

CLAIM SUMMARY / DETERMINATION FORM

Date	: 11/3/2011
Claim Number	: E10642-0008
Claimant	: LA Department of Natural Resources
Type of Claimant	: State
Type of Claim	: Removal Costs
Claim Manager	: [REDACTED]
Amount Requested	: \$17,062.40

Facts:

On the morning of August 11, 2010, an oil well located in Paincourtville, LA blew out at approximately 0330 hours. The oil well is located 200 yards northwest of the intersection of Louisiana Highway (LA Hwy) 70 and LA Road 1004 within a sugar cane field. The blow out occurred during the completion phase of a drilling operation. Approximately 250-500 barrels of oil and gas discharged per day and 10-15 million cubic feet of natural gas per day was released within the atmosphere. Material discharged into local drainage ditches and land.

Drainage entered the Magnolia Canal south of Highway 70. The Magnolia Canal flows 1.7 miles south-southwest to the Saint Louis Canal. The Saint Louis canal flows approximately 3 miles south-southwest of Grand Bayou. Grand Bayou flows 2 miles south into Lake Verret, a navigable waterway of the United States.

The National Response Center was contacted via incident report # 950574.¹

Responsible Party:

The Responsible Party has been identified as Mantle Oil & Gas, LLC (Mantle O&G), headquartered in Houston, TX. The oil rig is owned by Cajun All Well Services.

The National Pollution Funds Center (NPFC) issued a Responsible Party (RP) Notification Letter to Mantle O&G in Friends Wood, Texas via email and certified mail.²

Claimant:

The Claimant, Louisiana Department of Natural Resources (LDNR), deployed three Conservation Enforcement Specialists ([REDACTED]) whom were engaged at various times in surveillance and regulatory oversight activities at the well site during a period from August 11, 2010 through October 1, 2010.

The services provided by the Claimant were acknowledged by Mr. [REDACTED] FOSC, U.S. EPA through August 31, 2010.³

Claim Description:

¹ NRC Report # 950574

² Signed certified mail receipt # 7011 0470 000 8895 6138.

³ POLREPS 1 through 3

The claim was presented to the Oil Spill Liability Trust Fund (OSLTF or the Fund) on June 12, 2011. LDNR submitted a claim to the NPFC for reimbursement of their uncompensated equipment and labor costs.⁴ This claim is based on FEMA's Schedule of Equipment Rates and LDNR labor rates.⁵

The claim consists of the Standard NPFC Claim Form, LDNR Labor and Equipment records, FEMA's Schedule of Equipment Rates, a disk with field notes, time sheets, pictures, reports, labor rates, and a letter to the NPFC.

Request for Reconsideration:

On November 2, 2011, LDNR requested reconsideration of their claim via email.⁶ Claimant provided an explanation of how the overtime rate is calculated based on their payroll system and requests that the NPFC respectfully reconsider the overtime that LDNR paid to their personnel as a result of this spill. Also, Claimant provided an explanation for the related benefits for LDNR employee Selma Oubre and requests that the NPFC reconsider this line item.

NPFC Removal Costs Determination on Reconsideration:

Under 33 CFR 136.105(a) and 136.105(e)(6), Claimant bears the burden of providing the NPFC all evidence, information, and documentation deemed necessary by the Director, NPFC, to support the claim. Further, a request for reconsideration must be in writing and include the factual or legal grounds for the relief requested, providing any additional support for the claim. 33 CFR 136.115(d). As noted above a claimant must establish the criteria provided in 33 CFR § 136.203 for removal cost claims.

The NPFC's analysis on reconsideration was a *de novo* review of the Claimant's entire claim submission.

Determination of Removal Costs on Reconsideration:

A. Findings of Fact:

1. The removal actions were coordinated with Mr. [REDACTED] FOSC, U.S. EPA through August 31, 2010 only. The FOSC for this incident determined that the actions undertaken by the Claimant are deemed consistent with the NCP. 33 U.S.C. §§ 2702(b)(1)(B) and 2712(a)(4);
2. The incident involved the discharge and substantial threat of discharge of "oil" as defined in OPA 90, 33 U.S.C. § 2701(23), to navigable waters.
3. A Responsible Party was identified. 33 U.S.C. § 2701(32). The NPFC notified the RP that a claim was filed with the NPFC for the removal costs. The RP has not made payment of costs to date;
4. The claim was submitted within the six-year period of limitations for claims. 33 U.S.C. § 2712(h)(2).
5. The NPFC Claims Manager thoroughly reviewed all documentation submitted with the claim and determined what costs presented were for actions in accordance with the NCP and that the costs for these actions were reasonable and allowable under OPA and 33 CFR § 136.205. The Claims Manager also identified denied costs and the grounds for denial.

B. Analysis:

The NPFC Claims Manager has reviewed the actual cost documents to confirm that the 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,

⁴ LDNR Labor and Equipment records.

⁵ FEMA Equipment Schedule.

⁶ Reconsideration email dated November 2, 2011

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 determined by the FOOSC, and (4) whether the costs were adequately documented and reasonable.

The NPFC has determined on reconsideration that the majority of the removal costs incurred by the Claimant and its associated vendors were reasonable and necessary in order to mitigate the effects of the incident. Upon reconsideration and information provided by Claimant, the NPFC has determined that the costs were billed in accordance with the rate schedules in place at the time the services were rendered, unless otherwise indicated below, and consistent with the NCP.

Itemization of Denied Costs:

Monitoring Report – January 19, 2011 through January 31, 2011. Administrative activities are not OPA compensable. Also, the dates for Ms. [REDACTED]'s activities are not compensable because the dates are beyond the completion date of August 31, 2010 set by the FOOSC. Therefore, the NPFC hereby determines the \$162.50 is denied (uncontested denial).

960 miles – September 1, 2010 through October 1, 2010 in the amount of \$556.80 as they were miles incurred after the completion date of August 31, 2010 (uncontested denial).

Total Amount Denied = \$719.30

The NPFC hereby determines that the NPFC offers, and the OSLTF is available to pay, **\$16,343.06** as full compensation for reimbursable removal costs incurred by Claimant and submitted to the NPFC under claim # E10642-0008. All costs claimed are for charges paid for by Claimant for removal actions as that term is defined in OPA and are compensable removal costs payable by the OSLTF as presented by Claimant.

DETERMINED AMOUNT: \$16,343.06

Claim Supervisor [REDACTED]

Date of Supervisor's Review: 11/3/11

Supervisor Action: *Determination on reconsideration approved*

Supervisor's Comments: