U.S. Department of Homeland Security

United States Coast Guard

Director
National Pollution Funds Center

4200 Wilson Blvd Stop 7100
Arlington VA 20598-7100
Staff Symbol: Ca
Toll-Free: 1-800-280-7118
Fax: 703-872-6113
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5890
October 07, 2014

Sent Via Email: [redacted]

Global Risk Solutions Inc (GRS)
[redacted]

RE: J13014-0005

Dear Mr. Levito:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.* and the OPA claims regulations, 33 CFR Part 136, denies payment on claim number J13014-0005 involving the GRS third party claims administration and adjudicative costs associated with the F/V LONE STAR- J13014 incident. 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.

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 claim. However, if you find that you will be unable to gather particular information within the time period, you may include a request for an extension of time for a specified duration with your reconsideration request. Reconsideration of the denial will be based upon the information provided. A claim may be reconsidered only once. Disposition of that reconsideration in writing 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 claim number J13014-0005.

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

Sincerely,

[redacted]

ALYSSA LOMBARDI
Claims Manager
U.S. Coast Guard
By direction

Enclosures: Claim Summary / Determination

CLAIM SUMMARY / DETERMINATION

Claim Number:	J13014-0005
Claimant:	Global Risk Solutions Inc.
Type of Claimant:	Corporate
Type of Claim:	RP Third Party Claims Management Company Charges
Claim Manager:	Alyssa Lombardi
Amount Requested:	$23,236.82

INCIDENT

Oil Spill Incident:

On June 30, 2013 at approximately 0700, Sector Anchorage received a report that the 78' F/V LONE STAR had partially sank approximately 3.5 miles north of the mouth of Igushik River which flows southward from Amanka Lake into the Nushaguak Bay arm of Bristol Bay. The entire river is located within Togiak National Wildlife Refuge and flows through the village of Manoktak, where it is known for fishing.

The LONE STAR's crew reported to the Coast Guard that the anchor line struck the vessel's transducer while the vessel was at anchor. While at anchor, the tides swung the vessel around and ripped the transducer and cooling lines out, creating a hole in the steel hull. The vessel took on water, turned onto its side and overturned in 18 feet of water. Good Samaritan F/V TRADITION safely recovered all 4 people on board.[1]

At risk was an estimated 14,000 gallons of diesel fuel, 250 gallons of unleaded gasoline, 150 gallons of hydraulic oil, and 150 gallons of lubricating oils at the time of sinking. Sheen from the sunken vessel caused the Alaska Department of Fish and Game (ADF&G) to close the local set-net fishery until the pollution threat was mitigated.

Responsible Party:

The Responsible Party (RP) is Burrece Fisheries, Inc., owned and operated by Mr. Charles Burrece of Bellingham, Washington. The RP's authorized representative is The Meredith Management Co.[2] The RP's legal counsel is Mr. Russell W. Pritchett of Pritchett & Jacobson, P.S.

CLAIM

On October 1, 2014, Global Risk Solutions, Inc. (GRS) presented a claim to the NPFC for damages related to the F/V LONE STAR in the amount of $23,236.82. Meredith Management Group was the RP's Incident Management Team. GRS supported Meredith's efforts by providing Third-Party Claims management services. The claimed $23,236.82.04 is the total of unreimbursed costs contained in GRS invoices: LS-13-005 through LS-13-029. Activities for

[1] ICS 209 – CG, DATED 7/17/2013, Prepared by: LT Gangel SR (acting).
[2] Mr. Tom Callahan, Regional Response Manager, Captain Tom Neumann, President, and Mr. Robert Chambers, VP Operations.

these invoices include spreadsheeting/logging claim activity and third party claims cost documentation; working with new and existing claimants on forms, affidavits, determinations and documentation; phone calls between claimants, as well as spill management personnel; and other general activity related to third party claims management.

APPLICABLE LAW

The Fund shall be available to the President for the payment of claims for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages. 33 U.S.C. § 2712(a)(4).

A "claim" means a request ...for compensation for damages or removal costs resulting from an incident. 33 U.S.C.§2701(3).

A "claimant" means any person...who presents a claim for compensation...33 U.S.C.§2701(4).

"Damages" means damages specified in section 2702(b)...and includes the costs of assessing these damages. 33 U.S.C. § 2701(5).

Covered damages under U.S.C. §2702 (b)(2)(A) – (F) are natural resources, real or personal property, subsistence use, net loss of government revenues, loss of profits or impairment of earning capacity and the costs of increased public services.

"Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or...the costs to prevent, minimize of mitigate oil pollution from such an incident. 33 U.S.C.§2701(31).

The Oil Pollution Act of 1990 provides that each responsible party for a vessel or facility from which oil is discharged into or upon the navigable waters or adjoining shorelines or exclusive economic zone is liable for removal costs and damages. 33 U.S.C §2702 (a).

A responsible party "may assert a claim for removal costs and damages under section 2713 of this title if the responsible party demonstrates that" it is entitled to a limitation of liability under §1004 of OPA. 33 U.S.C. §2708(a).

A responsible party entitled to a limitation of liability may assert a claim under section 2713 of this title only to the extent that the sum of removal costs and damages incurred by the responsible party, or by the guarantor on behalf of the responsible party, for claims asserted under section 2713 of this title exceeds the amount to which the total of the liability under section 2702 of this title and removal costs and damages incurred by, or on behalf of, the responsible party is limited under section 2704 of this title. 33 U.S.C. § 2708(b).

At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney fees. 33 U.S.C. § 2715(c).

DETERMINATION

GRS specifically seeks reimbursement from the Fund for its costs to (1) administer the RPs' claims process, and (2) adjudicate, settle and pay third party claims. OPA specifically provides authority to spend money from the Fund for certain removal costs and damages. The Fund is available to the President for the payment of uncompensated removal costs determined by the President to be consistent with the NCP and uncompensated damages.

In this claim, the costs claimed by GRS are neither damages nor removal costs. They are general administrative and adjudicative costs associated with the RP's administration of a claims process to compensate third parties for their removal costs and damages. The claimant was hired specifically by the RP to review and/or adjudicate third party damages. There is no authority in OPA to pay these costs from the Fund.[3] OPA provides for the recovery of such costs from a Responsible Party (or any person liable under any law) when incurred by the Fund (see 33 U.S.C. § 2715(c)); however, it does not provide that a claimant may recover from the Fund any adjudicative or administrative costs it may incur in paying third party claims.

Based on the foregoing, this claim is denied.

Claim Supervisor: [redacted]

Date of Supervisor's review: ***10/7/14***

Supervisor Action: ***Denial approved***

Supervisor's Comments:

[3] The RP/Claimants may be entitled to reimbursement of actual damages they paid to third party claimants if the damages paid are OPA damages and if the claim is sufficiently supported with evidence.