

CLAIM SUMMARY / DETERMINATION FORM

Date	: 2/17/2010
Claim Number	: 910068-001
Claimant	: Robert Coker
Type of Claimant	: Private (US)
Type of Claim	: Real or Personal Property
Claim Manager	: Augusto C. Rios, Jr.
Amount Requested	: \$1,294.00

FACTS:

On morning of September 19, 2009, at approximately 7:00 AM and while traveling to an offshore fishing spot on the Gulf of Mexico and off the coast of Louisiana, a navigable water of the US, claimant unexpectedly ran across an oil slick that stained his boat's gel coat.

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 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].

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.

Under 33 CFR 136.213 a claim for injury to, or economic loss resulting from the destruction of, real or personal property may be presented only by a claimant either owning or leasing the property.

Under 33 CFR 136.215 a claimant must establish an ownership or leasehold interest in the property, that the property was injured or destroyed, the cost of repair or replacement; and the value of the property both before and after injury occurred.

Under 33 CFR 136.217 the amount of compensation allowable for damaged property is the lesser of:

- actual or estimated net cost of repairs necessary to restore the property to substantially the same condition which existed immediately before the damage;
- the difference between value of property before and after the damage; or
- the replacement value.

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.”

DETERMINATION OF LOSS:

The claim was received in time and within three years from the time the damage was discoverable and claimant did present it to whom he believed to be the responsible party (RP) as required by the claim regulations (33 CFR 136) and was denied. Claimant asserts in its claim submission that it is not in litigation to recover the costs subject of this claim and is not planning on submitting to its insurer to recover the claimed loss.

The damage claimed is the result of stains left by the oil on claimant’s boat after unintentionally running through an oil slick on his way to a fishing spot offshore from the Louisiana coast. Though claimant attempted to mitigate the damage upon returning to shore, attempts to remove the stains were unsuccessful and required the employment of a detailer to repair the damage.

Claimant is the owner of the damaged property as evidenced by the property title. Digital pictures submitted demonstrate stains on the hull around the waterline. An estimate from The Crew Detail LLC was submitted to quantify the damage to the property. Claim manager contacted¹ the detailer and got additional information that helped to further understand the magnitude of the damage and what it would take to repair it.

The amount claimed, which is documented with an estimate, breaks down as follows:

¹ Phonenumber btwn A.Rios and J.Williams of 02/17/10 @ 09:30.

- Wash:	\$104.00
- Topside (Wax):	\$182.00
- Lowerside ² :	\$546.00
- Supplies:	\$162.00
Transport ³	<u>\$300.00</u>
Total	\$1,294.00

I have determined that the costs for uncompensated damages of \$1,294.00 are reasonable and appropriate and the claim should be paid as presented. This recommendation is based on an analysis of the supporting documentation provided by the claimant and additional research conducted by claim manager.

DETERMINED AMOUNT: \$1,294.00

Claim Supervisor:	Thomas Morrison
Date of Supervisor's Review:	
Supervisor Action:	
Supervisor's Comments:	

² Compound, polish and wax of hull – waterline area.

³ Two (2) round trips of 142 miles each to pick up and drop off boat – Hammond, LA – Venice, LA at \$150.00 per round trip.

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: [REDACTED]
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

5890
2/17/2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Number: 7008 3230 0001 9575 2204

Mr. Robert Coker
107 Setter Lane
Peral River, LA 70452

Re: Claim Number 910068-001

Dear Mr. Coker:

The National Pollution Funds Center (NPFC), in accordance with the Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), has determined that \$1,294.00 is full compensation for OPA claim number 910068-001.

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 (ca)
NPFC CA MS 7100
US COAST GUARD
4200 Wilson Blvd, Suite 1000
Arlington, VA 20598-7100

If you accept this determination, please **provide proof of ownership and 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 [REDACTED]

Sincerely,

Augusto C. Rios, Jr.
Claims Manager

ENCL: 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: [REDACTED]
E-mail: [REDACTED]@uscg.mil
Fax: 202-493-6937

Claim Number: 910068-001	Claimant Name: Robert Coker 107 Setter Lane Peral River, LA 70452
--------------------------	---

I, the undersigned, ACCEPT the determination of \$1,294.00 as full compensation for the claim listed above.

This determination represents full and final release and satisfaction of all claims under the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4)0), associated with the above referenced claim. 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