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: 800-280-7118
E-mail: [redacted]
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5890
01/09/2014

VIA MAIL: [redacted]

Texas General Land Office (SOSC)
1700 N. Congress Avenue
Austin, TX 78701-1495

RE: Claim Number: 914013-0001

Dear Ms. Spies:

The National Pollution Funds Center (NPFC), in accordance with 33 CFR Part 136, approves payment on the claim number 914013-0001. Please see the attached Claim Summary / Determination Form for the rationale regarding this determination.

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 Registration (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.

[redacted]
Claims Manager
U.S. Coast Guard

Encl: Claim Summary / Determination Form

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Claim Number: 914013-0001	Claimant Name: Texas General Land Office (SOSC) 1700 N. Congress Avenue Austin, TX 78701-1495

I, the undersigned, ACCEPT this settlement offer of $2,163.12 as full and final compensation for the removal costs 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.

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

TIN Required for Payment	Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION FORM

Claim Number:	914013-0001
Claimant:	Texas General Land Office
Type of Claimant:	State
Type of Claim:	Removal Costs
Claim Manager:	Cynthia E Oliver
Amount Requested:	$2,163.12

FACTS

On May 23, 2013, the Texas General Land Office (TGLO) responded to a mystery oil spill in Tres Palacios Bay, Matagorda County.[1] State On Scene Coordinator (SOSC) Ryan Clevenger observed approximately 30 gallons of oil in the bay.[2] Vessels in the vicinity of the harbor were investigated but no source for the oil was found.[3] The Tres Palacios Bay is a navigable waterway of the United States.

Description of Removal Activities for this Claimant

On May 23, 2013, State On Scene Coordinator (SOSC) Ryan Clevenger responded to the spill and coordinated with the Federal On Scene Coordinator's Representative (FOSCR) PO Cisneros. The FOSCR approved TGLO to perform removal activities.[4] TGLO placed sorbent pads and boom at the spill site, then contracted with Palacios Marine & Industrial Coatings, Inc., to perform removal activities. The contractor collected spent sorbents from the site. The cleanup was completed on May 23, 2013 under the oversight of Ryan Clevenger as the State On Scene Coordinator (SOSC).

The Claim

On December 30, 2013 the Texas General Land Office (TGLO) submitted a removal cost claim to the National Pollution Funds Center (NPFC) for reimbursement of their uncompensated removal costs in the amount of $2,163.12.

TGLO is claiming GLO personnel expenses in the amount of $86.01, state equipment expenses in the amount of $140.00, and response expenses in the amount of $1,937.11, monies paid to Palacios Marine and Industrial Coatings, Inc., a state contractor for the response and removal costs associated with this fuel spill.

The claim consists of the claim memorandum, incident report, incident photo log, TGLO response cost invoice, invoice from Martin Energy to TGLO, and disposal manifests for removed materials.

APPLICABLE LAW

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

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

[1] See, Texas General Land Office Memorandum, dated December 30, 2013.
[2] Ibid.
[3] Ibid.
[4] Ibid.

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."

Pursuant to 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].

Pursuant to 33 USC § 2713(d), "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."

Pursuant to 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.

Pursuant to 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."

Pursuant to 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."

Determination of Loss

Overview

1. FOSC coordination was made by USCG MSD Victoria via MST1 Nancy Cisneros.
2. The incident involved a discharge of "oil" as defined in OPA 90, 33 USC § 2701 (23), that presented a substantial threat 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 statute of limitations. 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 costs for these actions were indeed reasonable and allowable pursuant to OPA 90 and 33 CFR § 136.025 as set forth below.

Analysis

The review of the actual cost invoicing and dailies 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.

Upon review of the claim submission, the NPFC has determined that the removal costs presented and incurred were billed appropriately and in accordance with all governing rate schedules at the time services were rendered. Based on the approval by the FOSCR for TGLO to take the lead for response, the actions are determined to be reasonable and necessary.

On that basis, the Claims Manager hereby determines that the Claimant did in fact incur $2,163.12 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 #914013-0001.

Determined Amount

The NPFC determines that the OSLTF will pay $2,163.12 as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to NPFC under claim #914013-0001. All costs presented to the OSLTF in this claim are for removal actions as defined in OPA 90 and 33 CFR 136, and are compensable removal costs.

AMOUNT: $2,163.12

Claim Supervisor [redacted]

Date of Supervisor's review: ***1/9/14***

Supervisor Action: ***Approved***

Supervisor's Comments: