 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 amounts paid for which I have been compensated under this claim. 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 and associated with those amounts paid for which I am compensated for with this settlement offer. 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 amounts paid which is the subject of this claim against the Oil Spill Liability Trust Fund (Fund).

This settlement is not an admission of liability by any party.

With my signature, I acknowledge that I accept as final agency action all amounts paid for this claim.

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 for any compensation received from any other source for those amounts paid for which the Fund has provided compensation, by 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 **Required for Payment**	Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION FORM

Claim Number:	M12041-0003
Claimant:	Travelers Insurance
Type of Claimant:	Corporate
Type of Claim:	Real or Personal Property
Claim Manager:	Alyssa Lombardi
Amount Requested:	$3,463.87

FACTS:

A. ***Oil Spill Incident:*** The United States Coast Guard (USCG) Sector Key West reports[1] that on July 5, 2012 an oil spill was discovered in Garrison Bight, a nexus to the Gulf of Mexico located in Key West, FL. Two members of the USCG responded to the spill on July 6, 2012, deeming it an unrecoverable sheen. However, due to a storm that came through, the oil was splashed up onto a number of boats within the bight. The Fund was opened under Federal Project Number M12041 to clean these vessels and to prevent further sheening.[2]

B. ***Description of actions performed:*** The claimant, Travelers Insurance (Travelers) insured a vessel belonging to Mr. Lowell Cantor, and docked at Slip # 13 in Garrison Bight. As the oil on the surface of the water contaminated the vessel, it caused damage to the boat. Travelers performed an in-house audit of the damage and estimated property damages in the amount of $3,967.87. Specifically, $1,021.33 was allotted for primers, paints, topcoats, sandpaper, discs and masking tape, in order to repair the oil damage to the hull. Labor costs were estimated at $2,400.00 for projected sanding, washing, painting and staining of the boat. Hauling, transferring and blocking the boat for painting, as well as the vinyl graphics to be placed on it, were estimated as totaling $331.00. An additional $215.54 was included in the estimate to account for the 6% tax on all labor and materials. The total amount, then, of all estimated costs is $3,967.87.

C. ***The Claim:*** On September 19, 2012, Travelers submitted a Real or Personal Property claim to the National Pollution Funds Center (NPFC), for reimbursement of estimated cleanup and removal costs in the amount of $3,967.87 as a result of an audit performed by it on July 24, 2012. As Mr. Cantor paid a deductible in the amount of $504.00, the resulting claim amount totals $3,463.87.[3]

APPLICABLE LAW:

In general, claims for removal costs or damages must first be presented to the responsible party. 33 USC §2713(a). If the responsible party denies the claim or does not settle the claim within 90

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[1] See USCG Sector Key West Report # 601949, opened 7/05/2012.

[2] See POLREP # 1 for FPN M12041, dated 7/06/2012.

[3] In its original claim submission, Travelers claimed the total amount of $3,967.87. However, in an email sent to the NPFC on 11/21/2012, it removed the deductible from the claim total, thus claiming a SUM CERTAIN of $3,463.87.

days, the claimant may commence an action in court against the responsible party or present the claim to the Fund. 33 USC §2713(c).

The uses of the OSLTF are described at 33 USC §2712(a). It provides in relevant part that:

> "The Fund shall be available to the President for –
>
> .....
>
> (4) the payment of claims in accordance with section 2713 of this title for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;"

Damage claims must be presented within 3 years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care. 33 USC §2712(h)(2).

The applicable regulations "for the presentation, filing, processing, settlement, and adjudication of claims..." are found at 33 CFR Part 136.

Under 33 CFR § 136.213 Authorized claimants are defined as:

> (a) A claim for injury to-- or economic losses resulting from-- the destruction of, real or personal property may be presented only by a claimant either owning or leasing the property.
> (b) Any claim for loss of profits or impairment of earning capacity due to injury to, destruction of, or loss of real or personal property must be included as subpart of the claim under this section and must include the proof required under § 136.215.

Per the requirements of subparts A and B of 33 CFR § 136.215, a claimant must establish—

> (1) An ownership or leasehold interest in the property;
> (2) That the property was injured or destroyed;
> (3) The cost of repair or replacement; and
> (4) The value of the property both before and after injury occurred.

And, in addition to the above, for each claim for economic loss resulting from destruction of real or personal property, the claimant must establish—

> (1) That the property was not available for use and, if it had been, the value of that use;
> (2) Whether or not substitute property was available and, if used, the costs thereof; and
> (3) That the economic loss claimed was incurred as the result of the injury to or destruction of the property.

Under 33 CFR § 136.217(a), the amount of compensation allowable for damaged property is the lesser of—

> (1) Actual or estimated net cost of repairs necessary to restore the property to substantially the same condition which existed immediately before the damage;

(2) The difference between value of the property before and after the damage; or
(3) The replacement value.

33 CFR § 136.217 (b) states that compensation for economic loss resulting from the destruction of real or personal property may be allowed in an amount equal to the reasonable costs actually incurred for use of substitute commercial property or, if substitute commercial property was not reasonably available, in an amount equal to the net economic loss which resulted from not having use of the property. When substitute commercial property was reasonably available, but not used, allowable compensation for loss of use is limited to the cost of the substitute commercial property, or the property lost, whichever is less. Compensation for loss of use of noncommercial property is not allowable.

Subpart C further states that compensation for a claim for loss of profits or impairment of earning capacity under § 136.213(b) is limited to that allowable under § 136.235.

DETERMINATION OF LOSS:

A. ***Overview:***

1. FOSC Coordination has been established via USCG Sector Key West.[4]
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. The claim was submitted within the three year statute of limitations. 33 U.S.C. § 2712(h)(2)
4. A Responsible Party was not determined. 33 U.S.C. § 2701(32).
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 or damages.
6. The NPFC Claims Manager has thoroughly reviewed all documentation submitted with the claim and determined what damage costs presented were reasonable and allowable under OPA and 33 CFR § 136.217.

B. ***Analysis:***

Travelers provided the claims manager sufficient means to determine whether or not it incurred the costs claimed[5] and, of the costs incurred, what were considered compensable. After a review of the file, it was determined, through the preponderance of the evidence, that Travelers incurred $3,463.87 of estimated hull repair costs, and that this amount is properly payable by the OSLTF as full compensation for the costs incurred by the claimant and submitted to the NPFC under claim #M12041-0003.

The claimant has demonstrated that it is an authorized claimant by providing the insurance policy in place at the time of the incident.[6] It also demonstrated that it did incur the total amount claimed by providing its extensive and detailed estimate.[7] The claimant states that all

[4] See USCG Sector Key West Report # 601949, dated 7/05/2012.
[5] See pictures of the vessel, submitted to the NPFC with the claim by the claimant on 9/19/2012.
[6] See copy of Travelers Boat Policy # 947039309-830-1, submitted to the NPFC with the claim by the claimant on 9/19/2012.
[7] See Travelers Claim Report # HFD2541, submitted to the NPFC with the claim by the claimant on 9/19/2012.

costs claimed are for estimated hull repair costs as a result of an audit performed by it on July 24, 2012. The claimant represents that all costs requested are compensable, payable by the OSLTF as presented.

C. *Determined Amount:*

The NPFC hereby determines that the OSLTF will pay $3,463.87 as full compensation for the reimbursable Real or Personal Property damages incurred by the claimant and submitted to the NPFC under claim M12041-0003. All costs claimed are for charges paid for by the claimant for the net cost of repairs necessary to restore the property to its original condition, and are compensable Real or Personal Property damages, payable by the OSLTF as presented by the claimant.

AMOUNT: $3,467.87 [redacted]

Claim Supervisor: Robert C. Rioux

Date of Supervisor's review: 11/28/2012

Supervisor Action: Approved

Supervisor's Comments: