U.S. Department of Homeland Security
United States Coast Guard

Director
National Pollution Funds Center

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Arlington VA 20598-7100
Staff Symbol: Ca
Toll-Free: 1-800-280-7118
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Email: ARL-PF-NPFCCLAIMSINFO@uscg.mil

5890
September 3, 2014

[redacted]

Reider Shipping BV
C/o Charles Taylor Adjusting
Attn: Ms. Susan Smith
2100 West Loop South, Suite 1300
Houston, TX 77027

RE: 914082-0001

Dear Ms. Smith:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that it will offer $35,754.45 as full compensation for OPA claim number 914082-0001.

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.

All costs that are not determined as compensable are considered denied. 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 claims. Reconsideration will be based upon the information provided and a claim may be reconsidered only once. Disposition of the reconsideration 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 corresponding claim number.

Mail reconsideration request to:
Director
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Boulevard, Suite 1000
Arlington, VA 20598-7100

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

If we do not receive the signed original Acceptance / Release Agreement 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 Contractor Registration 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 Agreement.

If you have any questions or would like to discuss the matter, you may contact me at the above address or by phone at 1-800-280-7118.

Sincerely,

[redacted]

Claims Manager
U.S. Coast Guard

Enclosures: Claim Summary / Determination
Acceptance / Release Agreement
NPFC Spreadsheet with Adjudication

ACCEPTANCE / RELEASE AGREEMENT

Claim Number: 914082-0001	Claimant Name: Reider Shipping BV

I, the undersigned, ACCEPT this settlement offer of $35,754.45 as full and final compensation for removal costs arising from the specific claim number identified above. With my signature, I also acknowledge that I accept as final agency action all costs submitted with subject claim that were denied in the determination and for which I received no compensation.

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 under any other law, that I may have against any party, person, firm or corporation that may be liable for the amounts 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 is 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 and amounts denied in the determination for which I received no compensation.

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
Printed Name of Claimant or Authorized Representative	Signature

Title of Witness	Date of Signature
Printed Name of Witness	Signature

*DUNS/EIN/SSN of Payee Please Circle one	Payee
Bank Routing Number	Bank Account Number

CLAIM SUMMARY / DETERMINATION

Claim Number:	914082-0001
Claimant:	Reider Shipping BV
Type of Claimant:	Corporate
Type of Claim:	Removal Costs
Claim Manager:	Dawn Unglesbee
Amount Requested:	$38,678.10

FACTS:

Oil Spill Incident:

On November 30, 2013, USCG, Sector Houston-Galveston Incident Management Division (IMD) was notified of an unknown mystery spill that involved 15 gallons of oil, located at the Jacintoport Terminal. The spill covered an area approximately 30 ft. x 30 ft and was 50 feet from the bow of the vessel, VLIET TRADER.[1] The Jacintoport Terminal where the vessel was located is a small dead end canal immediately adjacent to the Houston Ship Channel and is a half mile long.[2]

On November 29, 2013, the VLIET TRADER had taken on bunkers via barge BRYANT SEA, which had concluded in the early morning hours on November 30, 2013. At approximately 0830 on November 30th the ship's crew together with the stevedores observed oil spots/sheen in the forward end of the berth.[3] The oil was also observed towards the vessel's starboard side and between the dock and ship's side near the No. 1 hold. At 0915 Coast Guard, Sector Houston-Galveston IMD was notified by the stevedores/terminal representative regarding the oil spill.[4]

The U.S. Coast Guard (USCG) and Texas General Land Office[5] (TGLO) personnel boarded the vessel and reviewed the bunkering documents, oil record book, and took rounds around the deck areas to investigate the cause of the oil sheen extending from hold No. 1 to the forward bank of the dock. USCG[6] took oil samples from the MDO tank and two port tanks of heavy fuel (HSFO and LSFO) on the VLIET TRADER.

After hours of investigating all vessel's documents and areas around the vessel, the USCG personnel were unable to identify the source of the oil spill however, the USCG issued two letters to the VLIET TRADER, (1) Notice of Federal Interest for an Oil Pollution Incident,[7] and (2) Letter of Undertaking (LOU) or Surety Bond Demand.[8] TGLO also issued a Letter of State Interest regarding the oil spill incident.[9] Charles Taylor Adjusting, Agent for the vessel

[1] U.S. Coast Guard Investigator Statement, provided to the NPFC 6/10/2014 via email from MST3 Jacob Short.
[2] ECM Maritime Services Final Report, 2013 12 09.
[3] 3D Marine Survey Report, dated December 2013 p. 6 of 10.
[4] 3D Marine Survey Report, dated December 2013 p. 6 of 10.
[5] USCG/TGLO Witness Statement, dated 12/1/2013, signed by an MST3.
[6] PO Kyle Metcalf.
[7] Case # 1067140, signed by MST2 Kyle Metcalf, dated 2013 11 30
[8] *See*, United States Coast Guard Sector Houston – Galveston Texas Letter of Undertaking or Surety Bond Demand letter dated 2013 11 30 and signed by Agent/Vsl Rep Mr. John Barret and MST2 Kyle Metcalf.
[9] *See*, Letter of State Interest GLO # 2013-3860

Owner/Operator and their P&I Club, Standard Club Europe, sent an LOU dated December 1, 2013 to Secretary of Homeland Security care of Commander, U.S. Coast Guard Sector Houston-Galveston, accepting responsibility if a final judgment is entered, in favor of the United States against the vessel VLIET TRADER, or her Owner or Operator.[10]

Lab Analysis

On December 13, 2013, USCG Marine Safety Laboratory (MSL) completed the laboratory analysis and completed their report which was sent to USCG Sector Houston-Galveston. The oil sample analysis provides that 13 samples were taken from the VLIET TRADER. Samples 14-028-3, 4, and 5 were specified to be representative of spilled oil. The results indicate that these samples are similar to each other and contain slightly degraded light fuel oil mixed with a lesser amount of lubricating oil. The differences were attributable to weather and to the non-petroleum contamination present in samples 14-028-4 and 5. Suspected source samples 14-028-1, 2, 7,8,10,11,12, and 13 contain various heavy fuel oils with characteristics different from those of spill samples 14-028-3,4, and 5. Differences are not attributable to weathering or non-petroleum contamination. Suspected source sample 14-028-9 contains light fuel oil with characteristics different from those of spill samples 14-028-3,4, and 5. Differences are not attributable to weathering nor was non-petroleum oil detected.[11]

The conclusions of the test results are that samples 14-028-3, 4, and 5 represent different portions of the same spilled oil. Suspected source samples 14-028-1, 2, 7, 8, 9, 10, 11, 12, and 13 and spill samples 14-028-3, 4, and 5 are not derived from a common source of petroleum oil. Sample 14-028-6 contains essentially oil-free water.[12]

Responsible Party

After MSL analysis was received by USCG Sector Houston-Galveston, it was determined that none of the samples collected from the vessel VLIET TRADER matched those collected from the spill. With no other possible or suspected sources in the vicinity of the discharged oil, it was determined to be a mystery spill.[13]

The Coast Guard returned the Letter of Undertaking to the Claimant.

Claim and Claimant

On June 9, 2014, the Claimant, Reider Shipping BV and their P&I Correspondent[14] (herein after Claimant) submitted a claim to the National Pollution Funds Center (NPFC) for reimbursement of the costs incurred in responding to the spill, which they did not cause. The initial total claim was in the amount of $44,634.92.

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[10] LOU from Charles Taylor Adjusting, dating December 1, 2013 and signed by Ms. Susan Smith.
[11] United States Coast Guard, Marine Safety Laboratory, Oil Sample Analysis Report 14-028, Results, page 1 of 1.
[12] United States Coast Guard, Marine Safety Laboratory, Oil Sample Analysis Report 14-028, Conclusions, page 1 of 1.
[13] U.S. Coast Guard Investigator Statement, signed by MST3 Jacob Short, dated June 10, 2014.
[14] Ms. Susan Smith, P&I Correspondent, Charles Taylor Adjusting, Houston.

After the initial review of the claim, the Claims Manager[15] recognized that this claim is two claims; (1) Removal Cost, in the amount of $36,578.10 which include invoices from; Garner, ECM, and Vessel Surveyor. (2) Loss of profits claim in the amount of $8,056.82. Claimant requests reimbursement for Loss of Hire and Bunkers during off hire. On June 10, 2014, the NPFC broke-out the claims into two separate claims; Removal Cost claim # 914082-0001 in the amount of $36,578.10 and Loss of Profits claim # 914082-0002. On June 11, 2014, the NPFC advised the Claimant via an Acknowledgement Letter, that their claim was now separated into two claims with two different sum certain amounts.[16]

On July 14, 2014, Claimant provided a Marine Spill Response Corporation (MSRC) invoice in the amount of $2100.00 that was added to the sum certain of the removal cost claim (914082-0001). Initially, the sum certain for the removal cost claim was $36,578.10. After adding the MSRC costs of $2100.00, it brought the sum certain of the removal cost claim to $38,678.10.[17]

Description of Removal Activities

On November 30, 2013, the vessel Master contacted his local agent, Mr. John Barrett who in turn contacted Marine Spill Response Corporation (MSRC). MSRC contacted Garner Environmental Services, Inc. (Garner), the OSRO that responded since Garner is in the MSRC response network. At approximately 1730 the same day, ECM Maritime Services' (ECM) local representative, Mr. Brian Lincoln, was called to attend on scene and manage the cleanup. At this time, it is important to note that ECM and Reider Shipping, BV have been in contract since February 3, 2000.[18] At approximately 1930, Mr. Tim Archer with MSRC arrived on scene with two of his colleagues to oversee the cleanup. Mr. Lincoln (ECM) was notified that Garner was en route and would be there within the hour. On November 30th a meeting was held between MSRC and ECM whereby ECM requested that they take over as SMT, per their contract with Reider Shipping BV. MSRC obliged and left the scene, concluding their services at midnight on the 30th. MSRC billed the Claimant for one day of service and billed the Agent directly since the agent called them out.[19] [20]

On November 30th at approximately 1935, Garner arrived with a Foreman and four Tech personnel along with a boom trailer and a small skiff. Due to the time of day, the lack of light in the location of the slip, the dark oil, and the hazards of working at night, it was decided that 200 feet of boom and sorbent pads would be deployed to keep the oil from spreading during the night. Three Garner personnel members remained on-scene to ensure that the boom stayed in place.[21]

On December 1, 2013 at 0600, cleanup commenced using pads, absorbent boom, and a high volume, low pressure wash of the shoreline debris. Oiled debris was bagged and placed in a collection bin. Cleanup continued until 1230 when ECM met with the USCG and received concurrence that the spill was clean and complete. However, due to the vessel departing, the

[15] Ms. Dawn Unglesbee, performed initial review on June 9, 2014
[16] *See,* Acknowledgment Letter dated, 2014 06 11 which was sent via email to Ms. Smith.
[17] *See,* Email to Claimant from NPFC Claims Manager, Dawn Unglesbee.
[18] ECM/Hudson Maritime Services, LLC Professional Services Agreement, General Terms and Conditions.
[19] MSRC invoice # 930331-001 for $2,100
[20] 2014 08 15 Email from Mr. Michael Minogue, ECM Maritime Services, LLC
[21] ECM's Final Report, dated December 09, 2013.

Coast Guard requested that Garner personnel remain on-scene to see if oil could be found under the pier where the vessel was tied and was prop washed out during the vessel's departure.

At 1340 the vessel pulled away from the pier and about 10 to 15 additional gallons of oil were washed out from under the pier. Garner deployed two skiffs with sorbent boom to collect the oil. Garner and ECM left 300 feet of hard boom and 600 feet of absorbent boom on scene to pick up additional oil that may have entered the water from the shore due to tides or from under the pier by passing vessels until December 3, 2013.

On December 3, 2013, Garner had four crew members return with a small skiff to retrieve the boom and complete the spill. The cleanup was finished at approximately 1330 and both ECM and Garner departed the scene. Oily debris was taken to Seabreeze Landfill.[22]

APPLICABLE LAW:

"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 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.

[22] *See,* Waste Manifest # 002215060GBF, 001708306 GBF, and 001708306 GBF

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. Findings of Facts

1. FOSC coordination was made by USCG Sector Houston-Galveston IMD, who determined that the removal actions were consistent with the NCP.
2. The incident involved a 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 has certified no suit has been filed in court for the claimed uncompensated removal costs;
4. The claim was submitted within the six year period of limitations for claims. 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 majority of removal costs presented were for actions in accordance with the NCP and that costs for these actions were indeed reasonable and allowable under OPA 33 CFR § 136.205 as set forth below.

B. Analysis

The NPFC Claims Manager reviewed the actual cost invoices and dailies to confirm that he 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 costs were adequately documented and reasonable.

Invoices

Garner Invoice

This invoice is for Personnel and Equipment in the amount of $28,885.28 from November 30, 2013 through February 7, 2014. Claimant provided proof of payment in the amount of $28,885.28 via Credit Note EC00039883, dated 2014 06 19. The NPFC approved **$27,242.78** for the Garner invoice.

General Categories of Denied Costs:

Personnel

12/1/2013 – According to the Garner dailies, provided by the Claimant, this person worked 0600 – 1800 (12 hrs). However, according to the Garner Job Report, the crew was finished by 1630 therefore 11 hours is approved for this line item.

12/1/2013 – According to the Garner daily that was provided by the Claimant for this day, Garner invoiced 5 hours for the heavy equipment operator at $81.00 an hour with an extended price of $405.00 however the Garner Final Report states that the crews were finished by 1630 for this day therefore 4 hours of labor is approved for this line item. One hour of labor is denied.

12/1/2013 - According to the Garner daily that was provided by the Claimant for this day, Garner invoiced 12 hours for the boat operator at $67.50 however the Garner Final Report states that the crews were finished by 1630 for this day therefore, 11 hours of labor is approved for this line item.

11/30/2013 – Four hours are approved based on the Garner Final Report. Garner's Final Report provides that Garner finished for the day at 2300 (Page 3) due to a lack of light.

12/1/2013 – Garner billed Claimant for a Supervisor that worked O/T however according to the Daily Time/ Equipment Report, there was not a Supervisor on duty between 0001 - 0730. See 12/1/13 -- G 59666. During the time period of 0001 - 0730, there was a boat operator and two techs on duty. These crew members stayed on scene to watch and manage the boom and sorbents, over night that were in place. See Garner Job Final Report, Page 3, Response Summary. Therefore, 7.5 hours are approved at the rate of $67.50/hr. which is the cost of O/T for a boat operator.

Denied costs are not itemized in this Claim Summary Determination but are described in the attached cost summary spreadsheet created by the NPFC. The spreadsheet reflects each item billed, claimed, paid, denied, and the reason for approval or denial. All denied costs fall within the information referenced above.

Overall Denied Costs for the Garner Invoice =$1,642.50

ECM Invoice

This invoice is for the Spill Response Management Services in the amount of $4,502.32 from November 30, 2013 through December 3, 2013. ECM Maritime Services' costs are for Mileage

from home to Port of Houston – Jacintoport and return and meals for Mr. Brian Lincoln. ECM remained on-scene until the end of the clean-up and provided Final Report.[23] Claimant provided proof of payment via Credit Note ECC0039873 in the amount of $4,502.32. The NPFC approved **$4,123.17.**

General Categories of Denied Costs:

General and Administrative Costs – This line item is not payable by the OSLTF.

Samurai Japanese Restaurant / Dinner -- Denied. A line by line break out of charges were not submitted by Claimant.

Denied costs are not itemized in the Claim Summary Determination but are fully described in the attached cost summary spreadsheet created by the NPFC. The spreadsheet reflects each item billed, claimed, paid, denied and the reason for the approval or denial. All denied costs fall within the information reference above.

Overall Denied Costs for the ECM Invoice = $379.15

3D Marine USA, Inc. – Marine Consultants and Surveyors Invoice

This invoice is for the 3D Marine Consultants that attended on board MV VLIET TRADER on November 30 through December1, 2013, while the vessel was in the Jacintoport Terminal, Port of Houston, Texas, in order to investigate and report upon, without prejudice, the cause, nature and extent of the oil spill, reported on Saturday, November 30, 2013 while cargo operations were ongoing. This invoice is in the amount of $3,190.50. Claimant provided proof of payment via Credit Note ECC0040310 in the amount of $3,190.50. The NPFC approved **$2,288.50.**

General Categories of Denied Costs:

Claimant claimed $0.75 per mile however $0.57 per mile is approved based on the Defense Travel Management Office for rates that were in effect 01 Jan 13, which is the rate for a car for which the government provides a mileage allowance.

Claimant claimed 19 hours of attendance however 12 hours of on-scene time is approved based on the 3D Marine invoice 12628-PPE and the Surveyor's Time/Expense Report that clearly provides that there was 9.0 hours of attendance at Jacintoport Terminal on 11/30 and 3.0 hours of attendance at Jacintoport Terminal on 12/1.

Denied costs are not itemized in the Claim Summary Determination but are fully described in the attached cost summary spreadsheet created by the NPFC. The spreadsheet reflects each item billed, claimed, paid, denied and the reason for the approval or denial. All denied costs fall within the information reference above.

Overall Denied costs for the 3D Marine Invoice = $902.00

[23] *See,* Final Report Prepared for Reider Shipping BV, Prepared by ECM Maritime Services, LLC.

Marine Spill Response Corporation Invoice

This invoice is for the Spill Response Management Services in the amount of $2,100.00 on November 30, 2013. MSRC's costs are for the time that Mr. Guy Taylor and Mr. Sean Daly spent on-scene at Houston – Jacintoport until ECM arrived. Claimant provided proof of payment via Credit Note ECC0036328 in the amount of $2,100.00 The NPFC approved **$2100.00.**

The NPFC performed a review of the costs presented and has determined that the rates charged were in accordance with the established rate schedules and that the actions taken by all parties responding to the incident were determined by the USCG to be consistent with the National Contingency Plan (NCP). On that basis, the Claims Manager determines that the NPFC will offer $35,754.45 for this claim as payable from the OSLTF.

C. Determined Amount:

The NPFC hereby determines that the OSLTF will offer **$35,754.45** as full compensation for the reimbursable removal costs incurred by the Claimant and submitted to the NPFC under claim #914082-0001. All costs claimed 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 Claimants.

AMOUNT: $35,754.45

Claim Supervisor: [redacted]

Date of Supervisor's review: ***9/3/14***

Supervisor Action: ***Approved***

Supervisor's Comments: